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Superior Court of California  
County of Los Angeles

FINAL RULINGS/ORDERS RE: MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

OCT 13 2022

Sherril R. Carter, Executive Officer/Clerk of Court  
By: Roxanne Arraiga, Deputy

Oreyda Paramo-Domio v. Prescott Sanchez, Inc., et al., Case No.: 20STCV34809

The Parties' Motion for Final Approval of Class Action Settlement is **GRANTED** as the settlement is fair, adequate, and reasonable.

The essential terms are:

A. The Gross Settlement Amount ("GSA") is \$309,581.12. (¶B)

B. The Net Settlement Amount ("Net") is the GSA minus the following:

\$103,193.71 (33 1/3%) for attorney fees to Class Counsel, Arin | James LLP and Sookassian and Amirkhanian APC [pursuant to a fee split] (¶B);

\$10,551.61 for litigation costs to Class Counsel (Ibid.);

\$5,000 for a service award to the class representative, Plaintiff Oreyda Paramo-Domio (¶B.2);

\$13,000 for settlement administration costs to CPT Group, Inc., (¶B.3); and

\$5,625 (75% of \$7,500 PAGA penalty) to the LWDA (¶B).

C. Employer share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the Gross Settlement Amount by Defendant.

D. Plaintiffs release of Defendants from claims described herein.

By **November 14, 2022**, Class Counsel must give notice to the class members pursuant to California Rules of Court, rule 3.771(b) and to the LWDA, if applicable, pursuant to Labor Code §2699 (1)(3).

By **October 16, 2023**, Class Counsel must file a Final Report re: Distribution of the settlement funds.

Court sets **Non-Appearance Case Review for October 23, 2023, 8:30 AM, Department 9.**

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I.  
INTRODUCTION

A. Background

Plaintiff Oreyda Paramo-Domio sues her former employer, Defendants Prescott Sanchez, Inc. dba Home Instead Senior Care ("HISC"), Carter Jordan Prescott, and Gregorio Valentine Sanchez, Jr. (collectively, "Defendants") for alleged wage and hour violations. Defendant Prescott Sanchez, Inc. is a franchisee of Home Instead Senior Care and does business as HISC. HISC is a home care agency that provides care to elderly and disabled clients in their private homes. Defendants Carter Jordan Prescott and Gregorio Valentin Sanchez, Jr. are the owners of Defendant Prescott Sanchez, Inc. Plaintiff seeks to represent a class of Defendants' current and former non-exempt employees.

On September 10, 2020, Plaintiff filed the initial Complaint in this action. On January 6, 2021, Plaintiff filed a First Amended Complaint ("FAC") against Defendants. The FAC alleges claims for Violation of California Labor Code §§ 201-204 (Wages Not Paid Upon Termination and By The Appropriate Pay Period); Violation of California Labor Code §§ 1194, 1197 and 1197.1 (Failure to Pay Minimum Wage); Violation of California Labor Code §§ 510, 1194, 1197.1 and 1454 (Failure to Pay Overtime); Violation of California Labor Code § 226(a) (Improper Wage Statements); Violation of California Labor Code § 450-451, and 2802 (Failure to Reimburse Business Expenses); Violation of California Labor Code §§ 1174, 1174.5 and 1198 (Failure to Maintain Records); Violation of California Business & Professions Code § 17200, et seq. (Unfair Competition); and Violation of California Labor Code §§ 2698, et seq. ("PAGA"). On February 18, 2021, the Parties participated in a private mediation with mediator Hon. Steven Denton. At the mediation, the Parties agreed to the basic terms of a proposed settlement. The parties subsequently finalized the Settlement and Release Agreement ("Settlement Agreement"), a copy of which was filed with the Court.

On September 15, 2021, the Court issued a "checklist" to the parties pertaining to deficiencies in the Settlement Agreement, which the parties addressed in supplemental briefing.

On December 15, 2021, the Court issued an additional checklist pertaining to remaining issues, to which the parties

filed further briefing in response, including a revised Settlement Agreement.

The settlement was preliminarily approved on April 5, 2022, subject to certain conditions with which there has been compliance.

The Parties now move for final approval of the proposed class action settlement.

