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15 *Attorneys for Plaintiffs and the Proposed Class*

16 **SUPERIOR COURT OF THE STATE CALIFORNIA**
 17 **FOR THE COUNTY OF ALAMEDA**

18 GINGER ROGERS and EMMA DELORES
 19 HAWKINS, individually and on behalf of all
 others similarly situated,

20 Plaintiffs,

21 v.

22 KINDRED HEALTHCARE, INC., a Delaware
 Corporation; PROFESSIONAL HEALTHCARE
 23 AT HOME, LLC, a California LLC; NP PLUS,
 LLC, a Delaware LLC; and DOES 1-15, inclusive,
 24 Defendants.

Case No. RG-14-729507

~~PROPOSED~~ CLASS ACTION
ASSIGNED FOR ALL PURPOSES TO
JUDGE WINIFRED Y. SMITH, DEPT. 21

~~PROPOSED~~ ORDER AND JUDGMENT
OF FINAL APPROVAL OF CLASS
ACTION SETTLEMENT

Date: October 7, 2016
 Time: 10:00 a.m.
 Dept.: 21
 Reservation No.: R-1758383

Action Filed June 18, 2014

FILED
 ALAMEDA COUNTY

OCT - 7 2016

CLERK OF THE SUPERIOR COURT
 By Yestrada Deputy

1 On October, 7, 2016, the Court heard Plaintiffs Ginger Rogers and Emma Delores Hawkins's
2 (jointly, "Plaintiffs") unopposed Motion for Final Approval of Class Action Settlement. The Court,
3 having considered whether to order final approval of the settlement of the above-captioned action
4 pursuant to the Joint Stipulation and Class Action Settlement Agreement ("Settlement Agreement") in
5 the above-captioned matter, having read and considered all of the papers of the parties and their
6 counsel, having granted preliminary approval on July 5, 2016, and directed that notice be given to all
7 Class Members of preliminary approval of the Settlement Agreement and the final approval hearing,
8 and having received no objections or opposition to the settlement, and good cause appearing,

9 **IT IS HEREBY ORDERED AS FOLLOWS:**

10 1. Terms used in this order have the meaning assigned to them in the Joint Stipulation and
11 Settlement Agreement ("Settlement Agreement"), which was attached to the Declaration of Catha
12 Worthman in support of Plaintiffs' Motion for Preliminary Approval of the settlement as Exhibit 1.

13 2. The Court hereby makes final the conditional class certification contained in the Order
14 Granting Preliminary Approval of Class Action Settlement and Conditional Class Certification
15 ("Preliminary Approval Order"), and thus makes final for purposes of the Settlement Agreement the
16 certification of a class as defined in the Settlement Agreement: all individuals who were employed as
17 Personal Care Attendants ("PCAs") by Defendants in California who, at any time between June 18,
18 2010 and April 1, 2016, worked at least one shift delivering personal care as a PCA and for whom
19 Defendants have provided timekeeping and payroll data to Class Counsel (collectively, "Class
20 Members").

21 3. The Court hereby appoints as Class Counsel for purposes of settlement Catha Worthman
22 and Genevieve Casey of Feinberg, Jackson, Worthman & Wasow LLP, Hina Shah of Women's
23 Employment Rights Clinic, Golden Gate University School of Law, and Diane Webb and Carole Vigne
24 of Legal Aid Society - Employment Law Clinic.

25 4. The Court hereby finds that the notice of settlement ("Class Notice"), as approved for
26 mailing by the Court on August 2, 2016, and subsequently mailed to Class Members, fairly and
27 adequately described the terms of the proposed settlement and the manner in which Class Members
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1 could participate in, or object to, the settlement. The Class Notice, the best practicable under the
2 circumstances, was valid, due and sufficient notice to all Class Members; and complied fully with Civil
3 Code § 1781(e), Rule of Court 3.769, due process and all other applicable laws. The Court further finds
4 that a full and fair opportunity has been afforded to Class Members to participate in the proceedings
5 convened to determine whether the proposed Settlement Agreement should be given final approval.
6 The Court also finds that no Class Member objected to or opted out of the Settlement. Accordingly, the
7 Court hereby determines that all Class Members who did not file a timely and proper request to be
8 excluded from the settlement are bound by this final order.

