

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MAURICIO ARROYO VILLA, et al.,
Plaintiffs,
v.
EAH COMMUNITY HOUSING, INC., et al.,
Defendants.

Case No. 22-cv-07358-NC
**ORDER GRANTING
PLAINTIFFS' AMENDED
MOTION FOR PRELIMINARY
APPROVAL OF CLASS/
COLLECTIVE ACTION
SETTLEMENT, APPROVAL OF
CLASS NOTICE, AND SETTING
FINAL APPROVAL HEARING**

PRELIMINARY APPROVAL ORDER

This matter comes to be heard on Plaintiffs Mauricio Arroyo Villa's and Angela Noble's, individually and on behalf of themselves and all other similarly situated persons, known and unknown (cumulatively "Plaintiffs") Unopposed Motion for Preliminary Approval of Class Action Settlement Agreement ("Motion"), the Court having reviewed in detail and considered the Motion, the attachments presented thereto including the Settlement Agreement ("Settlement Agreement") between Plaintiffs and the Defendant EAH COMMUNITY HOUSING, INC. a/k/a EAH, INC., ("Defendant") (cumulatively, the "Parties"), Class Counsel's Declaration, the Mediator's Declaration, and all other papers that have been filed with the Court related to the Settlement Agreement, including all exhibits and attachments to the Motion and the Settlement Agreement, and the Court being fully advised orders and finds as follows:

1. This Order incorporates by reference the definitions in the Settlement Agreement, and all terms defined therein shall have the same meaning in this Order as set forth in the Settlement Agreement.
2. The Court preliminarily approves the Settlement of Class Action, Collective Action, and PAGA Claims ("Settlement Agreement" or "Agreement").
3. The Court has considered whether: (A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm's length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other.

The Court finds as follows:

- the class representatives and class counsel have adequately represented the class;
- the Settlement was negotiated at arm's length;
- the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing

1 relief to the class, including the method of processing class-member claims; (iii) the
2 terms of any proposed award of attorney's fees, including timing of payment; and (iv)
3 any agreement required to be identified under Rule 23(e)(3); and

- 4 • the Settlement treats class members equitably relative to each other.

5 4. The Court finds that the Collective Members' claims can be efficiently resolved in this one
6 proceeding, contain common issues of law and fact, and arose from the same conduct of the
7 Defendant. The FLSA is a remedial statute that should be liberally construed. It is proper to
8 certify the Collective under Section 216(b) of the FLSA.

9 5. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
10 Defendant shall pay is Seven Hundred and Seventeen Thousand and Six Hundred and Twenty-
11 Nine Dollars and Zero Cents (\$717,629.00). It appears to the Court on a preliminary basis that the
12 settlement amount and terms are fair, adequate, and reasonable as to all potential Class and
13 Collective Members when balanced against the probable outcome of further litigation relating to
14 certification, liability, and damages issues. It further appears that investigation and research have
15 been conducted such that counsel for the Parties are able to reasonably evaluate their respective
16 positions. It further appears to the Court that settlement at this time will avoid substantial
17 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
18 further prosecution of the litigation. The Settlement has been reached as the result of intensive,
19 serious, and non-collusive arms-length negotiations.

20 6. The Court has reviewed the monetary recovery that is being granted as part of the
21 Settlement Agreement and preliminarily finds that the monetary settlement awards made available
22 to the Class and Collective Members are fair, adequate, and reasonable when balanced against the
23 probable outcome of further litigation relating to certification, liability, and damages issues.

24 7. While the Settlement Agreement specifies for Attorneys' Fees awarded to Class Counsel in
25 an amount of up-to one-third of the Gross Settlement Amount for attorneys' fees, Class Counsel
26 has preliminarily sought 30% of the Gross Settlement Amount for attorneys' fees, currently
27 estimated to be Two Hundred and Fifteen Thousand and Two Hundred and Eighty-Eight Dollars
28 and Seventy Cents (\$215,288.70). Class Counsel has sought an award of Attorneys' Expenses not

1 to exceed Ten Thousand Dollars (\$10,000.00), and proposed Enhancement Award to the Class
 2 Representatives, Mauricio Arroyo Villa and Angela Noble, in an amount not to exceed Seven
 3 Thousand and Five Hundred Dollars and No Cents (\$7,500.00) each. While these awards appear to
 4 be reasonable, the Court will not approve them until the Final Approval Hearing. Class Counsel
 5 and the Class Representatives will be required to present evidence supporting these requests,
 6 including lodestar, prior to final approval.