B. Definitions

"Class Members": all current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California at any time between September 10, 2016 and the date of the preliminary approval of the Settlement by the Court. (¶A.1.a)

"PAGA Settlement Group": all current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California any time during the PAGA settlement period of July 21, 2019 to the date of preliminary approval of this Settlement. (¶A.1.a)

"PAGA settlement period": July 21, 2019 through the date of the Court's preliminary approval of this Settlement. (¶A.1.a)

C. Terms of Settlement Agreement

The essential terms are:

- The Settlement Amount is \$309,581.12, non-reversionary. (¶B)
- The Net Settlement Amount ("Net") (\$163,262.41) is the Settlement Amount minus the following:
  - Up to \$103,193.71 (33 1/3%) for attorney fees (¶B);
  - Up to \$15,000 for litigation costs (Ibid.);
  - Up to \$7,500 for a service award to the Named Plaintiff (¶B.2);
  - Up to \$15,000 for settlement administration costs (¶B.3);and
- Payment of \$5,625 (75% of \$7,500 PAGA penalty) to the LWDA (¶B).
- Defendant's share of payroll taxes will be separate and apart from the Settlement Amount. (¶B.4)
- No Claim Form. Class Members will not have to submit a claim form in order to receive their settlement payment. (¶B)

- Response Deadline. The deadline by which Class Members must postmark to the Settlement Administrator a request for exclusion, written objection, or Workweek Dispute Form will be 45 calendar days from the initial mailing of the Notice. (§§ C.4, D, E)
  - Should five percent (5%) or more of eligible Class Members opt-out of the Settlement, Defendants have the right to rescind the settlement at its sole discretion. (§D)
- Individual Settlement Payment Calculation. The lump sum payment to each member of the Settlement Class not excluding him/herself will be determined by dividing the NSA by the total number of Qualified Workweeks ("Qualified Workweek" means a calendar week during the Class Period in which the Class Member actually worked at least one day (as opposed to being on a leave or not on an assignment)) worked by all members of the Settlement Class during the Settlement Period (the "Weekly Amount") and then multiplying the Weekly Amount by the number of Qualified Workweeks by the individual class member as determined by the Settlement Administrator, less any applicable withholding taxes based on the Parties' stipulated allocation of the NSA. (§B.1)
  - The lump sum payment to each member of the PAGA Settlement Group will be determined by dividing the individual portion of the PAGA Settlement payment by the total number of Qualified Workweeks worked by all members of the PAGA Settlement Group during the PAGA Settlement Period (the "PAGA Weekly Amount") and then multiplying the PAGA Weekly Amount by the number of PAGA Qualified Workweeks by the individual class member as determined by the Settlement Administrator, less any applicable withholding taxes based on the Parties' stipulated allocation of the NSA. (§B.1)
  - Tax Allocation. Individual Settlement Awards shall be allocated as follows: 20% as wages, 80% as interest and penalties. (§B.4)
- Funding of Settlement. Defendants shall pay the Settlement Amount as follows:
  - The first payment in the amount of \$154,790.56 shall be made within thirty (30) days after the Court grants final approval of the Settlement or if an appeal is filed, within 15 days after the final resolution of the appeal. Defendants shall deposit the first installment of \$154,790.56 into a Qualified Settlement Account to be established by the Settlement Administrator. (§B.a)
  - The second payment in the amount of \$154,790.56 shall be made within one year of the first installment payment and also be deposited into the Qualified Settlement Account to be established by the Settlement Administrator. (§B.b)