9 5. The Court finds that the Settlement Agreement is fair, reasonable, and adequate as to the
10 Class, Plaintiffs and Defendants, and is the product of good faith, arm's-length negotiations between the
11 parties, and further, that the Settlement Agreement is consistent with public policy, and fully complies
12 with all applicable provisions of law. Accordingly, the Court hereby finally and unconditionally
13 approves the Settlement Agreement, and specifically:

- 14 a. Approves the Settlement Amount of \$2,465,000;
- 15 b. Approves the appointment of Ginger Rogers and Emma Delores Hawkins as
16 Class Representatives;
- 17 c. Approves the application for service awards of \$10,000 each to Class
18 Representatives Hawkins and Rogers;
- 19 d. Approves Class Counsel's fee request of \$571,445.80;
- 20 e. Approves Class Counsel's request for reimbursement of litigation expenses of
21 \$86,716.82;
- 22 f. Approves payment to the Labor & Workforce Development Agency of \$37,500;
- 23 g. Approves payment to Settlement Services, Inc., the Settlement Administrator, of
24 accrued settlement administration costs of \$10,800, as well as payment of any additional reasonable
25 administration costs up to \$35,000; and
- 26 h. Approves the designation of *cy pres* beneficiaries Asian Americans Advancing
27 Justice – Asian Law Caucus and Mujeres Unidas y Activas as the recipients of equal shares of
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1 unclaimed funds remaining after distribution of awards to individual Settlement Class Members, as
2 provided in the Settlement Agreement and below.

3 6. Releases:

- 4 a. Upon the settlement becoming Final and being sent a Settlement Award payment,
5 each Settlement Class Member and Class Representative shall release the Released
6 Parties (as defined in paragraph 29 of the Settlement Agreement) from any claims
7 that were brought, or could have been brought, from June 18, 2010 to April 1, 2016,
8 arising out of the facts alleged in the Amended Complaint in this Action, including all
9 claims under California law related to failure to pay minimum wage for all hours
10 worked, failure to pay for all hours worked, failure to provide accurate wage
11 statements, failure to keep accurate payroll records, failure to pay overtime, failure to
12 provide meal and rest periods, waiting time penalties, and violations of the Unfair
13 Competition Law predicated on violations of the Labor Code and Wage Orders 4 and
14 15. The Released Claims shall expressly include any and all penalties established by
15 the Private Attorneys General Act for any of the claims described in this paragraph.
16 Claims for benefits arising under the Employee Retirement Income Security Act
17 (“ERISA”) are expressly preserved.
- 18 b. With respect to the Released Claims, the Class Representatives, and the Class
19 Representatives only, shall waive the protections of California Civil Code section
20 1542. The Class Representatives acknowledge that they each may have claims that
21 are presently unknown and that the release contained in the Settlement Agreement is
22 intended to forever discharge all Released Claims, whether now asserted or
23 unasserted, known or unknown, suspected or unsuspected, which if known, might
24 have affected the decision to enter into this release. The Class Representatives shall
25 be deemed to waive, as to the Released Claims only, any right conferred by any law
26 that limits a person’s release of unknown claims. In making this waiver, the Class
27 Representatives understand that they may discover facts in addition to or different
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1 from those that are currently known or believed to be true with respect to the
2 Released Claims, but agree that it is their intention to forever release any and all
3 Released Claims, known or unknown, suspected or unsuspected, which now exist, or
4 heretofore existed, or may hereafter exist, and without regard to the subsequent
5 discovery or existence of additional or different facts. The foregoing waiver includes,
6 without limitation, an express waiver, as to the Released Claims, to the fullest extent
7 permitted by law, any and all rights under California Civil Code section 1542, which
8 provides:

9 **“A general release does not extend to claims which the creditor does not**
10 **know or suspect to exist in his or her favor at the time of executing the**
11 **release, which if known by him must have materially affected his or her**
12 **settlement with the debtor.”**

13 In addition, the Class Representatives also expressly waive, as to the Released
14 Claims, any right that is similar, comparable, or equivalent to California Civil Code §
15 1542.

16 7. The Court orders the following schedule for implementing this Final Approval Order:

17 18 19 20 Sixty (60) days from when Plaintiffs serve Defendants with notice of entry of this Order and Judgment of Final Approval of Class Action Settlement.	Final Approval Date
21 22 23 24 25 Within ten (10) days from Final Approval Date	Defendants' deadlines to make the following changes, to the extent they have not already done so: (1) begin paying all PCAs by the hour for all hours worked, including time during which PCAs may be sleeping, and (2) begin paying PCAs for hours worked in facilities according to Wage Order 4.
26 27 28 Within fifteen (15) business days of Final Approval Date or within seven (7) months	Defendants will wire to an interest-bearing, qualified settlement fund, set up by the

