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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTINA CULLEY,
Plaintiff,
v.
LINCARE INC., ALPHA
RESPIRATORY INC., and DOES 1
THROUGH 50,
Defendants.

No. 2:15-cv-00081-MCE-CMK

**ORDER GRANTING PLAINTIFF'S
MOTION FOR APPROVAL OF NOTICE
OF PENDENCY OF CLASS ACTION TO
THE CERTIFIED CLASS**

On August 15, 2016, Plaintiff submitted a proposed form of class notice and made a motion for its approval. ECF No. 60. Defendants objected to: (1) the ordering of its sections; and (2) the wording of the class definition. Defs.' Resp. 1:5–8, 1:28–2:3, ECF No. 61. Plaintiff agreed to reorder the notice's sections, but insisted on its original wording in the class definition. Pls.' Reply 1:2–5, ECF No. 62.

The only bone of contention then is whether the class should be introduced as "all those individuals employed by Defendants Lincare, Inc. and Alpha Respiratory, Inc." (preferred by Plaintiff) or as simply "all those individuals employed by Alpha Respiratory Inc." (preferred by Defendants). Defendants fear that recipients of the notice naming both parties will mistakenly give the impression that the class also includes those individuals who were employed solely by Lincare Inc. See Defs.' Resp. 1:8–10, ECF

1 No. 61. Plaintiff fears that only naming Alpha Respiratory Inc. will cause confusion
2 among class members since many of the class members' employment documents, such
3 as paystubs, bore the Lincare Inc. logo. See Pls.' Reply 1:19–24, ECF No. 62. To
4 prevent any possible confusion, the first sentence should be amended to read:

5 TO: all those individuals employed by Defendant Alpha
6 Respiratory Inc., a wholly owned subsidiary of Defendant
7 Lincare, Inc., as non-exempt employees during October 21,
2010 to the present (the "Class Period").

8 Accordingly, (1) the Court approves the second version of the Notice of Pendency
9 of Class Action provided by Plaintiff (Bhowmik Decl., ECF No. 62-1), amended as
10 described above; (2) Defendant shall disclose all class members' contact information to
11 Class Counsel and the third-party administrator within 15 days; (3) the Class Notice shall
12 be mailed within 30 days; and (4) the September 22, 2016, hearing on this matter is
13 VACATED.

14 IT IS SO ORDERED.

15 Dated: September 17, 2016

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17 MORRISON C. ENGLAND, JR.
18 UNITED STATES DISTRICT JUDGE
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