

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Sydney Castillo-Johnson (State Bar #343881)
Perssia Razma (State Bar #351398)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619)599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
scastillo@jcl-lawfirm.com
prazma@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619)255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF ALAMEDA

TAMIKA R. THOMAS, an individual, on
behalf of herself, and on behalf of all persons
similarly situated,

Plaintiffs,

v.

CENTER FOR ELDER'S INDEPENDENCE,
a California corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No.: 22CV024221

**[PROPOSED] AMENDED ORDER
GRANTING FINAL APPROVAL AND
SETTING NON-APPEARANCE CASE
REVIEW**

Date: July 2, 2024
Time: 1:30 p.m.
Reservation ID: 513585335821

Judge: Hon. Noel Wise
Dept.: 21

1 Plaintiff's motion for an order finally approving the Second Amended Stipulation of
2 Settlement of Class and PAGA Action Claims and Release of Claims ("Agreement") and Motion
3 for Attorneys' Fees and Costs and Service Award duly came on for hearing on July 2, 2024, before
4 the above-entitled Court. Zakay Law Group, APLC, and the JCL Law Firm, APC, appeared on
5 behalf of Plaintiff Tamika R. Thomas ("Plaintiff"). Berger Kahn, A Law Corporation appeared on
6 behalf of Defendant Center for Elders' Independence, a California corporation (hereinafter
7 "Defendant").

8 **I.**

9 **FINDINGS**

10 Based on the oral and written argument and evidence presented in connection with the
11 motion, the Court makes the following findings:

12 1. All capitalized terms used herein shall have the same meaning as defined in
13 the Agreement.

14 2. This Court has jurisdiction over the subject matter of this litigation pending
15 in the California Superior Court for the County of Alameda ("Court"), Case No. 22CV024221,
16 entitled *Tamika R. Thomas v. Center for Elders' Independence* and over all Parties to this litigation,
17 including the Class.

18 **Preliminary Approval of the Settlement**

19 3. On February 1, 2024, the Court granted preliminary approval of a class-wide
20 settlement. At this same time the court approved certification of a provisional settlement class for
21 settlement purposes only. The Court confirms this Order and finally approves the settlement and
22 the certification of the Class.

23 **Notice to the Class**

24 4. In compliance with the Preliminary Approval Order, the Class Notice was
25 mailed by first class mail to the Class Members at their last known addresses on March 1, 2024.
26 Mailing of the Class Notice to their last known addresses was the best notice practicable under the
27 circumstances and was reasonably calculated to communicate actual notice of the litigation and the
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1 proposed settlement to the members of the Class Members. The Court finds that the Class Notice
2 provided fully satisfies the requirements of California Rules of Court, rule 3.769.

3 5. The Response Deadline for opting out or objecting was April 15, 2024. There
4 was an adequate interval between notice and deadline to permit Class Members to choose what to
5 do and act on their decision. No Class Members objected. No Class Members requested exclusion.

6 **Fairness Of The Settlement**

7 6. The Agreement provides for a Gross Settlement Amount of \$970,000.00.
8 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
9 Cal.App.4th 1794, 1801.)

10 a. The settlement was reached through arms-length bargaining between
11 the Parties. There is no evidence of any collusion between the Parties in reaching the proposed
12 settlement.

13 b. The Parties' investigation and discovery have been sufficient to allow
14 the Court and counsel to act intelligently.

15 c. Counsel for all parties are experienced in similar employment class
16 action litigation and have previously settled similar class claims on behalf of employees claiming
17 compensation. All counsel recommended approval of the Settlement.

18 d. No objections were received. No requests for exclusion were
19 received.

20 e. The participation rate is high. 100% of Class Members will be
21 participating in the Settlement and will be sent settlement payments.

22 7. The consideration to be given to the Class Members under the terms of the
23 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the claims
24 asserted in this Action and is fair, reasonable, and adequate compensation for the release of the
25 Released Class Claims and Released PAGA Claims, given the uncertainties and risks of the
26 litigation and the delays which would ensue from continued prosecution of the Action.

27 8. The Agreement is finally approved as fair, adequate, and reasonable and in
28 the best interests of the Settlement Class Members.