1 2	of the July 5, 2016 Preliminary Approval Order, whichever is earlier	Settlement Administrator for the benefit of the Settlement Class, the Settlement Amount.
3 4	Thirty (30) days from Final Approval Date	Payments of Court-approved Service Awards to be made to Class Representatives.
5 6	Thirty (30) days from Final Approval Date	Payments to be sent to Settlement Class Members.
7 8	Thirty (30) days from Final Approval Date	Payments to Class Counsel for their Court-approved attorneys' fees and costs. Ten percent (\$57,144.58) of the approved attorneys' fees shall be held in an interest-bearing account maintained by Class Counsel pending the Court's approval of the final compliance report.
9 10	Thirty (30) days from Final Approval Date	First payment to Settlement Administrator of estimated administration costs.
11 12	Thirty (30) days from Final Approval Date	First payment to Settlement Administrator of estimated administration costs.
13 14	Within forty-five (45) days from Final Approval Date	To the extent they have not already done so, Defendants to ensure that changes concerning payment practices are incorporated into employee manuals and training materials.
15 16	Within forty-five (45) days from date Defendants ensure that changes to payment practices are incorporated into employee manuals and training materials	Defendants to ensure that all branch managers and other administrative staff are adequately informed of the changes concerning payment practices and have effectively distributed the above information and materials to all PCAs!
17 18	Within forty-five (45) days from date Defendants ensure that changes to payment practices are incorporated into employee manuals and training materials	Defendants to ensure that all branch managers and other administrative staff are adequately informed of the changes concerning payment practices and have effectively distributed the above information and materials to all PCAs!
19 20	Within one hundred ten (110) days of Final Approval Date	Defendants to provide Class Counsel with written confirmation of the communications and assurances described in paragraph 43 of the Settlement Agreement ("Injunctive Relief").
21 22	Within one hundred ten (110) days of Final Approval Date	Defendants to provide Class Counsel with written confirmation of the communications and assurances described in paragraph 43 of the Settlement Agreement ("Injunctive Relief").
23 24	One hundred eighty (180) days from date Settlement Class Members' first round of checks are mailed	Expiration/void dates for all first-round checks distributed to Settlement Class Members. During the 180-day period after the checks are mailed, Settlement
25 26	One hundred eighty (180) days from date Settlement Class Members' first round of checks are mailed	Expiration/void dates for all first-round checks distributed to Settlement Class Members. During the 180-day period after the checks are mailed, Settlement
27 28	One hundred eighty (180) days from date Settlement Class Members' first round of checks are mailed	Expiration/void dates for all first-round checks distributed to Settlement Class Members. During the 180-day period after the checks are mailed, Settlement

	<p>Administrator will make a reasonable effort to make a second delivery attempt to Class Members if checks are returned. Such efforts will include performing an additional NCOA check, using Social Security numbers to obtain better address information, and using contact information for Class Members provided by Class Counsel. For Class Members whose checks are greater than \$1,500, Class Counsel will attempt to call such class members.</p> <p>Any checks reissued to new addresses, etc. within the 180-day period shall have the same expiration date as all checks sent in the original mailing.</p>
<p>Within ten (10) days of date of expiration of the first round of Settlement Class Members' checks</p>	<p>Settlement Administrator to provide a declaration to Class Counsel regarding any unclaimed funds.</p>
<p>Within thirty (30) days of date of expiration of first round of Settlement Class Members' checks</p>	<p>Settlement Administrator to distribute residual either to Settlement Class Members who have cashed their initial payment checks, or to the designated <i>cy pres</i> beneficiaries, according to paragraph 48 of the Settlement Agreement.</p>
<p>Within 180 days of mailing of residual checks to Settlement Class Members who cashed their initial checks, if applicable</p>	<p>Expiration of residual checks to Settlement Class Members, if any.</p>
<p>Within five (5) days of date of expiration of residual checks sent to Settlement Class Members, if any</p>	<p>Settlement Administrator to distribute any remaining residual to <i>cy pres</i> beneficiaries</p>
<p>Within ten (10) days of date of expiration of residual checks sent to Settlement Class Members, if any, or, if distribution is made to <i>cy pres</i> beneficiaries, with ten (10) days of such distribution</p>	<p>Settlement Administrator to provide written certification of its completion of the claims administration to Class Counsel.</p>
<p>Five (5) court days before Final Compliance Hearing</p>	<p>Class Counsel to file and serve final Settlement Administrator's report regarding all payments and the <i>cy pres</i> distribution, if any.</p>

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SEPT. 5 9:00 A.M.,
2017. (Date to be set by
the Court; Plaintiffs' counsel propose a date
in September, 2017.)

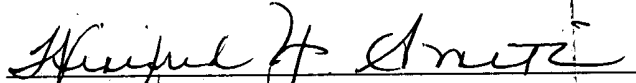
Final Compliance Hearing (Class Counsel
and Defendants to stipulate to a request for
continuance, if required due to distribution
of second round of individual award checks
or other delays).

8. The Court orders that the Settlement Agreement shall not be construed as an admission
or evidence of liability, as set forth in the Settlement Agreement.

9. Judgment is hereby entered pursuant to California Rules of Court 3.769(h). Without
affecting the finality of this Order and further pursuant to Rule 3.769(h), the Court retains exclusive and
continuing jurisdiction over the litigation for purposes of supervising, implementing, interpreting and
enforcing this order and the Settlement Agreement, and in order to conduct the final compliance hearing
on certification of distribution procedures.

IT IS SO ORDERED.

Dated: October 7, 2016


WINIFRED Y. SMITH
Judge of the Superior Court

APPROVED AS TO FORM:

SEYFARTH SHAW LLP



By: _____

Richard Lapp
Attorneys for Defendants
KINDRED HEALTHCARE, INC.,
PROFESSIONAL HEALTHCARE AT HOME, LLC,
and NP PLUS, LLC