

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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KAISHA MURPHY <i>and</i> SHANA-KAY	)	
MCDUGALL, <i>on behalf of themselves and those</i>	)	
<i>similarly situated</i>	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 1:17-cv-1033 (SMG)
	)	
HEARTSHARE HUMAN SERVICES OF	)	
NEW YORK, <i>and</i>	)	
HEARTSHARE EDUCATION CENTER	)	
	)	
Defendants.	)	
_____	)	

**[PROPOSED] ORDER PRELIMINARILY APPROVING COLLECTIVE ACTION  
SETTLEMENT AND PROVIDING FOR NOTICE**

**TO EACH PARTY AND THE COUNSEL OF RECORD FOR EACH PARTY:**

The Motion for Preliminary Approval of Class Action Settlement came before this Court, Hon. Steven M. Gold, presiding, on September 15, 2017. The Court, having considered the papers submitted in support of the motion including, but not limited to, the Settlement Agreement (attached hereto as Exhibit 1) (the "Settlement"), **HEREBY FINDS, CONCLUDES, and ORDERS** as follows:

1. For settlement purposes, the Parties have proposed conditional certification of the following settlement class ("the Class"): all current and former non-exempt workers who worked as Direct Support Professionals for HeartShare Human Services and as Assistant Teachers for HeartShare Education Center at any time from February 23, 2011 through the date the Court enters an order granting preliminary approval of the Class Action Settlement.

2. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby certifies the Class for the purposes of effectuating the Settlement.

3. The Court finds and concludes that Plaintiff Kaisha Murphy has claims typical of Class members and is an adequate representative of them. The Court hereby appoints Plaintiff Kaisha Murphy to serve as Class Representative for the Class.

4. The Court finds and concludes that the Harman Firm, LLP has significant experience and expertise in prosecuting wage-and-hour class actions. The Court appoints this firm as Class Counsel for the Class.

5. The Court has reviewed the terms of the Settlement, including the plan of allocation and the release of claims, as well as other papers submitted by the parties. Based on review of those papers, and the Court's familiarity with this case, the Court finds and concludes that the Settlement is the result of arms-length negotiations between the parties conducted after Class Counsel had adequately investigated Plaintiff's claims and become familiar with their strengths and weaknesses. Based on all of these factors, the Court concludes that the Settlement meets the criteria for preliminary settlement approval. The Settlement has no obvious defects and falls within the range of possible approval as fair, adequate, and reasonable, such that notice to the Class is appropriate.

6. The Court hereby approves, as to form and content, the proposed Class Notice, attached to the Settlement as Exhibit A. The Court directs that the Class Notice shall be issued in substantially the same form as Exhibit A attached hereto.

7. The Court finds that the proposed Class Notice and notice plan constitute the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto in full compliance with applicable law. The Court further finds that

distribution of the Class Notice in the manner set forth in the Settlement meets the requirements of the Constitution of the United States and other applicable laws. The Court further finds that the proposed Class Notice fully and accurately informs the Class of all material elements of the Settlement, of their right to be excluded from the Settlement Class, their right and opportunity to object to the Settlement, their right and opportunity to receive a settlement award, and their right to dispute Defendants' records regarding their gross wages earned for the purpose of calculating their settlement award.

8. The Court orders that the Class Notice be delivered via first-class regular U.S. Mail to the Settlement Class according to procedures specified in the Settlement Agreement. The Court further orders that the notice, objection, opt-out, and dispute process be carried out according to provisions of the Settlement Agreement.

9. The Court sets a final fairness hearing for January 23, 2018, at 10:00 a.m. at the United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201. At the final fairness hearing, the Court will determine whether the proposed settlement of the Action on the terms and conditions provided for in the Settlement are fair, reasonable, adequate, in the best interests of the Class, and should be approved by the Court; to the extent Class Counsel seeks attorneys' fees and costs, the amount of any such awards to Class Counsel; and to the extent Class Counsel seeks a service award for the Named Plaintiff, the amount of that award.

10. All papers in support of Plaintiff's requests for attorneys' fees and costs and the amount of the Enhanced Award to the Named Plaintiff shall be filed and served no later than January 26, 2018.

11. All papers in support of final approval of the Settlement shall be filed and served no later than January 9, 2018 (date).

12. The Court reserves the right to adjourn the date of the final approval hearing without further notice to Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the Settlement.

IT IS SO ORDERED.

Dated: September 11, 2017

*Steven M. Gold*

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JUDGE STEVEN M. GOLD  
U.S. MAGISTRATE JUDGE