7 8. The Court recognizes that Plaintiffs and Defendant stipulate and agree to the certification
 8 of a class and the certification of a collective for settlement purposes only. This stipulation will not
 9 be deemed admissible in this or any other proceeding should this Settlement not become final. For
 10 settlement purposes only, the Court conditionally certifies the following Class:

11 “All persons who are or were employed by Defendant as a non-exempt employee in California at
 12 any time between November 22, 2018, and March 22, 2024 (the “Class Period”) who have not
 13 returned a timely Request for Exclusion.”

14 For settlement purposes only, the Court conditionally certifies the following Collective:
 15 “All persons who are or were employed by Defendant in California and Hawaii at any time from
 16 November 22, 2019, and March 22, 2024 (the “Collective Period”), who timely return an Opt-In
 17 Form.”

18 9. The Court concludes that, for settlement purposes only, the Class meets the requirements
 19 for certification under Rule 23 in that: (a) the Class Members are ascertainable and so numerous
 20 that joinder of all members of the Class Members is impracticable; (b) common questions of law
 21 and fact predominate, and there is a well-defined community of interest amongst the Class
 22 Members with respect to the subject matter of the litigation; (c) the claims of the Class
 23 Representative are typical of the claims of the Class Members; (d) the Class Representative will
 24 fairly and adequately protect the interests of the Class Members; (e) a class action is superior to
 25 other available methods for the efficient adjudication of this controversy; and (f) Class Counsel are
 26 qualified to act as counsel for the Class Representative in her individual capacity and as the
 27 representative of the Class Members.

28 10. The Court appoints plaintiffs Mauricio Arroyo Villa and Angela Noble as the

1 representatives of the Class Members and the representatives of the Collective Members.

2 11. The Court appoints the attorneys of Justicia Laboral LLC, James Dore, and Daniel Schlade
3 as Class Counsel for the Class Members and the Collective Members. In making said
4 appointment, the Court has considered: (i) the work counsel has done in identifying or
5 investigating potential claims in the action; (ii) counsel's experience in handling class actions,
6 other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge
7 of the applicable law; and (iv) the resources that counsel will commit to representing the class.
8 The Court finds that Class Counsel are competent and able to fairly and adequately represent the
9 interests of the class.

10 12. The Court finds that the proposed Notice satisfies Rule 23(e)(2) and that the Notice and
11 proposal to give notice in the Settlement Agreement is fair, reasonable, and adequate.

12 13. The Court hereby approves, as to form and content, the Notice attached to the Agreement
13 as Exhibit "A". The Court finds that the Notice appears to fully, and accurately inform the Class
14 and Collective Members of all material elements of the proposed Settlement, including Class and
15 Collective Members' right to be excluded from the Class by submitting a written request for
16 exclusion, and of each Class Member's right and opportunity to object to the Settlement. The
17 Court further finds that the distribution of the Notice substantially in the manner and form set forth
18 in the Agreement and this Order meets the requirements of due process, is the most reasonable
19 notice under the circumstances, and shall constitute due and sufficient notice to all persons entitled
20 thereto. The Court orders the mailing of the Notice by first class mail, pursuant to the terms set
21 forth in the Agreement.

22 14. The Court hereby approves the "Election Not to Participate in Class Action Settlement
23 Agreement" form attached as Exhibit B to the Settlement Agreement and the "Opt In Form to Join
24 Collective Action" attached as Exhibit C to the Settlement Agreement, in form and substance.
25 The Court orders the mailing of these forms by first class mail, pursuant to the terms set forth in
26 the Agreement.

27 15. The Court hereby appoints Phoenix Settlement Administrators, as Settlement
28 Administrator. Within seven (7) business days of this order, Defendant shall provide, to the

1 Settlement Administrator the Class Data, including information regarding Class Members that
2 Defendant will in good faith compile from their records, including each Settlement Class
3 Member's full name; last known address; Social Security Number; dates of employment, and
4 number of Work Weeks accrued by each Settlement Class Member during the Class Period.
5 Within twenty-one (21) calendar days of this order, the Settlement Administrator shall mail the
6 Notice Packet to all identified, potential Class Members via first class U.S. Mail using the most
7 current mailing address information available.