- o No later than 10 days after receiving the second payment from Defendants, the Settlement Administrator shall issue the individual settlement payment checks and distribute them to Class Members. (§F.2)
- Uncashed Checks. Settlement checks will specifically indicate that they are void if not negotiated within one hundred eighty (180) days of their issuance. Any settlement checks that remain uncashed one hundred eighty (180) or more calendar days after issuance by the Settlement Administrator shall be voided. The Settlement Administrator will remit the amount of each Class Member's uncashed Settlement Payment to the California State Controller's Office: Unclaimed Property, subject to Court approval. (§B)
- CPT Group, Inc. will perform notice and settlement administration. (§B.3)
- The revised Settlement Agreement was submitted to the LWDA on March 21, 2022. (Exhibit Q to Plaintiff's Compendium of Evidence ISO Prelim.)
- Notice of Entry of Judgment will be posted on the Settlement Administrator's website. (Supp. Norijanian Decl. ISO Prelim ¶6)
- Release as to All Settlement Class Members. As of the date the Defendants fully fund the settlement, Class Representative and all Class Members, except those who make a valid and timely request to be excluded from the Class and except the Class Representative's individual claims she has brought in Superior Court of California, County of Los Angeles, Case No. 20STCV36212, will release any and all claims and causes of action against Defendants and their franchisors, owners, officers, shareholders, partners, members, customers, agents and employees, and all related or affiliated entities, arising out of the facts and claims asserted in the operative First Amended Complaint filed in the Action, or any other claims or causes of action reasonably arising out of the same set of operative facts alleged in the operative First Amended Complaint, including but not limited to California Labor Code §§ 201-04, 226, 450-51, 510, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 1454, and 2802, and relevant sections of the applicable Wage Orders, and for Wages Not Paid Upon Termination and By The Appropriate Pay Period; Failure to Pay Minimum Wage; Failure to Pay Overtime; Improper Wage Statements; Failure to Reimburse Business Expenses; Failure to Maintain Records; Violation of California Business & Professions Code § 17200, et seq. (unfair competition); Violation of California Labor Code §§ 2698, et seq. (PAGA), and claims for civil penalties pursuant to the California Labor Code as disclosed in Plaintiff's letters to the Labor & Workforce

Development Agency ("LWDA") and alleged in Plaintiff's First Amended Complaint. The PAGA claims will be released and the PAGA Settlement Group will be entitled to their portion of the PAGA penalty, regardless of whether or not the Class Member opts out. (¶I.1)

## II. DISCUSSION

### A. Does a Presumption of Fairness Exist?

1. Was the settlement reached through arm's-length bargaining? Yes. On February 18, 2021, the Parties participated in a private mediation with mediator Hon. Steven Denton. At the mediation, the Parties agreed to the basic terms of a proposed settlement. The parties subsequently finalized the Settlement Agreement. (Declaration of Arin Norijanian ("Norijanian Decl.") ISO Prelim, ¶17.)

2. Were investigation and discovery sufficient to allow counsel and the court to act intelligently? Yes. Class Counsel represents that prior to mediation, Defendant produced a sampling of class member payroll and timekeeping data, as well as copies of relevant policies and financial records. Plaintiff's counsel retained a financial consultant to analyze the financial records, which assisted Plaintiff's counsel in preparing a damages model prior to mediation. Plaintiff's counsel also reviewed documents relating to Defendant's compensation policies and procedures, time data, payroll data, employee handbooks, and other corporate policies and procedures. (Id. at ¶11.)

Specifically, Defendants produced to Plaintiff the class list, a twenty percent (20%) random sample of Class members' wage statements, Defendants' handbooks and policies, arbitration agreements with a class action waiver, and additional class information. Defendants also produced financial records for the entities and the individual defendants. Plaintiff also produced records evidencing Defendants' failure to reimburse her business expenses and support for her other claims. (Id. at ¶13.)

Class Counsel further represents that as to Defendants' financial condition, Defendants' financial records indicated that Defendants did not have the ability to pay the maximum exposure of this matter, and could afford the amount that was settled upon and via two installments over a two (2) year period. (Id. at ¶26.) Defendant's co-owner and Finance Director

represents that its business was impacted by the COVID-19 pandemic, but its revenues are beginning to return to pre-pandemic levels. He asserts that the company has saved funds to pay the first installment payment and its ongoing operations will fund the second installment payment. (See Declaration of Carter Prescott.)

3. Is counsel experienced in similar litigation? Yes. Class Counsel is experienced in class action litigation, including wage and hour class actions. (Id. at ¶33.)

4. What percentage of the class has objected? No objectors. (Declaration of Jeremy Romero ("Romero Decl.") ¶10.)

The Court concludes that the settlement is presumptively fair.

B. Is the Settlement Fair, Adequate, and Reasonable?

1. Strength of Plaintiff's case. "The most important factor is the strength of the case for plaintiffs on the merits, balanced against the amount offered in settlement." (Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 130.) Class Counsel has provided information, summarized below, regarding the factual basis for, and estimated maximum exposure for each of the claims alleged.

Violation	Maximum Exposure
Overtime Wage Claim	\$15,579.36
Minimum Wage Claim	\$10,386.24
Reimbursement Claim	\$84,710.00
Wage Statement Penalties	\$567,100.00
Waiting Time Penalties	\$837,600.00
PAGA Penalties	\$7,948,000.00
Total	\$9,463,375.60

(Norijanian Decl. ISO Prelim, ¶¶ 17-20.)