1 **PAGA Penalties**

2 9. The Agreement provides for a payment of PAGA Penalties in the amount of
3 \$48,500.00. The Court has reviewed the PAGA Penalties and finds and determines that the PAGA
4 Penalties and the allocation of \$36,375.00 to the Labor and Workforce Development Agency
5 (“LWDA Payment”) and \$12,125.00 to Aggrieved Employees (“Aggrieved Employee Payment”) is
6 fair and reasonable and complies with the requirements set forth in *Moniz v. Adecco USA, Inc.*
7 (2021) 72 Cal.App.5th 56.

8 **Attorneys’ Fees and Costs**

9 10. The Agreement provides for a payment for Attorneys’ Fees and Costs in the
10 amount of up to Three Hundred, Thirty-Nine Thousand, Eight Hundred Fifty-Two Dollars and Fifty-
11 One Cents (\$339,852.51). Subject to Court approval, the Attorneys’ Fees and Costs consists of
12 attorneys’ fees equal to one-third (1/3) of the Gross Settlement Amount, or Three Hundred, Twenty-
13 Three Thousand, Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$323,333.33) and
14 reimbursement of litigation expenses in the amount of Sixteen Thousand, Five Hundred Nineteen
15 Dollars and Eighteen Cents (\$16,519.18).

16 11. An Attorneys’ Fees and Costs payment of Three Hundred, Thirty-Nine
17 Thousand, Eight Hundred Fifty-Two Dollars and Fifty-One Cents (\$339,852.51) comprised of
18 attorneys’ fees in the amount of Three Hundred, Twenty-Three Thousand, Three Hundred Thirty-
19 Three Dollars and Thirty-Three Cents (\$323,333.33) and reimbursement of litigation expenses in
20 the amount of Sixteen Thousand, Five Hundred Nineteen Dollars and Eighteen Cents (\$16,519.18)
21 is reasonable in light of the contingent nature of Class Counsel’s fee, the hours worked by Class
22 Counsel, and the results achieved by Class Counsel. The requested attorneys’ fee award represents
23 1/3 of the common fund, which is reasonable, and is supported by Class Counsel’s lodestar.

24 **Service Award**

25 12. The Agreement provides for a Service Award of up to Five Thousand Dollars
26 and Zero Cents (\$5,000.00) to Plaintiff, subject to the Court’s approval. The Court finds that the
27 amount of Five Thousand Dollars and Zero Cents (\$5,000.00) is reasonable in light of the risks and
28 burdens undertaken by the Plaintiff in this class action litigation.

13. The Agreement provides for Administration Costs to be paid in an amount not to exceed \$9,000.00. The Declaration of the Administrator provides that the actual claims Administration Costs were \$9,000.00. The amount of this payment is reasonable in light of the work performed by the Administrator.

ORDERS

1. The Class is certified for the purposes of settlement only. The Settlement Class is hereby defined to include:

2. There are 485 members of the Class. Every person in the Class who did not opt out is a Settlement Class Member. After providing Notice to the Class, there are zero opt-outs to the Settlement.

4. Defendant shall fund the Gross Settlement Amount on the Funding Date. In exchange the Class Members shall release the “Released Parties” from the “Released Class Claims” and Plaintiff and the LWDA shall release the “Released Parties” from the “Released PAGA Claims.”

b. “Defendant” is defined as Center for Elders’ Independence, Inc.,

including past, present and future corporate parents, subsidiaries, affiliates, related entities, successors and assigns, and all of Center for Elders' Independence, Inc.'s current and former directors, officers, employees, partners, agents, representatives, and attorneys and all persons acting under, by, through, or in concert with any of them.

1 c. The “Released Class Claims” are defined as all class claims alleged,
2 or reasonably could have been alleged based on the facts alleged in the Operative Complaint in the
3 Action which occurred during the Class Period, and expressly excluding all other claims, including
4 claims for vested benefits, wrongful termination, unemployment insurance, disability, social
5 security, workers’ compensation, and class claims outside of the Class Period.

