

10/07/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By:                     R. Aspiras                     Deputy

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

KENNETH TOSTE, on behalf of himself and  
all others similarly situated,

Plaintiffs,

v.

PATH VENTURES, a California corporation,  
doing business as “People Assisting the  
Homeless”; and DOES 1 through 100,  
inclusive,

Defendants.

Case No. 19STCV45845

The Honorable Stuart M. Rice,  
Dept. 1

**ORDER GRANTING PLAINTIFFS’  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT AND PROVISIONAL  
CLASS CERTIFICATION FOR  
SETTLEMENT PURPOSES ONLY**

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

2 The Motion for Preliminary Approval of Class Action Settlement came before this  
3 Court, the Honorable Stuart M. Rice presiding, on October 7, 2022 at 10:30 a.m. The  
4 Court having considered the papers submitted in support of the Motion, HEREBY  
5 ORDERS THE FOLLOWING:

6 1. Capitalized terms shall have the definitions set forth in the Joint Stipulation and  
7 Settlement Agreement (the “Settlement”) entered into between the Parties.

8 2. The following Class is conditionally certified for purposes of settlement only: “all  
9 current and former non-exempt, hourly paid employees who worked in California for  
10 Defendants at any time during the Class Period.” The Class Period is defined as  
11 “December 23, 2015 through September 21, 2021.”

12 3. The Settlement Class shall consist of all Class Members who do not timely  
13 exclude themselves (“opt out”) from the Settlement Class by mailing a timely Request for  
14 Exclusion (or “Opt Out”) in accordance with the requirements set forth in the Class Notice  
15 and Settlement.

16 4. The Court grants preliminary approval of the Settlement based upon the terms set  
17 forth in the Settlement filed herewith (\$625,000), and finds that the Class and the  
18 Settlement Class meet the requirements for conditional certification for settlement  
19 purposes only under California Code of Civil Procedure section 382.

20 5. The Settlement appears to be fair, adequate and reasonable to the Class and the  
21 Settlement Class. The Settlement falls within the range of reasonableness and appears to  
22 be presumptively valid, subject only to any objections that may be raised in connection  
23 with the Final Approval Hearing.

24 6. Plaintiffs Kenneth Toste, Cesillia Mixco, and Joia Williams are conditionally  
25 approved as the class representatives for the Class and the Settlement Class.

26 7. The Incentive Award of \$7,500.00 payable to each Plaintiff for their services as  
27 the class representatives is conditionally approved.

1 8. Plaintiffs' Counsel (David D. Bibiyan of Bibiyan Law Group, P.C., Jasmin K. Gill  
2 of J. Gill Law Group, P.C., and Todd Friedman and Adrian Bacon of the Law Offices of  
3 Todd M. Friedman, P.C.) are conditionally approved as Class Counsel for the Class and  
4 the Settlement Class.

5 9. The Fee and Expense Award of up to \$218,750.00 in attorneys' fees and up to  
6 \$25,000.00 in actual litigation costs payable to Plaintiffs' Counsel is conditionally  
7 approved.

8 10. A Final Approval Hearing on the question of whether the Settlement, attorneys'  
9 fees and costs to Class Counsel, and Incentive Awards to Plaintiffs should be given Final  
10 Approval as fair, reasonable and adequate as to Settlement Class Members is scheduled in  
11 Department SS-1 on the date and time set forth in Paragraph 22g below.

12 11. The estimated Administration Costs of up to \$14,000.00 for administration  
13 services as the Settlement Administrator are hereby conditionally approved.

14 12. The PAGA Award of \$20,000 (75% to the LWDA, with the remaining 25%  
15 allocated to Aggrieved Employees) is conditionally approved.

16 13. The Court approves, as to form and content, the Class Notice in substantially the  
17 form attached to the Second Supplemental Declaration of Adrian Bacon submitted in  
18 conjunction with the Motion. The Court approves the procedures for Class Members to  
19 participate in, to request exclusion from, and to object to the Settlement as set forth in the  
20 Class Notice.

21 14. The Court directs the mailing of the Class Notice by first class mail to all Class  
22 Members in accordance with the Implementation Schedule set forth in Paragraph 21  
23 below. The Court finds the dates selected for the mailing and distribution of the Class  
24 Notice, as set forth in the Implementation Schedule, meet the requirements of due process  
25 and provide the best notice practicable under the circumstances and shall constitute due  
26 and sufficient notice to all persons entitled thereto.