8 16. The Court hereby preliminarily approves the proposed procedure for exclusion from the
9 Settlement of the Released Claims. Any Class or Collective Member may individually choose to
10 opt out of and be excluded from the Settlement of the Released Claims as provided in the Notice
11 by following the instructions for requesting exclusion from the Settlement of the Released Claims
12 that are set forth in the Notice. All requests for exclusion must be postmarked or received by the
13 Response Deadline which is sixty (60) calendar days after the date the Notice Packet is mailed to
14 the Class Members or, in the case of a re-mailed Notice, not more than fifteen (15) calendar days
15 after the original Response Deadline. Any such person who chooses to opt out of and be excluded
16 from the Settlement of the Released Claims will not be entitled to an Individual Settlement
17 Payment under the Settlement and will not be bound by the Settlement, or have any right to object,
18 appeal or comment thereon. Class Members who have not requested exclusion shall be bound by
19 all determinations of the Court, the Agreement and Judgment. A request for exclusion may only
20 opt out that particular individual, and any attempt to affect an opt-out of a group, class, or subclass
21 of individuals is not permitted and will be deemed invalid.

22 17. Any Class or Collective Member who has not opted out may appear at the final approval
23 hearing and may object or express the Class Member's views regarding the Settlement, and may
24 present evidence and file briefs or other papers that may be proper and relevant to the issues to be
25 heard and determined by the Court as provided in the Notice. Class Members will have sixty (60)
26 days from the date the Settlement Administrator mails the Notice Packets to postmark their written
27 objections to the Settlement Administrator.

28 18. As of the Effective Date, if it occurs, each and every claim released in the Settlement

1 Agreement by each of the Plaintiffs, including all Rule 23 Class Members who have not timely
2 submitted valid Requests for Exclusion and all FLSA § 216(b) Collective Members who have
3 submitted valid Opt-In Forms, shall be deemed to be conclusively and forever released as against
4 Defendant and the Released Parties. As of the Effective Date, if it occurs, Plaintiffs, including all
5 Rule 23 Class Members who have not timely submitted valid Requests for Exclusion all FLSA §
6 216(b) Collective Members who have submitted valid Opt-In Forms are forever barred and
7 enjoined from prosecuting the claims released in the Settlement Agreement against Defendant.

8 19. Rule 23 Class Members shall be bound by all determinations and orders pertaining to the
9 settlement, including the release of all claims to the extent set forth in the Settlement Agreement,
10 whether favorable or unfavorable, unless such persons request exclusion from the Settlement Class
11 in a timely and proper manner, as provided in the Settlement Agreement and the approved Notice.
12 Rule 23 Class Members who do not timely and validly request exclusion shall be so bound even if
13 they have previously initiated or subsequently initiate litigation or other proceedings against any
14 defendants or the Released Parties relating to the claims released under the terms of the Settlement
15 Agreement.

16 20. FLSA Collective Members shall be bound by all determinations and orders pertaining to
17 the settlement, including the release of all claims to the extent set forth in the Settlement
18 Agreement, whether favorable or unfavorable, if they return a valid Opt-In Form to the Settlement
19 Administrator, as provided in the Settlement Agreement and the approved Notice.

20 21. Any person within the Rule 23 Class may request exclusion from the Settlement by
21 expressly stating his/her request in a written exclusion request. Such exclusion requests must be
22 received by the Settlement Administrator at the address specified in the Notice in written form, by
23 first class mail and postmarked, no later than September 2, 2024.

24 22. In order to exercise the right to be excluded, a person within the Rule 23 Class must timely
25 send or electronically submit a written request for exclusion to the Settlement Administrator
26 providing his/her name and address, a signature, the name and number of the case, and a statement
27 that he or she wishes to be excluded from the Settlement. Any request for exclusion submitted via
28 first class mail must be personally signed by the Person requesting exclusion. Any request for

1 exclusion submitted online may be signed electronically, which will be binding for purposes of
2 any applicable perjury laws and shall contain a statement to that effect. No person within the
3 Settlement, or any person acting on behalf of, in concert with, or in participation with that person
4 within the Settlement, may request exclusion from the Settlement of any other person within the
5 Settlement Class.

