

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 09/20/2021

TIME: 02:30:00 PM

DEPT: C16

JUDICIAL OFFICER PRESIDING: James J. Di Cesare

CLERK: Martha Diaz

REPORTER/ERM: None

BAILIFF/COURT ATTENDANT: Jonathan Aguilar

CASE NO: **30-2017-00940239-CU-OE-CXC** CASE INIT.DATE: 08/25/2017

CASE TITLE: **Crandall vs. Maxim Healthcare Services, Inc.**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Other employment

EVENT ID/DOCUMENT ID: 73611006

EVENT TYPE: Motion for Approval of Class Settlement

APPEARANCES

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Jessica Campbell of Aegis Law Firm, P.C. present telephonically for plaintiff

Alex Grodan of Morgan Lewis & Bockius LLP present telephonically for defendant

The clerk contacted counsel telephonically to set up oral argument as oral argument was requested by plaintiff and defendant on 09/17/21 regarding the Motion for Approval of Class Settlement.

Pursuant to counsels availability this date, plaintiff and defendant's oral argument will go forward at this time.

The Tentative Ruling posted on the internet is as follows:

1. *Motion for Approval of Class Settlement*
2. *Status Conference*

This is a consolidated civil action for alleged wage/hour violations in the home healthcare and service industry. This is a continued hearing on plaintiffs' application for provisional certification of a class, preliminary approval of class settlement, and approval of a PAGA settlement.

At the last hearing on 5/14/21 the Court raised numerous concerns. (ROA 340). In an effort to respond to these concerns, on 7/13/21, Plaintiff submitted a Supplemental Submission and a Supplemental Declaration of Jessica Campbell. (ROA 344 and 349.) The Campbell Declaration also includes a clean and redlined version of the Settlement Agreement (Exs. A & E), a clean and redlined version of the revised Notice (Exs. B & E), Exclusion Form (Ex. C), Objection Form (Ex. D), Amended Notice to LWDA adding Maxim Healthcare Services Inc. (Ex. F), email confirmations from LWDA (Ex. G), redlined version of Proposed Order (Ex. H). (ROA 349.) In addition, the Fourth Amended Complaint was filed on 8/16/21.

Having reviewed the aforementioned documents, the Court finds that all issues raised by the Court at the

5/14/21 hearing have been sufficiently addressed. However, the final version of revised Settlement Agreement (Ex. E) is not fully executed. It has not been signed by any party.

To address this issue, Plaintiffs' counsel contends that the settlement agreement has been fully executed. The Campbell Declaration states, "Please note, the revised Settlement Agreement is fully executed because it is signed by counsel for the Parties on their behalf. The Settlement provides "This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest." Settlement Agreement, ¶ III(28)." (Campbell Decl., para. 12.) While the agreement can only be amended or modified in writing and signed by counsel for all parties, the plaintiffs themselves must still agree to the changes and sign the agreement, as the agreement is intended to bind all plaintiffs (and the proposed class), not just counsel.

Moreover, even if counsel were permitted to sign on behalf of the parties, Campbell is simply incorrect in her proposition that the agreement is fully executed in this instance. The settlement agreement clearly shows that attorneys signed the agreement approving the form and content (the Court further notes that only one attorney signature block appears to be fully executed). (See, Ex. E, pg. 54, "APPROVED AS TO FORM AND CONTENT:..." Emphasis in original.) The court cannot grant preliminary approval until the settlement agreement is signed by all parties, including Plaintiffs.

The hearing on this Motion to Approve is continued to 1/7/22. It is not necessary for the parties to resubmit briefing which has already been filed with the Court. Supplemental declarations or other supplemental materials addressing the identified issues shall be filed no later than 9 court days prior to the continued hearing date. If a revised settlement agreement is submitted, a redlined version showing all changes, deletions, and additions must also be submitted electronically to the court. The parties are reminded to bookmark any exhibits.

Moving party to give notice.

-Tentative ruling concluded-

Argument heard.

The Court having fully considered the arguments of all parties, both written and oral, now rules as follows:

The tentative ruling above is now final with the exception that on Friday, 9/17/21, after posting of the tentative ruling the revised settlement agreement was properly executed and filed.

The hearing is not continued as stated above.

The tentative is supplemented in which the Court incorporates the minute order of 05/14/21 of the approved preliminary approval of settlement and sets a date for final approval on 02/25/2022 at 9:30 am in this department.

Any papers to be filed 10 calendar days prior to the hearing.

Court orders plaintiff to give notice.