27 15. To facilitate administration of the Settlement pending final approval, the Court  
28

1 hereby enjoins Plaintiffs and all Class Members from filing or prosecuting any claims,  
2 suits or administrative proceedings (including filing claims with the Division of Labor  
3 Standards Enforcement of the California Department of Industrial Relations) regarding  
4 their respective Released Claims unless and until such Class Members have submitted  
5 valid requests for exclusion to the Settlement Administrator and the Objection/Exclusion  
6 Deadline has elapsed.

7 16. Any Class Member may choose to opt-out of and be excluded from the Class, as  
8 provided in the Notice, by following the instructions for requesting exclusion from the  
9 Class that are set forth in the Notice. All requests for exclusion must be submitted as  
10 provided in the Notice. Any such person who chooses to opt-out of and be excluded from  
11 the Class will not be entitled to any recovery under the Settlement and will not be bound  
12 by the Settlement or have any right to object, appeal, or comment thereon. Any written  
13 request to opt-out must be signed by each such person opting out. Class Members who  
14 have not requested exclusion shall be bound by all determinations of the Court, the  
15 Settlement, and Judgment.

16 17. Any Class Member may appear at the Final Approval Hearing and may object or  
17 express the Class Member's views regarding the Settlement, and may present evidence and  
18 file briefs or other papers, that may be proper and relevant to the issues to be heard and  
19 determined by the Court as provided in the Notice. Class Members shall be entitled to be  
20 heard at the Final Approval Hearing (whether individually or through separate counsel) or  
21 to object to the Settlement. Class Members who fail to file and serve timely written  
22 objections in the manner specified herein and in the Settlement, shall be deemed to have  
23 waived any objections and shall be foreclosed from making any objection (whether by  
24 appeal or otherwise) to the Settlement.

25 18. The Settlement is not a concession or admission, and shall not be used against  
26 Defendant or any of the Released Parties as an admission or indication with respect to any  
27 claim of any fault or omission by Defendant, or any of the Released Parties. Whether or  
28

1 not the Settlement is finally approved, neither the Settlement, nor any document,  
2 statement, proceeding, or conduct related to the Settlement, nor any reports or accounts  
3 thereof, shall in any event be:

- 4 a. Construed as, offered or admitted in evidence as, received as or deemed to  
5 be evidence for any purpose adverse to the Released Parties, including, but  
6 not limited to, evidence of a presumption, concession, indication, or  
7 admission by Defendant or any of the Released Parties of any liability, fault,  
8 wrongdoing, omission, concession, or damage; or
- 9 b. Disclosed, referred to, or offered or received in evidence against any of the  
10 Released Parties in any further proceeding in the Action, or in any other  
11 civil, criminal, or administrative action or proceeding, except for purposes of  
12 settling the Action pursuant to the Settlement.

13 19. In the event the Settlement does not become effective in accordance with the  
14 terms of the Settlement, or the Settlement is not finally approved, or is terminated,  
15 cancelled or fails to become effective for any reason, this Order shall be rendered null and  
16 void and shall be vacated, and the Parties shall revert to their respective positions as of  
17 before entering into the Stipulation.

18 20. The Court orders the following Implementation Schedule for further proceedings:

- 19 a. Deadline for Defendants to submit Class Member Data to Settlement  
20 Administrator: **October 17, 2022**
- 21 b. Deadline for Settlement Administrator to Mail the Class Notice to Class  
22 Members (within 7 days of receipt of the Class Information from  
23 Defendant): **October 24, 2022**
- 24 c. Dispute Deadline (45 days from the date the Class Notice is first mailed):  
25 **December 1, 2022**
- 26 d. Objection/Exclusion Deadline: **December 1, 2022**
- 27 e. Deadline for Class Counsel to file Motion for Final Approval of Class  
28

1 Action Settlement: **March 10, 2023**

2 f. Deadline for Class Counsel to file Motion for Attorneys' Fees, Costs and  
3 Incentive Award: **March 10, 2023**

4 g. Deadline for Settlement Administrator to Submit Declaration Detailing  
5 Claims/Opt Outs/Objections: **March 3, 2023**

6 h. Deadline to Submit Any Responses to Objections and/or Reply Brief:  
7 **March 10, 2023**

8 i. Final Approval Hearing Date: **April 4, 2023 at 10:30 a.m.**



11 DATED: October 7, 2022

Stuart M. Rice / Judge

12 THE HONORABLE STUART M. RICE  
13 JUDGE OF THE SUPERIOR COURT  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28