6 23. Any person who elects to be excluded shall not: (a) be bound by any orders or the Final
7 Approval Order; (b) be entitled to relief under the Settlement Agreement; (c) gain any rights by
8 virtue of this Settlement Agreement; or (d) be entitled to object to any aspect of this Settlement
9 Agreement.

10 24. Any Settlement Class Member who has not requested exclusion from the Settlement Class
11 and who wishes to object to any aspect of the Settlement Agreement, including the amount of the
12 attorneys' fees, costs, and expenses that Class Counsel intends to seek and the payment of the
13 Service Award(s) to the Class Representative(s), may do so, either personally or through an
14 attorney, by filing a written objection, together with the supporting documentation set forth below
15 in Paragraph 18 of this Order, with the Clerk of the Court, and served upon Class Counsel,
16 Defendant's Counsel, and the Settlement Administrator no later than September 2, 2024.

17 25. Any Settlement Class Member who has not requested exclusion and who intends to object
18 to the settlement must state, in writing, all objections and the basis for any such objection(s), and
19 must also provide in writing: (a) his/her full name, address, and telephone number; (b) the case
20 name and number of the litigation; (c) a statement confirming information to verify they are a
21 Class Member; (d) all grounds for the objection, with factual and legal support for the stated
22 objection, including any supporting materials; (e) the identification of any other objections he/she
23 has filed, or has had filed on his/her behalf, in any other class action cases in the last four years;
24 and (f) the objector's signature. Objections not filed and served in accordance with this Order
25 shall not be received or considered by the Court. Any Settlement Class Member who fails to
26 timely file and serve a written objection in accordance with this Order shall be deemed to have
27 waived, and shall be forever foreclosed from raising, any objection to the settlement, to the
28 fairness, reasonableness, or adequacy of the settlement, to the payment of attorneys' fees, costs,

1 and expenses, to the payment of a Service Award(s), and to the Final Approval Order and the right
2 to appeal same.

3 26. A Settlement Class Member who has not requested exclusion from the Settlement Class
4 and who has properly submitted a written objection in compliance with the Settlement Agreement,
5 may appear at the Final Approval Hearing in person or through counsel to show cause why the
6 proposed Settlement Agreement should not be approved as fair, reasonable, and adequate.

7 Attendance at the hearing is not necessary; however, persons wishing to be heard orally in
8 opposition to the approval of the settlement and/or Plaintiff Counsel's Fee and Expense
9 Application and/or the request for a Service Award(s) to the Class Representative are required to
10 indicate in their written objection their intention to appear at the Final Approval Hearing on their
11 own behalf or through counsel. For any Settlement Class Member who files a timely written
12 objection and who indicates his/her intention to appear at the Final Approval Hearing on their own
13 behalf or through counsel, such Settlement Class Member must also include in his/her written
14 objection the identity of any witnesses he/she may call to testify, and all exhibits he/she intends to
15 introduce into evidence at the Final Approval Hearing, which shall be attached.

16 27. No Settlement Class Member shall be entitled to be heard, and no objection shall be
17 considered, unless the requirements set forth in this Order and in the Settlement Agreement are
18 fully satisfied. Any Settlement Class Member who does not make his or her objection to the
19 settlement in the manner provided herein, or who does not also timely provide copies to the
20 designated counsel of record for the Parties at the addresses set forth herein, shall be deemed to
21 have waived any such objection by appeal, collateral attack, or otherwise, and shall be bound by
22 the Settlement Agreement, the releases contained therein, and all aspects of the Final Approval
23 Order.

24 28. Class Counsel may file any motion seeking an award of attorneys' fees, plus their
25 reasonable costs and expenses, as well as an Incentive Award of Seven Thousand and Five
26 Hundred Dollars (\$7,500.00) for each Class Representative, no later than August 2, 2024.

27 29. All papers in support of the final approval of the proposed Settlement Agreement shall be
28 filed no later than October 2, 2024, or ten (10) days before the Final Approval Hearing, whichever

1 is later.