2. Risk, expense, complexity and likely duration of further litigation. Given the nature of the class claims, the case is likely to be expensive and lengthy to try. Procedural hurdles (e.g., motion practice and appeals) are also likely to prolong the litigation as well as any recovery by the class members.

3. Risk of maintaining class action status through trial. Even if a class is certified, there is always a risk of decertification. (See Weinstat v. Dentsply Intern., Inc. (2010) 180 Cal.App.4th 1213, 1226 ["Our Supreme Court has recognized that trial courts should retain some flexibility in conducting class actions, which means, under suitable circumstances, entertaining successive motions on certification if the court subsequently discovers that the propriety of a class action is not appropriate."].)

4. Amount offered in settlement. Plaintiff's counsel estimated Defendant's maximum exposure at \$9,463,375.60. The \$309,581.12 settlement amount represents approximately 3.3% of Defendant's maximum potential damages which, given the uncertain outcomes, and Defendant's financial condition, is within the "ballpark of reasonableness."

The settlement amount, after the requested deductions, leaves approximately \$169,710.80 to be divided among approximately 688 participating class members. The resulting payments will average approximately \$246.67 per class member.

5. Extent of discovery completed and stage of the proceedings. As indicated above, at the time of the settlement, Class Counsel had conducted sufficient discovery.

6. Experience and views of counsel. The settlement was negotiated and endorsed by Class Counsel who, as indicated above, is experienced in class action litigation, including wage and hour class actions.

7. Presence of a governmental participant. This factor is not applicable here.

8. Reaction of the class members to the proposed settlement.

Number of class members: 693 (Romero Decl. ¶5.)  
Number of notice packets mailed: 693 (Id. at ¶7.)  
Number of undeliverable notices: 1 (Id. at ¶9.)  
Number of opt-outs: 5 (Id. at ¶10.)  
Number of objections: 0 (Ibid.)  
Number of Participating Class Members: 688 (Id. at ¶11.)  
Average individual payment: \$246.67 [\$169,710.80 Net / 688]  
Highest estimated payment: \$1,375.66 (Id. at ¶13.)

The Court concludes that the settlement is fair, adequate, and reasonable.

C. Attorney Fees and Costs

Class Counsel requests an award of \$103,193.71 in fees and \$10,551.61 in costs. (MFA at 26:22-23, 29:13-14.) The Settlement Agreement provides for fees up to \$103,193.71 (33 1/3%) and costs up to \$15,000 (¶B).

"Courts recognize two methods for calculating attorney fees in civil class actions: the lodestar/multiplier method and the percentage of recovery method." (Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 254, disapproved on another ground in Hernandez v. Restoration Hardware, Inc. (2018) 4 Cal.5th 260.) Here, class counsel requests attorney fees using the percentage method. (MFA at pp. 19-22.)

In common fund cases, the Court may employ a percentage of the benefit method, as cross-checked against the lodestar. (Laffitte v. Robert Half Int'l, Inc. (2016) 1 Cal.5th 480, 503.) The fee request represents 1/3 of the gross settlement amount, which is the average generally awarded in class actions. (See In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 558, fn. 13 ["Empirical studies show that, regardless whether the percentage method or the lodestar method is used, fee awards in class actions average around one-third of the recovery."].)

Class Counsel has provided information, summarized below, from which the lodestar may be calculated.

Attorney	Hours	Rates	Totals
Arin Norijanian	139.0	\$700	\$97,300
James Demerjian	83.5	\$700	\$58,450
Totals	222.5		\$155,750

(Norijanian Decl. ISO Final ¶57.)

Counsel's percentage-based fee request is lower than the unadjusted lodestar, which would require the application of an approximate 0.66x multiplier to reach the requested fees. There is a fee split. Counsel represent that Arin | James LLP and Sookassian and Amirkhanian APC have entered into a fee splitting agreement of which Plaintiff is aware of and to which she has consented to. (Norijanian Decl. ISO Final ¶65.)

Here, the \$103,193.71 fee request represents a reasonable percentage of the total funds paid by Defendant. Notice of the

fee request was provided to class members in the notice packet and no one objected. (Romero Decl. ¶10, Exhibit A thereto.)

