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17 Attorneys for Plaintiff JANENE CARACAUS

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **FOR THE COUNTY OF SAN DIEGO**

20 JANENE CARACAUS, an individual, on
21 behalf of herself, and on behalf of all persons
22 similarly situated,

23 Plaintiff,

24 vs.

25 DANNY'S HOME HEALTHCARE, INC., a
26 California Corporation; and DOES 1-50,
27 Inclusive,

28 Defendants.

Case No. 37-2022-00020531-CU-OE-CTL

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT

Date: November 1, 2024

Time: 9:00am

Judge: Hon. James A. Mangione

Department: C-75

Trial Date: N/A

Action Filed: May 31, 2022

RECEIVED
October 9, 2024

FILED
Clerk of the Superior Court

NOV 01 2024

By: N. Calantoc, Deputy

~~PROPOSED~~ ORDER

1 **TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:**

2 This matter having come before the Honorable James A. Mangione of the Superior Court of the
3 State of California, in and for the County of San Diego, at 9:00 a.m. on November 1, 2024, with the
4 attorneys from the JCL Law Firm, APC and Zakay Law Group, APLC as counsel for Plaintiff JANENE
5 CARACAUS (“Plaintiff”), and counsel from Akerman, LLP, appearing for Defendant DANNY’S
6 HOME HEALTHCARE, INC. The Court, having carefully considered the briefs, argument of counsel
7 and all the matters presented to the Court, and good cause appearing, hereby GRANTS Plaintiff’s
8 Motion for Preliminary Approval of Class and PAGA Action Settlement.

9 **IT IS HEREBY ORDERED:**

10 1. The Court preliminarily approves the Stipulation of Settlement of Class and PAGA Action
11 Claims and Release of Claims (“Settlement Agreement” or “Agreement”) a true and correct copy of
12 which is attached hereto as **Exhibit “1”**. This is based on the Court’s determination that the Settlement
13 Agreement is within the range of possible final approval, pursuant to the provisions of Section 382 of
14 the California Code of Civil Procedure and California Rules of Court, rule 3.769.

15 2. This Order incorporates by reference the definitions in the Agreement, and all terms
16 defined therein shall have the same meaning in this Order as set forth in the Agreement.

17 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
18 Defendant shall pay is \$265,000.00. It appears to the Court on a preliminary basis that the settlement
19 amount and terms are fair, adequate, and reasonable as to all potential Class Members when balanced
20 against the probable outcome of further litigation relating to certification, liability, and damages issues.
21 It further appears that investigation and research have been conducted such that counsel for the Parties
22 are able to reasonably evaluate their respective positions. It further appears to the Court that settlement
23 at this time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that
24 would be presented by the further prosecution of the litigation. It further appears that the Settlement has
25 been reached as the result of intensive, serious, and non-collusive arms-length negotiations.

26 4. The Court preliminarily finds that the Settlement appears to be within the range of
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1 reasonably of a settlement that could ultimately be given final approval by this Court. The Court has
2 reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds
3 that the monetary settlement awards made available to the Class Members are fair, adequate, and
4 reasonable when balanced against the probable outcome of further litigation relating to certification,
5 liability, and damages issues.

6 5. The Agreement specifies for Attorneys' Fees awarded to Class Counsel in the amount of
7 up-to one-third of the Gross Settlement Amount for attorneys' fees, currently estimated to be \$88,333.33
8 **and** an award of Attorneys' Expenses up to \$25,000.00, and proposed Service Award to the Class
9 Representative, Janene Caracaus, in an amount not to exceed \$10,000.00. While these awards appear to
10 be within the range of reasonableness, the Court will not approve the Attorneys' Fees, Attorneys'
11 Expenses, or the Service Award, until the Final Approval Hearing. Class Counsel and the Class
12 Representative will be required to present evidence supporting these requests, including lodestar, prior
13 to final approval.

14 6. The Court recognizes that Plaintiff and Defendant stipulate and agree to certification of a
15 class for settlement purposes only. This stipulation will not be deemed admissible in this, or any other
16 proceeding should this Settlement not become final. For settlement purposes only, the Court
17 conditionally certifies the following Class:

18 All non-exempt employees who are or previously were employed by
19 Danny's Home Health Care, Inc., and performed worked in California
20 during the period between May 31, 2018, to August 1, 2024

21 7. The Court concludes that, for settlement purposes only, the Class meets the requirements
22 for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class
23 Members are ascertainable and so numerous that joinder of all members of the Class Members is
24 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
25 community of interest amongst the Class Members with respect to the subject matter of the litigation;
26 (c) the claims of the Class Representative are typical of the claims of the Class Members; (d) the Class
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1 Representative will fairly and adequately protect the interests of the Class Members; (e) a class action
2 is superior to other available methods for the efficient adjudication of this controversy; and (f) Class
3 Counsel are qualified to act as counsel for the Class Representative in her individual capacity and as the
4 representative of the Class Members.

