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Attorneys for Plaintiff, Gerardo Toledo

FILED
Superior Court of California
County of Los Angeles

01/05/2024

David W. Slayton, Executive Officer / Clerk of Court

By: T. Lewis Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

GERARDO TOLEDO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

LOS ANGELES CENTERS FOR ALCOHOL
AND DRUG ABUSE; and DOES 1 through 10,
inclusive,

Defendant.

Case No.: 22STCV08368

[Honorable David S. Cunningham,
Department 11]

**[AMENDED PROPOSED] ORDER
GRANTING PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND PAGA ACTION
SETTLEMENT**

*[Filed concurrently with Supplemental
Declaration of Kane Moon]*

**CONTINUED PRELIMINARY APPROVAL
HEARING**

Date: January 3, 2024
Time: 10:30 AM
Dept: 11

Complaint Filed: March 08, 2022
Trial Date: Not Yet Set

1 The Court has before it the unopposed Motion for Preliminary Approval of Class and
2 PAGA Action Settlement (“Motion”) of Plaintiff Gerardo Toledo (“Plaintiff”). Having
3 reviewed the Notice of Motion, Motion, the Declaration of Kane Moon, the Declaration of
4 Plaintiff Gerardo Toledo, and the Joint Stipulation of Class and PAGA Action Settlement
5 (“Settlement”), and good cause appearing, **THE COURT HEREBY ORDERS AS**
6 **FOLLOWS:**

7 1. The Settlement, which is attached as Exhibit 1 to the Declaration of Kane Moon
8 in Support of Plaintiff’s Motion for Preliminary Approval of Class and PAGA Action
9 Settlement, appears to be fair, adequate and reasonable, and therefore, meets the requirements
10 for preliminary approval. In particular, the Settlement appears to be fair and reasonable in
11 light of the good faith, non-collusive negotiations between Plaintiff and Defendant Los
12 Angeles Centers for Alcohol and Drug Abuse (together, the “Parties”), which resulted in the
13 Settlement; the significant formal discovery, investigation, and analysis conducted by the
14 Parties, which enabled them to intelligently evaluate, litigate and mediate the alleged claims;
15 and the probable outcome of further litigation relating to class certification, liability and
16 damages issues; the substantial costs, delay and risks of further litigation relating to the same;
17 and the risk of potential appeal.

18 2. The Settlement provides that Defendant will pay a Gross Settlement Amount of
19 \$1,000,000.00, which will be used to pay the Individual Class Payments to Participating Class
20 Members; PAGA Penalties in the amount of \$100,000.00, with 75% (\$75,000.00) allocated to
21 the LWDA PAGA Payment, and 25% (\$25,000.00) allocated to the Individual PAGA
22 Payments; the Class Counsel Fees Payment, which is not to exceed one third of the Gross
23 Settlement Amount, or \$333,333.33; the Class Counsel Litigation Expenses Payment, which is
24 not to exceed \$18,000.00; the Class Representative Service Payment, which is not to exceed
25 \$5,000.00; and the Administration Expenses Payment, which is not to exceed \$14,000.00.
26 These terms appear to contain the requisite criteria for preliminary approval, pursuant to
27 *California Code of Civil Procedure* section 382 and other applicable law. Further, these terms
28 appear to fall within the range of reasonableness of a settlement which could ultimately be

1 granted final approval by this Court.

2 3. The Settlement Class, which includes all non-exempt employees of Defendant
3 who worked in California in the period from March 08, 2018 through June 17, 2023, and who
4 do not timely opt out of the Settlement, is provisionally certified for settlement purposes only.
5 The Settlement Class is provisionally certified because it appears to meet the following
6 requirements for certification under *California Code of Civil Procedure* section 382: (1) the
7 Settlement Class is so numerous that joinder is impractical; (2) there are questions of law and
8 fact that are common, or of general interest, to all Settlement Class Members which
9 predominate over individual issues; (3) Plaintiff's claims are typical of the claims of the
10 Participating Class Members; (4) Plaintiff and Class Counsel will fairly and adequately
11 protect the interests of the Settlement Class Members; and (5) a class action is superior to
12 other available methods for the fair and efficient adjudication of the controversy. The Court
13 notes that Class Members who do not request exclusion from the Settlement may object
14 thereto and may raise their objections at the Final Fairness Hearing on the Settlement.

