

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ROSE ANN PAGUIRIGAN, individually and
on behalf of all others similarly situated, :

Plaintiff, : 1:17 Civ. 1302 (NG) (CLP)

-vs- :

PROMPT NURSING EMPLOYMENT AGENCY :
LLC d/b/a SENTOSA SERVICES, :
SENTOSACARE LLC, SENTOSA NURSING :
RECRUITMENT AGENCY, BENJAMIN LANDA, :
BENT PHILIPSON, BERISH RUBENSTEIN a/k/a :
BARRY RUBENSTEIN, FRANCIS LUYUN, :
GOLDEN GATE REHABILITATION & HEALTH :
CARE CENTER LLC, and SPRING CREEK :
REHABILITATION AND NURSING CENTER, :

Defendants. :

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**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF JOINT MOTION
FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Plaintiffs and Defendants jointly submit this supplemental memorandum to address questions raised during the virtual Fairness Hearing held on February 22, 2022.

The parties have given careful consideration to the Court’s concerns and have conducted another review of the relevant contracts and payroll records. Given that the purpose of the settlement agreement is to resolve disputed claims with finality – and given the importance of the settlement to everyone involved – the parties have agreed to increase the total settlement amount to \$3,155,360.91, and to reduce the amount available for attorneys’ fees by \$35,000.00, in order to provide settlement payments to each objector whose contract required payment of the prevailing wage, on the same terms and conditions as any other Class member, as described below.

I. Individual Damages Calculations

A. Eunice Ramirez [ECF 154]

As noted in the parties' initial moving papers, Eunice Ramirez was inadvertently left off the list of Class members who should receive a settlement payment. Using her payroll records and the same formula used for every other Class member, Class Counsel have determined that Ms. Ramirez should receive a settlement payment of \$23,550.07, comprising \$17,174.28 for prevailing wage underpayments and \$6,375.79 for 9% interest. Supp. Howley Decl. ¶ 2 & Exh. D.

B. Lani Alvarez Maagad [ECF 155]

Lani Alvarez Maagad signed a contract with Immediate Home Care Inc., an entity that is not named as a defendant in this lawsuit. [ECF 155, page 5]. The parties accept that she is a member of the Class for purposes of settlement. Using her payroll records and the same formula used for every other Class member, Class Counsel have determined that Ms. Maagad should receive a settlement payment of \$46,313.26, comprising \$30,216.90 for prevailing wage underpayments and \$16,096.36 for 9% interest. Supp. Howley Decl. ¶ 3 & Exh. E.

C. Petronillo Noel Reyes [ECF 156]

Petronillo Noel Reyes signed a contract on January 18, 2006 that does not require payment of a prevailing wage; it provides for a set hourly wage. Reyes Contract § II [ECF 164-4]. Mr. Reyes was paid at least that contractually required hourly wage at all times. Supp. Howley Decl. ¶ 4 & Exh. F. Accordingly, he does not have a claim for any wage underpayments.

D. May Angelique Palo [ECF 158]

May Angelique Palo signed a contract with Immediate Home Care Inc., an entity that is not named as a defendant in this lawsuit. [ECF 158, page 4]. The parties accept that she is a member of the Class for purposes of settlement. Using her payroll records and the same formula used for every other Class member, Class Counsel have determined that Ms. Palo should receive a settlement payment of \$42,848.38, comprising \$27,680.25 for prevailing wage underpayments and \$15,168.13 for 9% interest. Supp. Howley Decl. ¶ 5 & Exh. G.

E. Riza Renomeron [ECF 159]

Riza Renomeron has not provided a copy of her contract, and the parties have been unable to locate one. She did, however, work for one of the defendants during the Class period. For purposes of settlement, the parties assume that she signed a contract with a prevailing wage requirement. Using her payroll records and the same formula used for every other Class member, Class Counsel have determined that Ms. Renomeron should receive a settlement payment of \$38,875.30, comprising \$24,901.05 for prevailing wage underpayments and \$13,974.25 for 9% interest. Supp. Howley Decl. ¶ 6 & Exh. H.

