

FILED
Clerk of the Superior Court

JUN 27 2025

By: M. Garland

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO – NORTH COUNTY REGIONAL CENTER

**MARK TAYLOR and ANGELICA
TRUJILLO, individually and as private
attorneys general on behalf of the State of
California**

Plaintiff,

vs.

**ACCENTCARE, INC., a Delaware
corporation; and DOES 1 through 10,
inclusive,**

Defendants

Case No.: 37-2022-00004587-CU-OE-NC

Judge: Hon. Cynthia Freeland

Dept.: N-27

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

*[Filed with Plaintiffs' Notice of Motion and
Memorandum of Points and Authorities, the
Declaration of Kane Moon, the Declaration
of Mitchell J. Murray, the Declaration of
Plaintiff Taylor, and the Declaration of
Plaintiff Trujillo]*

PRELIMINARY APPROVAL HEARING:

Date: June 27, 2025

Time: 1:30 p.m.

Dept.: N-27

Complaint Filed: February 4, 2022

Trial: Not set

1 **[PROPOSED] PRELIMINARY APPROVAL ORDER**

2 The Court, having considered the Motion for Preliminary Approval of Class Action and
3 PAGA Settlement of Plaintiffs Mark Taylor and Angelica Trujillo ("Plaintiffs"), the
4 accompanying Memorandum of Points and Authorities, the supporting declarations and
5 attachments thereto, and good cause appearing,

6 **HEREBY ORDERS AND DECREES AS FOLLOWS:**

7 1. The Court grants preliminary approval of the proposed Settlement and the Class
8 based upon the terms set forth in the Stipulation of Settlement (the "Settlement Agreement" or
9 "Settlement") attached as Exhibit 1 to the Declaration of Kane Moon in Support of Plaintiffs'
10 Motion for Preliminary Approval of Class Action and PAGA Settlement. The Court finds on a
11 preliminary basis that the Settlement Agreement appears to be fair, adequate, and reasonable, and
12 therefore, meets the requirements for preliminary approval. The Court also preliminarily finds that
13 the terms of the Settlement Agreement appear to be within the range of possible approval, pursuant
14 to California Code of Civil Procedure section 382 and applicable law.

15 2. The Settlement falls within the range of reasonableness of a settlement which could
16 ultimately be given final approval by this Court, and appears to be presumptively valid, subject
17 only to any objections that may be raised at the Final Approval Hearing and final approval by this
18 Court. The Court notes that Defendant AccentCare, Inc. ("Defendant" or "AccentCare") (together
19 with Plaintiffs, the "Parties") agreed to create a common, non-reversionary gross fund of at least
20 \$1,750,000.00 (the "Gross Settlement Amount"), and in addition to Defendant's employer's
21 payroll taxes owed on the wage portions of the Settlement payments, to cover (a) all payments
22 (including interest) to the Settlement Class; (b) costs of the Settlement Administrator of up to
23 \$45,000.00; (c) Class Representative Enhancement Payments of up to \$5,000.00 to each Plaintiff
24 (for a total of \$10,000.00); (d) PAGA civil penalties of \$90,000.00 for settlement of claims for
25 civil penalties under the Private Attorneys General Act, Labor Code Sections 2698, *et seq.*
26 ("PAGA"), and distributed as 25% (\$22,500.00) to the Aggrieved Employees and 75%
27 (\$67,500.00) to the California Labor and Workforce Development Agency (the "LWDA"); (e)
28 attorneys' fees to Class Counsel of up to 33.33% (currently estimated to be \$583,333.33); and (f)

1 reimbursement of actual litigation costs and expenses to Class Counsel of not more than
2 \$55,000.00.

3 3. The Court finds on a preliminary basis that: (1) the settlement amount is fair and
4 reasonable to the Class Members when balanced against the probable outcome of further litigation
5 relating to class certification, liability and damages issues, and potential appeals; (2) significant
6 informal discovery, investigation, research, and litigation have been conducted such that counsel
7 for the respective Parties at this time are able to reasonably evaluate their respective positions; (3)
8 settlement at this time will avoid substantial costs, delay, and risks that would be presented by the
9 further prosecution of the litigation; and (4) the proposed Settlement has been reached as the result
10 of serious, informed, adversarial, and arms-length negotiations between the Parties. Accordingly,
11 the Court preliminarily finds that the Settlement Agreement was entered into in good faith and
12 meets the requirements for preliminary approval.

13 4. A final approval hearing on the question of whether the proposed Settlement
14 Agreement, attorneys' fees and costs to Class Counsel, the PAGA civil penalties, and the Class
15 Representative Enhancement Payments should be finally approved as fair, reasonable, and
16 adequate as to the members of the Class is hereby set in accordance with the Implementation
17 Schedule set forth below.