As for costs, Class Counsel is requesting \$10,551.61. This is less than the \$15,000 cap provided in the Settlement Agreement, for which Class Members were given notice and did not object. (Romero Decl. ¶10, Exhibit A thereto.) The costs listed include: Mediation (\$4,200), Expert Fee (\$3,000), and Complaint Filing Fee (\$1,575.45). (Norijanian Decl. ISO Final ¶59, Exhibit 4 thereto.) The costs appear to be reasonable in amount and reasonably necessary to this litigation.

Based on the above, the court awards \$103,193.71 for attorneys' fees and \$10,551.61 for attorneys' costs.

D. Claims Administration Costs

The settlement administrator, CPT Group, Inc., requests administration costs of \$13,000 (Romero Decl. ¶15). This is less than the estimated cost of \$15,000 provided for in the Settlement Agreement (¶B.3) and disclosed to Class Members in the Notice, to which no one objected. (Romero Decl. ¶10, Exhibit A thereto).

The court awards costs in the requested amount of \$13,000.

E. Incentive Award to Class Representative

Plaintiff Oreyda Paramo-Domio seeks an enhancement award of \$7,500 for her contributions to the action. (Declaration of Oreyda Paramo-Domio ISO Final ¶13.)

In connection with the final fairness hearing, the named Plaintiffs must submit declarations attesting to why they should be entitled to an enhancement award in the proposed amount. The named Plaintiffs must explain why they "should be compensated for the expense or risk he has incurred in conferring a benefit on other members of the class." (Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785, 806.) Trial courts should not sanction enhancement awards of thousands of dollars with "nothing more than pro forma claims as to 'countless' hours expended, 'potential stigma' and 'potential risk.' Significantly more specificity, in the form of quantification of time and effort expended on the litigation, and in the form of reasoned explanation of financial or other risks incurred by the named plaintiffs, is required in order for the trial court to conclude that an enhancement was 'necessary to induce [the named

plaintiff] to participate in the suit . . . ." (Id. at 806-807, italics and ellipsis in original.)

Plaintiff represents that her contributions to this action include: communicating on a regular basis with her attorneys, including discussing her and other workers' job duties and responsibilities, compensation, and more, providing her attorneys with documents and information, participating in the mediation via Zoom, and reviewing the settlement. She estimates spending approximately 40-60 hours on the case. (Paramo-Domio Decl. ISO Final ¶¶ 7-10.)

Based on the above, the court awards in the reduced amount of \$5,000 to Plaintiff.

### III. CONCLUSION

Based upon the foregoing, the Court orders that:

- 1) The Parties' Motion for Final Approval of class action settlement is GRANTED as the settlement is fair, adequate, and reasonable.
- 2) The essential terms are:
  - A. The Gross Settlement Amount ("GSA") is \$309,581.12. (¶B)
  - B. The Net Settlement Amount ("Net") is the GSA minus the following:
    - \$103,193.71 (33 1/3%) for attorney fees to Class Counsel, Arin | James LLP and Sookassian and Amirkhanian APC [pursuant to a fee split] (¶B);
    - \$10,551.61 for litigation costs to Class Counsel (Ibid.);
    - \$5,000 for a service award to the class representative, Plaintiff Oreyda Paramo-Domio (¶B.2);
    - \$13,000 for settlement administration costs to CPT Group, Inc., (¶B.3); and
    - \$5,625 (75% of \$7,500 PAGA penalty) to the LWDA (¶B).
  - C. Employer share of the payroll taxes on the taxable portion of the settlement payments shall be paid separately from the Gross Settlement Amount by Defendant.
  - D. Plaintiffs release of Defendants from claims described herein.

3) By November 14, 2022, Class Counsel must give notice to the class members pursuant to California Rules of Court, rule 3.771(b) and to the LWDA, if applicable, pursuant to Labor Code §2699 (1)(3).

4) By October 16, 2023, Class Counsel must file a Final Report re: Distribution of the settlement funds.

5) Court sets Non-Appearance Case Review for October 23, 2023, 8:30 AM, Department 9.

CLERK TO GIVE NOTICE TO MOVING PARTY. THE MOVING PARTY TO GIVE NOTICE TO ALL OTHER PARTIES.

IT IS SO ORDERED.

DATED: October 13, 2022

**YVETTE M. PALAZUELOS**

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YVETTE M. PALAZUELOS  
JUDGE OF THE SUPERIOR COURT