F. Sheryl Botin-Tirol [ECF 160]

Sheryl Botin-Tirol entered into a written settlement agreement with defendant Sentosa Recruitment Agency and its affiliates, officers, and directors on August 7, 2017, in which she released, discharged, and quitclaimed any and all claims against them. [ECF 164-5]. For purposes of settlement, the parties assume that her release does not bar all claims against all defendants. Using her payroll records and the same formula used for every other Class member, Class Counsel have determined that Ms. Botin-Tirol should receive a settlement payment of

\$3,829.75, comprising \$2,815.99 for prevailing wage underpayments and \$1,013.76 for 9% interest. Supp. Howley Decl. ¶ 14 & Exh. L.

G. Rosalie Reyes [ECF 163]

Rosalie Reyes signed a contract with Immediate Home Care Inc., an entity that is not named as a defendant in this lawsuit. [ECF 163, page 4]. The parties accept that she is a member of the Class for purposes of settlement. Using her payroll records and the same formula used for every other Class member, Class Counsel have determined that Ms. Palo should receive a settlement payment of \$24,944.15, comprising \$15,630.75 for prevailing wage underpayments and \$9,313.40 for 9% interest. Supp. Howley Decl. ¶ 15 & Exh. M.

H. Evita Bello Rodriguez [ECF 173]

Evita Bello Rodriguez's objection was not addressed in the parties' initial moving papers because she did not file her objection until after the deadline for the parties' response. She signed a contract that provided for her to work full time in return for a base salary in accordance with the prevailing wage. [ECF 173, page 7]. However, she did not work full-time for most of her employment, and she did not work at all for 21 weeks, due to personal issues and a death in her family. Supp. Howley Decl. ¶ 16 & Exh. N. Defendants contend that she was not entitled to a full-time salary for part-time work.

Class Counsel provided Ms. Bello Rodriguez with copies of her payroll records. After reviewing those records, she asked Class Counsel to negotiate a settlement with Defendants' attorneys on her behalf. *See id.* ¶ 17. She has agreed to settle her claims for \$10,000. *See id.* & Exh. O.

II. Funding the Increased Settlement Amount

The proposed settlement of the objectors’ claims adds \$190,360.91 to the total cost of the settlement. Supp. Howley Decl. ¶ 18 & Exh. P. Defendants have agreed to pay an additional \$155,360.91, thereby increasing the total settlement payment from \$3,000,000.00 to \$3,155,360.91. Class Counsel have agreed to reduce their request for attorneys’ fees by \$35,000.00 to fund the balance.

Conclusion

For all the foregoing reasons, the parties respectfully request entry of a judgment granting final approval of the Settlement Agreement, including the additional payments described in this memorandum on the same terms and conditions and with the same releases of claims.

Dated: New York, New York
March 8, 2022

Respectfully submitted,

<p>The Howley Law Firm P.C</p> <p><i>/s John J.P. Howley</i></p> <hr/> <p>John J.P. Howley Leandro B. Lachica 1345 6th Ave 2nd Floor New York, NY 10105 212-601-2728 Fax: 347-603-1328 Email: jhowley@johnhowleyesq.com <i>Attorneys for the Plaintiff Class</i></p>	<p>Hahn Eisenberger PLLC</p> <p><i>/s Elliot Hahn</i></p> <hr/> <p>Elliot Hahn Seth Eisenberger 969 East 27th Street Brooklyn, NY 11210 718-207-3453 Fax: 347-435-2148 Email: Ehahn@hahneisenberger.com <i>Co-counsel for Defendants</i></p> <p>Lipsius BenHaim Law, LLC</p> <p><i>/s Ira S. Lipsius</i></p> <hr/> <p>Ira S. Lipsius 8002 Kew Gardens Road Kew Gardens, NY 11415 212-981-8442 Email: iral@lipsiuslaw.com <i>Co-counsel for Defendants</i></p>
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