18 5. The Court provisionally certifies, for settlement purposes only, the following class
19 (the "Class"): All current and former non-exempt employees who worked for AccentCare in
20 California at any time from April 1, 2022 until January 3, 2025 (the "Class Period"). Excluded
21 from the Class is any Class Member who opts out of the Settlement by sending the Administrator
22 a valid and timely Request for Exclusion.

23 6. **Releases.**

24 a. **Released Parties.** "Released Parties" means AccentCare, its past, present, and future
25 affiliated and otherwise related companies, and its and their owners, shareholders, past and present
26 officers, directors, employees, and agents, successors, and assigns (collectively the "Released Parties").
27 (*Id.* at ¶¶ 2A-B.)

28 b. **Effective Date:** If no objections are filed (or any objections have been withdrawn), the

1 “Effective Date” shall be the date that the Court grants final approval of the Settlement and enters an
2 Order and Judgment. If any objections have been filed and have not been withdrawn (the filing of an
3 objection being a prerequisite to the filing of an appeal), then the “Effective Date” will be either: (i) if no
4 appeal is filed, ten (10) days after the last date on which any appeal might have been filed; or (ii) if an
5 appeal is filed, ten (10) days after the final resolution of any appeal, presuming that the appeal upholds
6 the Settlement. (*Id.* at ¶ 2.D.)

7 c. Release by Settlement Class Members. Upon the “Effective Date”, Plaintiffs and every
8 member of the Settlement Class (except those who opt-out) shall release and discharge the Released
9 Parties, from all claims, demands, rights, liabilities and causes of action, whether known or unknown,
10 that were asserted in the LWDA letters, or were pled in the Amended Class Action Complaint, or which
11 could have been pled in the Amended Class Action Complaint based on the factual allegations therein,
12 that arose during the Class Period (“Settlement Class Members’ Released Claims”) with respect to the
13 following claims: (i) failure to pay minimum wages including for non-productive time and rest periods;
14 (ii) failure to pay overtime wages; (iii) failure to provide meal periods; (iv) failure to provide rest periods;
15 (v) failure to indemnify necessary business expenses; (vi) failure to timely pay final wages at the time of
16 termination of employment, including paid time off; (vii) failure to provide itemized wage statements;
17 and (viii) unfair business practices based on these claims. The release shall include claims arising under
18 California Labor Code sections 201, 202, 203, 204, 210, 225.5, 226, 226.2, 226.3, 226.7, 227.3, 246,
19 256, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1182.12, 2802, the California Wage Orders,
20 and Business & Professions Code section 17200, et seq. based on the same California Labor Code
21 sections. (*Id.* at ¶ 2.A.)

22 d. Release by Aggrieved Employees: Upon the “Effective Date”, Plaintiffs, the State of
23 California, and each Aggrieved Employee shall release and discharge the Released Parties, from all
24 claims for PAGA penalties that were asserted in the LWDA letters, or were pled in the Amended Class
25 Action Complaint, or which could have been pled in the Amended Class Action Complaint based on the
26 factual allegations therein, that arose during the PAGA Period (“PAGA Released Claims”) with respect
27 to the following claims: (i) failure to pay minimum wages including for non-productive time and rest
28 periods; (ii) failure to pay overtime wages; (iii) failure to provide meal periods; (iv) failure to provide

1 rest periods; (v) failure to indemnify necessary business expenses; (vi) failure to timely pay final wages
2 at time of termination of employment, including paid-time-off; and (vii) failure to provide itemized wage
3 statements. The release shall include claims for PAGA penalties for alleged violation of California Labor
4 Code sections 201, 202, 203, 204, 210, 225.5, 226, 226.2, 226.3, 226.7, 227.3, 246, 256, 510, 512, 558,
5 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1182.12, and 2802. (*Id.* at ¶ 2.B.)

6 e. Release by Plaintiffs: In light of Plaintiffs Taylor and Trujillo's Class Representative
7 Enhancement Payment, Plaintiffs have agreed to release, in addition to the Class Members' Released
8 Claims described above, all claims, whether known or unknown, under federal law or state law, against
9 the Released Parties, based on his or her employment with AccentCare, to the extent permitted by law,
10 through the duration of the Class Period ("Plaintiff's Released Claims"). Plaintiffs each understand that
11 this release includes unknown claims and that he and she are, as a result, waiving all rights and benefits
12 afforded by Section 1542 of the California Civil Code, which provides: A general release does not
13 extend to claims that the creditor or releasing party does not know or suspect to exist in his or her
14 favor at the time of executing the release and that, if known by him or her, would have materially
15 affected his or her settlement with the debtor or Released Party. Specifically excluded from
16 Plaintiffs' Released Claims are any and all claims that cannot be released as a matter of law, such as
17 claims for workers' compensation benefits. (*Id.* at ¶ 2.C.)