15 4. The PAGA Members, which include all non-exempt employees of Defendant
16 who worked in California in the period from February 20, 2021 through June 17, 2023, are
17 provisionally approved for settlement purposes only.

18 5. The Class Representative, Participating Class Members, and PAGA Members,
19 regardless of whether he or she is a Participating Class Member, will release claims in
20 accordance with the terms of the Settlement upon final approval by the Court of this Settlement
21 and Defendant's payment of all sums due pursuant to this Settlement, and except as to such
22 rights or claims as may be created by this Settlement. With the exception of the Class
23 Representative, who will be subject to a broader release in accordance with the terms of the
24 Settlement, the Participating Class Members and PAGA Members will be subject to the
25 following release terms:

- 26 a. **Released Parties.** "Released Parties" means Defendant and all related companies,
27 subsidiaries, owners, shareholders, members, agents (including, without
28 limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and

1 any past, present or future officers, directors and employees) predecessors,
2 successors, and assigns, and all persons acting by, through, under, or in concert
3 with any of them. (Settlement, ¶ 1.29).

4 b. **Release by Participating Class Members:** All Participating Class Members, on
5 behalf of themselves and their respective former and present representatives,
6 agents, attorneys, heirs, administrators, successors, and assigns, release Released
7 Parties from all claims that were alleged, or reasonably could have been alleged,
8 based on the Class Period facts stated in the Operative Complaint and ascertained
9 in the course of the Action, including but not limited to unpaid wages, overtime,
10 missed meal and rest periods, waiting time penalties, wages not timely paid during
11 employment, payroll stub violations, and failure to keep requisite payroll records.
12 Participating Class Members do not release any other claims, including claims for
13 vested benefits, wrongful termination, violation of the Fair Employment and
14 Housing Act, unemployment insurance, disability, social security, workers'
15 compensation, or claims based on facts occurring outside the Class Period.
16 (Settlement, ¶ 6.2).

17 c. **Release by PAGA Members:** All PAGA Members are deemed to release, on behalf
18 of themselves and their respective former and present representatives, agents,
19 attorneys, heirs, administrators, successors, and assigns, the Released Parties from all
20 claims for PAGA penalties that were alleged, or reasonably could have been alleged,
21 based on the PAGA Period facts stated in the Operative Complaint and Plaintiff's
22 PAGA notice to the LWDA. These include claims for unpaid wages, overtime,
23 missed meal and rest periods, waiting time penalties, wages not timely paid during
24 employment, payroll stub violations, and failure to keep requisite payroll records. All
25 PAGA Members shall release all claims arising under PAGA regardless of their
26 decision to participate in the Settlement. (Settlement, ¶ 6.3).

27 d. **Effective Date.** "Effective Date" means the date the above releases become
28 effective and is the date by when both of the following have occurred: (a) the Court

1 enters a Final Judgment on its Order Granting Final Approval of the Settlement; and
2 (b) the Judgment is final. The Judgment is final as of the latest of the following
3 occurrences: (a) if no Participating Class Member objects to the Settlement, the day
4 the Court enters Final Judgment; (b) if one or more Participating Class Members
5 objects to the Settlement, the day after the deadline for filing a notice of appeal
6 from the Final Judgment; or if a timely appeal from the Judgment is filed, the day
7 after the appellate court affirms the Final Judgment and issues a remittitur.
8 (Settlement, ¶ 1.13).

9 6. For settlement purposes only, the Class Representative appointed for this matter
10 is Plaintiff Gerardo Toledo. The Class Representative Service Payment, which is not to exceed
11 \$5,000.00, is preliminarily approved.

12 7. For settlement purposes only, Class Counsel appointed for this matter is Moon
13 Law Group, PC. The Class Counsel Fees Payment, which is not to exceed \$333,333.33; and
14 Class Counsel Litigation Expenses Payment, which is not to exceed \$18,000.00, are
15 preliminarily approved.

