

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

YOLANDA SANTIAGO,
individually and on behalf of all
others similarly situated,

Plaintiff,

v.

Case No.: 2:22-cv-21-KCD

CONCIERGE SENIOR LIVING,
LLC and SENIOR CARE
RESIDENCES SAPPHIRE LAKES
AT NAPLES, LLC.,

Defendants.

_____ /

ORDER

Before the Court is the parties' Second Joint Motion for Approval of Settlement. (Doc. 40.) Because this is a collective action, the parties also ask the Court to retain jurisdiction and approve their proposal for notifying potential opt-in plaintiffs. For the reasons below, the motion is granted.

As the title to the pending motion suggests, this is the second time the parties have been before the Court with their settlement agreement. The first time, the Court found the settlement "appropriate in all terms except for attorneys' fees." (Doc. 36 at 8.) The problem was that the agreement appeared to contain a contingency fee arrangement, which is not allowed. *See, e.g., Hurt*

v. RT Pizza Inc., No. 7:20-CV-57 (WLS), 2021 WL 5413668, at *3 (M.D. Ga. Feb. 12, 2021).

The parties have now clarified that the settlement agreement does not contain a contingency fee. (Doc. 40 at 19.) Attorney fees were independently negotiated “and agreed upon separately from the amounts calculated to be owed to Represented Plaintiffs and the Class Members.” (*Id.* at 18.) This representation obviates the Court’s prior concerns. *See Bonetti v. Embarq Mgmt. Co.*, 715 F. Supp. 2d 1222, 1228 (M.D. Fla. 2009). Furthermore, the amount to be paid to counsel is a reasonable rate with a multiplier that the parties have justified. The Court will thus approve the settlement for the reasons articulated in its prior order. (*See* Doc. 36.)

As mentioned, the parties have also requested that the Court approve their proposed claim forms and retain jurisdiction to allow for opt-in plaintiffs to join the suit. (Doc. 40-2, Doc. 40-3.) The Court has reviewed the various exhibits and finds them appropriate. It will retain jurisdiction over this matter under the conditions set forth below.

Accordingly, it is **ORDERED**:

1. The parties’ Second Joint Motion for Approval of Settlement (Doc. 40) is **GRANTED** and the proposed settlement is approved;
2. The proposed Notice and Claim Forms and the proposed method for distribution of those documents is also approved;

3. The Court will keep this matter open and retain jurisdiction until notified by the parties that the claims period has expired;
4. Sixty-days following this order, and every sixty-days thereafter, the parties must file a joint notice reporting on the status of the claims process.

DONE AND ENTERED in Fort Myers, Florida on October 5, 2022.


Kyle C. Dudek
United States Magistrate Judge

Copies: All Parties of Record