5 8. The Court provisionally appoints Plaintiff Janene Caracaus as the representative of the
6 Class Members.

7 9. The Court provisionally appoints the attorneys of the JCL LAW FIRM, APC, and of
8 ZAKAY LAW GROUP, APLC, as Class Counsel for the Class Members.

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

18 11. The Court hereby appoints Apex Class Action LLC as the Settlement Administrator. No
19 later than 15 business days of this order, Defendant shall provide to the Settlement Administrator the
20 Class Data, including information regarding Class Members that Defendant will in good faith compile
21 from their records, including each Settlement Class Member's full name; last known address; Social
22 Security Number; start dates and end dates of employment. No later than twenty-one (21) calendar days
23 after the entry of this order, the Settlement Administrator shall mail the Notice Packet to all identified,
24 potential Class Members via first class U.S. Mail using the most current mailing address information
25 available.
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27 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the
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1 Settlement of the Released Claims. Any Class Member may individually choose to opt out of and be
2 excluded from the Settlement of the Released Claims as provided in the Notice Packet by following the
3 instructions for requesting exclusion from the Settlement of the Released Claims that are set forth in the
4 Notice. All requests for exclusion must be postmarked or received by the Response Deadline which is
5 forty-five (45) calendar days after the date the Notice Packet is mailed to the Class Members or, in the
6 case of a re-mailed Notice, not more than fifteen (15) calendar days after the original Response Deadline.
7 Any such person who chooses to opt out of and be excluded from the Settlement of the Released Claims
8 will not be entitled to an Individual Settlement Payment under the Settlement and will not be bound by
9 the Settlement, or have any right to object, appeal or comment thereon. Class Members who have not
10 requested exclusion shall be bound by all determinations of the Court, the Agreement and Judgment. A
11 request for exclusion may only opt out that particular individual, and any attempt to affect an opt-out of
12 a group, class, or subclass of individuals is not permitted and will be deemed invalid.

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14 13. Any Class Member who has not opted out may appear at the final approval hearing and
15 may object or express the Class Member's views regarding the Settlement and may present evidence and
16 file briefs or other papers that may be proper and relevant to the issues to be heard and determined by
17 the Court as provided in the Notice. Class Members will have forty-five (45) days from the date the
18 Settlement Administrator mails the Notice Packets to postmark their written objections to the Settlement
19 Administrator.

20 14. A final approval hearing shall be held before this Court on April 4, 2025 at
21 9:00 AM in Department C-75 of the San Diego County Superior Court to determine all necessary
22 matters concerning the Settlement, including: whether the proposed settlement of the Action on the
23 terms and conditions provided for in the Agreement is fair, adequate and reasonable and should be finally
24 approved by the Court; whether an Order Granting Final Approval should be entered herein; whether
25 the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable
26 to the Class Members; and to finally approve the Attorneys' Fees, Attorneys' Expenses, Service Award,
27 the PAGA Payment, and the Claims Administration Expenses. All papers in support of the motion for
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1 final approval and the motion for Attorneys' Fees, Attorneys' Expenses and Service Award shall be
2 filed with the Court and served on all counsel no later than sixteen (16) court days before the hearing.

3 15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder shall
4 be construed as a concession or admission by Defendant in any way, and shall not be used as evidence
5 of, or used against Defendant as, an admission or indication in any way, including with respect to any
6 claim of any liability, wrongdoing, fault or omission by Defendant or with respect to the truth of any
7 allegation asserted by any person. Whether or not the Settlement is finally approved, neither the
8 Settlement, nor any exhibit, document, statement, proceeding or conduct related to the Settlement, nor
9 any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as,
10 received as or deemed to be evidence for any purpose adverse to the Defendant, including, but not
11 limited to, evidence of a presumption, concession, indication or admission by Defendant of any liability,
12 fault, wrongdoing, omission, concession or damage.

14 16. In the event the Settlement does not become effective in accordance with the terms of the
15 Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become
16 effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties
17 shall revert to their respective positions as of before entering into the Agreement. In such an event, the
18 Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used,
19 or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the
20 Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

21 17. The Court reserves the right to adjourn or continue the date of the final approval hearing
22 and all dates provided for in the Agreement without further notice to Class Members and retains
23 jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

24
25 IT IS SO ORDERED.

26 Dated: 11/1/24

 JAMES A. MANGIONE
JUDGE OF THE SUPERIOR COURT