16 8. For settlement purposes only, the Administrator appointed for this matter is
17 APEX Class Action Administration. The Administration Expenses Payment, which is not to
18 exceed \$14,000.00, is preliminarily approved.

19 9. For settlement purposes only, the Notice Packet to be sent to Class Members, as
20 to form and content, is adequate. Further, on a preliminary basis, the plan for distribution of
21 the Notice Packet to Class Members satisfies Due Process, provides the best notice practicable
22 under the circumstances, and shall constitute due and sufficient notice to all persons entitled
23 thereto. The Notice is attached to the Settlement as Exhibit A.

1 10. A Final Fairness Hearing on the question of whether the Settlement terms,
 2 including the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and
 3 Class Representative Service Payment, should be finally approved as fair, adequate and
 4 reasonable as to the Participating Class Members is hereby set in accordance with the
 5 following Implementation Schedule:

6 7 8	Defendant to provide Class Data to the Administrator	Within fifteen (15) calendar days from the date of preliminary approval by the Court
9 10	Administrator to mail the Notice Packets by First Class Mail	Within fourteen (14) days after the Administrator receives the Class Data
11 12 13	Response Deadline	Within sixty (60) days after the Administrator initially mails the Notice Packet to Class Members and PAGA Members
14 15	Deadline to file Motion for Final Approval	No later than sixteen (16) court days prior to the Final Fairness Hearing
16 17	Final Fairness Hearing	May 8, 2024, at 10:00 a.m. in Department 11 of the Los Angeles County Superior Court

18 11. If any of the dates in the above schedule fall on a weekend, or bank or court
 19 holiday, the time to act shall be extended to the next business day.

20 12. Pending further order of this Court, all proceedings in this lawsuit, except those
 21 contemplated herein and in the Settlement, are stayed.

22 13. To facilitate the administration of the Settlement pending final approval, the
 23 Court hereby enjoins the Plaintiff and all Settlement Class Members from filing or prosecuting
 24 any claims, suits or administrative proceedings, including filing claims with the Division of
 25 Labor Standards Enforcement of the California Department of Industrial Relations, regarding
 26 claims released by the Settlement, unless and until such Class Members have filed valid
 27 Requests for Exclusion with the Administrator and the time for filing claims with the
 28 Administrator has lapsed.

1 14. The Settlement is preliminarily approved but is not an admission by the
2 Defendant of the validity of any claims in the instant Class and PAGA action, or of any
3 wrongdoing or violation of law by Defendant.

4 15. Neither the Settlement nor any related document shall be offered or received in
5 evidence in any civil, criminal, or administrative action or proceeding other than such
6 proceedings as may be necessary to consummate or enforce the Agreement and Settlement.

7 16. The obligations set forth in the Settlement are deemed part of this Order. The
8 Parties are to carry out the Settlement in accordance with its terms.

9 **IT IS SO ORDERED.**

10
11 DATE: 01/05/2024



Honorable David S. Cunningham
Judge of the Los Angeles County Superior Court

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the action; my business address is 1055 West Seventh Street, Suite 1880, Los
7 Angeles, California 90017. On January 3, 2024, I served the foregoing document described as:

8 **[AMENDED PROPOSED] ORDER GRANTING PLAINTIFF’S MOTION FOR
9 PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**

10 X by E-mailing ___ the original X a true copy to the following:

11 **Conforti & Carras, APC**
12 Michael Carras, Esq. (mike@cocalaw.com)
13 Daniel Conforti, Esq. (dan@cocalaw.com)
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20 Kathleen Carter, Esq. (kcarter@messner.com)
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23 Costa Mesa, CA 92626
24 Phone: (310) 909-7440

25 *Attorneys for Defendant Los Angeles Centers for Alcohol and Drug Abuse*

26 [] **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties
27 to accept electronic service, I caused the documents to be sent to the persons at the
28 electronic service addresses listed above via third-party cloud service
CASEANYWHERE.

29 X (State) I declare under penalty of perjury under the laws of the State of
30 California that the above is true and correct.

31 Executed on January 3, 2024, at Los Angeles, California.

32 Janelle Jickain

33 _____
34 Name

35 

36 _____
37 Signature