

FILED
KERN COUNTY SUPERIOR COURT
11/8/2022

BY Sala, Gina
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN

SHELLY CHINSEE, on behalf of herself and
others similarly situated

Plaintiff,

v.

ELITE NURSING SERVICES, INC.; LEE
HADFIELD; and DOES 1-20, inclusive

Defendants.

Case No. BCV-22-102413

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL TO
CLASS AND REPRESENTATIVE
ACTION SETTLEMENT

Action Filed: February 4, 2022

1 The Court has before it Plaintiff Shelly Chinsee’s (“Plaintiff”) Unopposed Motion for
2 Preliminary Approval of Class and Representative (i.e., Private Attorneys General Act (“PAGA”))
3 Action Settlement with Defendants Elite Nursing Services, Inc. (“Elite”) and Lee Hadfield
4 (collectively “Defendants”). Unless otherwise specified, all capitalized terms in this Order shall
5 have the same meaning given to those terms in the Class Action and PAGA Settlement Agreement
6 (“Settlement” or “Agreement”).

7 The Court hereby finds and ORDERS as follows:

8 1. The Court grants preliminary approval to the Settlement. The Settlement falls within
9 the range of possible approval as fair, adequate and reasonable, and appears to be the product of
10 arm’s-length and informed negotiations and to treat all Class Members fairly. Continued litigation
11 would have been expensive for both sides. The Parties acknowledge that litigating and trying this
12 action may have resulted in delay of any recovery, involved significant risk as to liability and
13 certification, and led to possible appeals. Class Counsel received the relevant information for the
14 Class. Plaintiff has adequately demonstrated that the Settlement did not occur until Plaintiff and
15 Class Counsel possessed sufficient information to evaluate the case and make an informed decision
16 about settlement. The Settlement sets out the terms upon which Defendants will settle all claims
17 which have been brought against them in this matter.

18 2. The Court finds on a preliminary basis that the allocation of funds in settlement for
19 releasing the Released Parties from the Released Class Claims falls within the range of
20 reasonableness and therefore meets the requirements for preliminary approval. The Court
21 preliminarily accepts the parties’ definition of the Class, for settlement purposes only, which is as
22 follows:

23
24 All of Elite’s non-exempt employees who were assigned to work at any facility
25 inside California from February 4, 2018 to 60 days from the date the Agreement is
26 signed (i.e. November 7, 2022), or the date of preliminary approval, whichever
27 occurs earlier.

28 3. The Court conditionally certifies and approves, for settlement purposes only, and
without prejudice to any Party’s rights to support or oppose class certification should the Settlement

1 not receive final approval by this Court, the Class described in this Order, the Motion for
2 Preliminary Approval, and the Agreement.

3 4. A subset of the Class that is defined as the “Aggrieved Employees” in the Agreement
4 will be entitled to receive a portion of the “PAGA Penalties” under the terms of the Agreement, in
5 settlement of their PAGA claims. The Court finds on a preliminary basis that the allocation of funds
6 in releasing the Released Parties from the Released PAGA Claims falls within the range of
7 reasonableness and therefore meets the requirements for preliminary approval. The Court
8 preliminarily accepts the parties’ definition of the Aggrieved Employees, for settlement purposes
9 only, which is as follows:

10 All of Elite’s non-exempt employees who were assigned to work at any facility
11 inside California from February 14, 2021 to 60 days from the date the Agreement is
12 signed (i.e. November 7, 2022), or the date of preliminary approval, whichever
13 occurs earlier.

14 5. The Court appoints, for settlement purposes only, Plaintiff Shelly Chinsee as the Class
15 Representative.

16 6. The Court appoints, for settlement purposes only, Ashkan Shakouri and Sharon W.
17 Lin of Shakouri Law Firm as counsel for the Class and the Aggrieved Employees (“Class Counsel”).

18 7. The Parties shall retain the services of Phoenix Settlement Administrators for the
19 administration of the Settlement, and said entity is hereby appointed Administrator.