2 30. A final approval hearing shall be held before this Court on November 13, 2024 at 11:00
3 AM in Courtroom 5, 4th Floor, at the San Jose Courthouse, 280 South 1st Street, San Jose, CA
4 95113, to determine all necessary matters concerning the Settlement, including: (a) to finally
5 determine whether the applicable prerequisites for settlement class action treatment under Rule 23
6 have been met for purposes of settlement; (b) to determine whether final certification of the FLSA
7 is appropriate; (c) to finally determine whether the Settlement Agreement and the plan of
8 allocation contained therein is fair, reasonable and adequate, and should be finally approved by the
9 Court; (d) to finally determine whether a final order as provided under the Settlement Agreement
10 should be entered, including an order prohibiting Settlement Class Members from further pursuing
11 claims released in the Settlement Agreement; (e) to consider the distribution of the Settlement
12 Fund pursuant to the Settlement Agreement; (f) whether an Order Granting Final Approval should
13 be entered herein; (g) whether to finally approve the Attorneys' Fees, Attorneys' Expenses,
14 Enhancement Award, the PAGA Penalties, and the Administration Costs; and (h) to rule upon
15 such other matters as the Court may deem appropriate.

16 31. The Final Approval Hearing may be postponed, adjourned, transferred or continued by
17 order of the Court without further notice to the Settlement Class. At or following the Final
18 Approval Hearing, the Court may enter a final order approving the Settlement Agreement and a
19 Final Approval Order in accordance with the Settlement Agreement that adjudicates the rights of
20 all Settlement Class Members.

21 32. Settlement Class Members do not need to appear at the Final Approval Hearing or take any
22 other action to indicate their approval.

23 33. The Court will have continuing jurisdiction over the Action for the purpose of
24 implementing the Settlement until the Action and all related matters are fully resolved, and for
25 enforcement of the Settlement, the Settlement Agreement and Final Order thereafter.

26 34. All discovery and other proceedings in the Litigation as between Plaintiffs and Defendant
27 are stayed and suspended until further order of the Court except such actions as may be necessary
28 to implement the Settlement Agreement and this Order.

35. The Parties to the Settlement Agreement are directed to carry out their obligations under the terms thereof.

36. In accordance with the Settlement Agreement, which specify the procedures for settlement administration and payment to class member, the Court enumerates below the following deadlines:

Date	Event
5/22/2024	Preliminary Approval Hearing/Order (anticipated)
6/17/24	Defendant delivers class list and estimated settlement administrative costs to Settlement Administrator
7/2/2024	Settlement Administrator effects Notice
8/2/2024	Plaintiff to file the motion for attorney fees, litigation costs, settlement administration costs, and the Settlement Class Representative's Service Award
9/2/2024	All completed exclusions must be postmarked or returned to the Settlement Administrator
9/2/2024	All objections to settlement are due
9/2/2024	All objections to Plaintiff's motion for attorney fees, litigation costs, Settlement administration costs, and the Settlement Class Representative's Service Award are due
10/2/2024	Plaintiff's Motion for Final Approval of Settlement Agreement due
11/13/2024	Court Hearing on Final Approval of Settlement Agreement (anticipated)
12/14/2024	Effective Date
12/21/2024	Defendant transfers remainder of Gross Fund
12/28/2024	Settlement Administrator pays: (1) Settlement award payments to Settlement Class Participants; (2) the Settlement Class Representative's Service Award; and (3) Settlement Class Counsel's award of attorney fees and litigation costs

37. Until the Courts decision on final approval of the Settlement and entry of the Court's Final Approval Order and Judgment, Plaintiffs, including all Rule 23 Class and FLSA § 216(b) Collective Members who do not timely submit valid Requests for Exclusion, and anyone acting on any of their behalf, shall be barred and enjoined from: (a) further litigation in this case; and (b)

filing or taking any action directly or indirectly to commence, prosecute, pursue, or participate in an individual or class action basis any action, claim, or proceeding against Defendant in any forum based on any of the claims released in the Settlement Agreement, or taking any steps that in any way would prevent any such claims from being extinguished.

IT IS SO ORDERED.

Dated: May 28, 2024


NATHANAEL M. COUSINS
United States Magistrate Judge

United States District Court
Northern District of California