6 d. The “Released PAGA Claims” are defined as all PAGA claims
7 alleged in Plaintiff’s Amended PAGA notice to the LWDA which occurred during the PAGA
8 Period, and expressly excluding all other claims, including claims for vested benefits, wrongful
9 termination, unemployment insurance, disability, social security, workers’ compensation, and
10 PAGA claims outside of the PAGA Period.

11 5. Class Counsel are awarded attorneys’ fees in the amount of Three Hundred,
12 Thirty-Nine Thousand, Eight Hundred Fifty-Two Dollars and Fifty-One Cents (\$339,852.51) for
13 the Attorneys’ Fees and Costs comprised of one-third of the Gross Settlement Amount, or Seventy
14 Thousand Dollars and Zero Cents (\$70,000.00) (“Attorneys’ Fees”) and Costs in the amount of
15 Sixteen Thousand, Five Hundred Nineteen Dollars and Eighteen Cents (\$16,519.18). Class Counsel
16 shall not seek or obtain any other compensation or reimbursement from Defendant, Plaintiff, or
17 members of the Class.

18 6. The payment of the Service Award to the Plaintiff in the amount of \$5,000.00
19 is approved.

20 7. The payment of \$9,000.00 to the Administrator for Administration Costs is
21 approved.

22 8. The PAGA Penalties of \$48,500 is hereby approved as fair, reasonable,
23 adequate, and adequately protects the interests of the public and the LWDA. Further, the Court
24 finds that Plaintiff and Class Counsel negotiated the PAGA Penalties at arms-length, absent of any
25 fraud or collusion.

26 9. Final Judgment is hereby entered in this action. The Final Judgment shall
27 bind each Settlement Class Member.

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1 10. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
2 California and all Aggrieved Employees, pursuant to the California Private Attorneys' General Act
3 ("PAGA").

4 11. The Court further finds and determines that Class Counsel satisfied California
5 Labor Code § 2699(l)(2) by giving the LWDA notice of the proposed Settlement of claims arising
6 under the Private Attorney General Act ("PAGA") on December 5, 2023, and again on June 6, 2024.

7 12. The Court orders Class Counsel to comply with California Labor Code §
8 2699(l)(3) by providing the LWDA a copy of this order within ten (10) calendar days of the Court's
9 entry of this Order.

10 13. The Agreement is not an admission by Defendant, nor is this Final Approval
11 Order and Judgment, a finding of the validity of any claims in the Action or of any wrongdoing by
12 Defendant. Neither this Final Approval Order, the Settlement, nor any document referred to herein,
13 nor any action taken to carry out the Settlement is, may be construed as, or may be used as an
14 admission by or against Defendant of any fault, wrongdoing, or liability whatsoever. The entering
15 into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not
16 in any event be construed as, or deemed to be evidence of, an admission or concession with regard
17 to the denials or defenses by Defendant and shall not be offered in evidence in any action or
18 proceeding against Defendant in any court, administrative agency or other tribunal for any purpose
19 as an admission whatsoever other than to enforce the provisions of this Final Approval Order and
20 Judgment, the Settlement, or any related agreement or release. Notwithstanding these restrictions,
21 any of the Parties may file in the Action or in any other proceeding this Final Approval Order and
22 Judgment, the Agreement, or any other papers and records on file in the Action as evidence of the
23 Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of claim
24 or issue preclusion or similar defense as to the claims being released by the Settlement.

25 14. Notice of entry of this Final Approval Order and Judgment shall be given to
26 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send notice
27 of entry of this Final Approval Order and Judgment to individual Class Members and the Final
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1 Approval Order and Judgment shall be posted on Administrator’s website as indicated in the Class
2 Notice.

3 15. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
4 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a
5 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
6 connection with the distribution of settlement benefits.

7 16. If the Settlement does not become final and effective in accordance with the
8 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
9 Defendant consistent with the terms of the Settlement, then this Final Approval Order and Judgment,
10 and all orders entered in connection herewith shall be rendered null and void and shall be vacated.

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12 **IT IS SO ORDERED.**

13 DATED: _____, 2024
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16 _____
17 Hon. Noel Wise
18 JUDGE OF THE SUPERIOR COURT
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