20 8. As described in the Agreement, Elite shall provide the Administrator with the Class
21 Data, as specified in the Agreement, no later than 30 calendar days after the date of entry of this
22 Order. As described in the Agreement, by no later than ten (10) calendar days after receiving the
23 Class Data, the Administrator shall provide notice of settlement (“Class Notice”) to all Class
24 Members by first class U.S. mail to their last known address according to the information that Elite
25 will provide to the Administrator pursuant to the Agreement. The Class Notice shall substantively be
26 in the form lodged as Exhibit A to the Agreement. The Court finds that the content and schedule of
27 the mailings discussed in this Order meet the requirements of due process, provide the best notice
28 practicable, and will constitute sufficient notice to Class Members.

9. Class Members may exclude themselves from the Class, relinquishing their rights to

1 their Individual Class Payments (but not their Individual PAGA Payments) by sending to the
2 Administrator by U.S. mail a written “Request for Exclusion,” as described in the Class Notice.
3 Pursuant to the terms of the Agreement, all Class Members will be bound by the Agreement and its
4 release unless they timely file a proper Request for Exclusion. A Class Member who opts out of the
5 Settlement will not release his or her claims pursuant to the Agreement, except for Released PAGA
6 Claims, as defined in the Agreement, whether or not he or she opts out of the Settlement.

7 10. Any Class Member who has not opted out and believes that the Settlement should not
8 be finally approved by the Court for any reason may object to the Settlement. Class Members’
9 written objections to the Administrator must be mailed not later than 45 days after the Settlement
10 Administrator mails the Class Notice to them. Class Members may also appear in person or through
11 an attorney, if they so desire, at the Final Approval Hearing to make their objection orally, regardless
12 of whether they have submitted written objections to the Settlement.

13 11. The Court sets a Hearing on Final Approval for March 2, 2023, at
14 8:30 a.m./~~p.m.~~ in Department J of the Superior Court of the State of California,
15 County of Kern, located at 1415 Truxtun Ave, Bakersfield, CA, 93301. Plaintiff must file a Motion
16 for Final Approval of the Settlement, including any Application for Attorneys’ Fees, Costs, and
17 Expenses and Service Payment, with this Court by Jan. 30, 2023. The Court reserves the
18 right to continue the date of the Final Approval Hearing without further notice to Class Members.

19 12. All further proceedings in this action will be stayed except such proceedings necessary
20 to review, approve, and implement this Settlement.

21 13. Neither this Order nor the Agreement, nor any of their terms or provisions, nor any of
22 the negotiations or proceedings connected with them, shall be construed as an admission or
23 concession by Defendants of the truth of any of the allegations in this litigation, or of any liability,
24 fault, or wrongdoing of any kind.

25 14. In the event: (i) the Court does not finally approve the Settlement in a manner
26 contemplated by the Agreement; (ii) the Court does not enter a Final Approval Order and Judgment,
27 as contemplated by the Settlement, which becomes final as a result of the occurrence of the Effective
28 Date (as that term is defined by the Settlement) or (iii) the Settlement does not become final for any

1 other reason, the Settlement and any related Class shall be null and void and any order or judgment
2 entered by this Court in furtherance of the Settlement shall be deemed as void from the beginning.
3 In such a case, the Parties and any funds to be awarded under this Settlement shall be returned to
4 their respective statuses as of the date and time immediately prior to the execution of the Settlement,
5 and the Parties shall proceed in all respects as if no Class had been certified and the Settlement
6 Agreement had not been executed.

7 15. Neither the Settlement, preliminary approved or not, nor any exhibit, document, or
8 instrument delivered hereunder, nor any statement, transaction or proceeding in connection with the
9 negotiation, execution or implementation of the Settlement, shall be admissible in evidence for any
10 reason, except as provided in the Settlement or to enforce the releases contained therein. The Court
11 has made no findings on the merits and Defendant has denied the allegations in the operative
12 complaint.

13 16. The Court hereby grants preliminary approval of the Settlement as of the date of this
14 Order.

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16 **IT IS SO ORDERED.**

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18 Dated: Signed: 11/8/2022 11:12 AM



19 HON. ERIC J. BRADSHAW
20 JUDGE OF THE SUPERIOR COURT
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