18 7. The Court, for purposes of this Preliminary Approval Order, refers to all terms and
19 definitions as set forth in the Settlement.

20 8. The Court finds, for settlement purposes only, that the Class meets the
21 requirements for certification under California Code of Civil Procedure section 382 in that: (1)
22 the Class is so numerous that joinder is impractical; (2) there are questions of law and fact that are
23 common, or of general interest, to all Class Members, which predominate over individual issues;
24 (3) Plaintiffs' claims are typical of the claims of the Class Members; (4) Plaintiffs and Class
25 Counsel will fairly and adequately protect the interests of the Class Members; and (5) a class
26 action is superior to other available methods for the fair and efficient adjudication of the
27 controversy.

28 9. The Court appoints, for settlement purposes only, Plaintiffs as the "Class

1 Representative.” The Court approves, on a preliminary basis, payment of a Class Representative
2 Enhancement Payment from the Gross Settlement Amount of up to \$5,000.00 to each Plaintiff, in
3 addition to the amount Plaintiffs are eligible to receive as Class Members, in recognition of their
4 contributions to the Action, their service to the Settlement Class, and their general release of
5 claims.

6 10. The Court appoints, for settlement purposes only, Plaintiffs’ Counsel Malte L.
7 Farnaes, Christina M. Lucio, and Mitchell J. Murray of Farnaes & Lucio, APC and Kane Moon
8 and Lilit Ter-Astvatsatryan, of Moon Law Group, PC as “Class Counsel.” The Court approves, on
9 a preliminary basis, Class Counsel’s ability to request attorneys’ fees of up to 33.33% of the Gross
10 Settlement Amount (currently estimated to be \$583,333.33), as well as reimbursement for actual
11 costs not to exceed \$55,000.00, payable from the Gross Settlement Amount. To the extent actual
12 costs are less and/or the final amounts awarded for fees and/or costs are less than the amounts
13 requested, the remainder will be retained in the Net Settlement Amount for distribution to
14 Participating Class Members.

15 11. The Court appoints Apex Class Action Administration as the “Settlement
16 Administrator” with payment, payable the Gross Settlement Amount, for administration costs not
17 to exceed \$45,000.00, except upon a showing of good cause and as approved by the Court. To the
18 extent administration costs are less, the remainder will be retained in the Net Settlement Amount
19 for distribution to Participating Class Members.

20 12. The Settlement Administrator shall perform services and duties as provided for in
21 the Settlement, including, but not limited to, mailing the Class Notice via first-class U.S. Mail to
22 Class Members. Class Members shall not be required to submit a claim form in order to receive
23 individual settlement payments.

24 13. The Court approves the Class Notice in substantially similar form and content as
25 is attached to the Settlement as **Exhibit A**. The Court finds, on a preliminary basis, that the plan
26 for distribution of the Class Notice satisfies due process, provides the best notice practicable under
27 the circumstances, and constitutes due and sufficient notice to all persons entitled thereto.

28 14. The obligations set forth in the Settlement Agreement are deemed part of this

1 Preliminary Approval Order, and the Parties and Administrator are ordered to carry out the
2 Settlement Agreement according to its terms and provisions.

3 15. The Court orders the following Implementation Schedule:

4 Defendant to provide the Administrator 5 with the Class Data	Within 21 calendar days after preliminary approval is granted
6 Administrator to mail the Class Notice	Within 10 calendar days after receiving 7 the Class Data
8 Response Deadline for Class Members	Within 45 calendar days after mailing 9 (extended by 14 calendar days for any re-mailed Class Notices)
10 Last Day to File a Motion for Final 11 Settlement Approval	At least 16 court days before the Final Approval Hearing
12 Final Approval Hearing	October 3 November __, 2025 at 1:30 a.m./p.m. 13 in Dept. N-27 <u>CAF</u>

14
15 16. The Court reserves the right to continue the date of the Final Approval Hearing without
16 further notice to Class Members.

17 17. The Settlement is preliminarily approved but is not an admission by Defendant of the
18 validity of any claims in this class action, or of any wrongdoing by Defendant or of any violation of
19 law. Neither the Settlement nor any related document shall be offered or received in evidence in any
20 civil, criminal, or administrative action or proceeding other than as may be necessary to consummate
21 or enforce the Settlement.

22 **IT IS SO ORDERED.**

23 DATED: June 27, 2025

Cynthia A. Freeland
The Honorable Cynthia Freeland
Judge of the Superior Court, San Diego County