

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

12/23/2022 at 09:21:35 AM

By: Darnekia Oliver,
Deputy Clerk

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8 *Attorneys for Plaintiffs, on behalf of the*
9 *Putative Class, the State of California*
10 *and Aggrieved Employees*

11 **SUPERIOR COURT OF CALIFORNIA**
12 **COUNTY OF ALAMEDA**

13 KHAYO SISHI, SANDEEP PUREWAL,
VANESSA BARBER, and CHERRA REDD on
14 behalf of the Putative Class, the State of California
And Aggrieved Employees;

15 *Plaintiffs,*

16 v.

17 ESKATON PROPERTIES INCORPORATED,
18 CALIFORNIA HEALTHCARE
CONSULTANTS, INC., and DOES 1-100,
19 inclusive;

20 *Defendants.*

Case No.: RG21100764

**PLAINTIFFS' NOTICE OF MOTION AND
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, CERTIFICATION OF
SETTLEMENT CLASS, APPROVAL OF
NOTICE OF SETTLEMENT, AND
SETTING OF HEARING FOR FINAL
APPROVAL**

Reservation ID: 677085749399

Date: January 20, 2023

Time: 9:00 a.m.

Dept: 512

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28 **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT, CERTIFICATION OF SETTLEMENT CLASS, APPROVAL OF NOTICE OF SETTLEMENT, AND
SETTING OF HEARING FOR FINAL APPROVAL**
Khayo Sishi, et al. v. Eskaton Properties Incorporated

1 TO DEFENDANTS ESKATON PROPERTIES INCORPORATED AND CALIFORNIA
2 HEALTHCARE CONSULTANTS, INC (“DEFENDANTS”), THEIR ATTORNEYS OF
3 RECORD, AND THE COURT:

4 PLEASE TAKE NOTICE that on January 20, 2022, at 9:00 A.M., or as soon thereafter as the
5 matter may be heard in Department 512 of the Superior Court of California, County of Alameda,
6 Hayward Hall of Justice, located at 24405 Amador St, Hayward, CA 94544, the Honorable Eumi
7 Lee presiding, Plaintiffs Khayo Sishi, Sandeep Purewal, Vanessa Barber, and Cherra Redd, on behalf
8 of themselves and all others similarly situated (“Plaintiffs”), will and hereby do move for an order:

- 9 1. Granting preliminary approval of the Settlement and the Class based upon the terms set
10 forth in the Class Action Settlement Agreement and Release and Addendum A and to
11 Class Action Settlement Agreement and Release (collectively “Settlement” or “Settlement
12 Agreement”) filed as **Exhibit 1** and **Exhibit 2**, respectively, to the Declaration of Carolyn
13 Hunt Cottrell, as well as Addendum B to the Class Action Settlement Agreement and
14 Release¹;
- 15 2. Finding that the Settlement appears to be fair, adequate, and reasonable to the Class
16 Members;
- 17 3. Setting a final fairness hearing on the question of whether the proposed Settlement,
18 attorneys’ fees to Class Counsel and Service Awards should be finally approved as fair,
19 reasonable, and adequate as to the Class Members, in Department 512, on the date and
20 time set forth according to the implementation schedule in Paragraph 9 below;
- 21 4. Approving, as to form and content, the Settlement Notice in substantially the form
22 attached as **Exhibit 3** to the Declaration of Carolyn Hunt Cottrell, and also approving the
23 procedure for Class Members to participate in, to opt out of, and to object to, the
24 Settlement as set forth in the Settlement Agreement and Settlement Notice;

25
26 ¹ As of the date of the filing of the motion for preliminary approval, the Parties are in the process of
27 obtaining signatures for an Addendum B, which will memorialize the Parties’ agreement to include
28 Lawyers for Justice PC and Capstone Law APC as additional Class Counsel, and Capstone Law APC’s
client, Zenaya White, as an additional Class Representative.

- 1 5. Directing the mailing of the Settlement Notice to the Class Members in accordance with
- 2 the implementation schedule set forth below, and finding the dates selected for the mailing
- 3 and distribution of the Settlement Notice, as set forth in the implementation schedule,
- 4 meet the requirements of due process and provide the best notice practicable under the
- 5 circumstances and shall constitute due and sufficient notice to all persons entitled thereto;
- 6 6. Ordering that the Class is preliminarily certified for settlement purposes only;
- 7 7. Confirming Plaintiffs Khayo Sishi, Sandeep Purewal, Cherra Redd, and Zenaya White as
- 8 Class Representatives, and Schneider Wallace Cottrell Konecky LLP, Lawyers for
- 9 Justice, PC, and Capstone Law APC as Class Counsel;
- 10 8. Confirming Settlement Services, Inc. as the Settlement Administrator; and
- 11 9. Ordering the following Implementation Schedule for further proceedings:

12 Preliminary Approval Granted	TBD
13 Defendants will provide the Class List to 14 Settlement Administrator and Class Counsel	Within twenty (20) business days after the Court's Preliminary Approval of the Settlement
15 Settlement Administrator will mail and email the 16 Settlement Notice to Class Members, and provide notice to counsel that the Settlement Notice has been mailed	Within ten (10) business days after receiving the Class List
17 Notice Deadline	Sixty (60) days after the Settlement Notice is initially mailed to the Settlement Class.
19 Settlement Administrator will provide counsel a 20 report showing pursuant to Settlement Agreement section 22.j.	Ten (10) business days after the Notice Deadline
22 Deadline to file Final Approval Motion	TBD
23 Final Approval Hearing	No earlier than thirty (30) days after the Notice Deadline
24 Effective Date	(i) if there is an objection(s) to the settlement that is not subsequently withdrawn, then the date upon the expiration of time for appeal of the Court's Final Approval Order; or (ii) if there is a timely objection(s) and appeal by an objector(s), then after such appeal(s) is dismissed or the

1		Court's Final Approval Order is affirmed on appeal; or (iii) if there are no timely objections to the settlement, or if any objections which were filed are withdrawn before the date of final approval, then the first business day after the Court's order granting Final Approval of the Settlement
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5	Class Counsel shall submit a copy of the Final Approval Order and Judgment entered by the Court to the LWDA	Within ten (10) days following the Effective Date
6		
7	The Settlement Administrator shall calculate the employer share of taxes for each respective employee based on the corresponding tax rates provided by Defendants and/or the Released Parties and provide Defendants and/or Released Parties with the total employer tax contributions	Within five (5) business days after the final Settlement Award calculations are approved
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11	Defendants shall transfer the Gross Settlement Amount to the Qualified Settlement Fund(s)	Within twenty (20) business days of the Effective Date
12	Defendants and/or Released Parties shall deposit the calculated employer tax into the Qualified Settlement Fund(s)	Within twenty (20) business days after the Effective Date
13		
14	Settlement Administrator shall provide counsel with a final report of all Settlement Awards	At least ten (10) business days before the Settlement Awards to Settlement Class Members are mailed
15		
16	Settlement Administrator shall mail Service Awards to Plaintiffs	Within five (5) days after the Settlement Administrator receives the Gross Settlement Amount, or as soon as reasonably practicable
17		
18		
19	Settlement Administrator shall mail all Settlement Awards to Settlement Class Members	Within ten (10) days after the Settlement Administrator receives the Gross Settlement Amount, or as soon as reasonably practicable
20		
21	Settlement Administrator shall make payment to LWDA, and payment of attorneys' fees and costs awards to Class Counsel	Within fifteen (15) days after the Settlement Administrator receives the Gross Settlement Amount, or as soon as reasonably practicable
22		
23		
24	Settlement Administrator shall send a reminder letter via U.S. mail and email to those who have not yet cashed their settlement check	With ninety (90) days remaining prior to the check cashing deadline
25		
26	Settlement Administrator shall place a call to those who have not yet cashed their settlement check	With sixty (60) days remaining prior to the check cashing deadline
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28		

1	Checks for the Settlement Awards will become void if not cashed	One hundred and eighty (180) days from the date of the checks' issuance
2	Settlement Administrator will provide counsel a report regarding the total amount of any funds that remain from checks that are returned as undeliverable or are not negotiated	Within ten (10) business days after the conclusion of the 180-day check cashing period
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5	Funds from uncashed checks will be redistributed to those Class Members who timely cashed their settlement checks if the residual amount is equal to or is more than \$75,000, or to revert in <i>cy pres</i> if the residual amount is less than \$75,000	As soon as possible after the conclusion of the check-cashing period
6		
7		
8	Plaintiff will file a post-distribution accounting showing the total funds actually paid to the Settlement Class Members	Within twenty-one (21) days after the distribution of any remaining monies to Settlement Class Members who cashed their Settlement Award check or to the <i>cy pres</i> recipient
9		
10		
11	Class Counsel to immediately destroy the Class List	Within five (5) business days following filing of the administrator's declaration regarding final accounting or completion of the settlement administration, whichever is earlier
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14		

Respectfully submitted,

Dated: December 22, 2022

SCHNEIDER WALLACE
COTTRELL KONECKY LLP



Carolyn Hunt Cottrell
Ori Edelstein
Michelle S. Lim
Kristabel Sandoval

Attorneys for Plaintiffs, on behalf of the Putative Class, the State of California, and Aggrieved Employees



Reschedule a Reservation

Reservation
Reservation ID: 677085749399
Reservation Type: Motion re: (Preliminary Approval of Settlement)
Case Number: RG21100764
Case Title: Sishi VS Eskaton Properties Incorporated
Filing Party: Khayo Sishi (Plaintiff)
Location: Hayward Hall of Justice - Department 512
Date/Time: February 15th 2023, 1:30PM
Status: RESERVED
Number of Motions: 1

Motions to Reschedule
Motion re: (Preliminary Approval of Settlement)
<i>Reschedule To:</i>
Date: 01/20/2023 9:00 AM
Location: Hayward Hall of Justice - Department 512

Fees			
Description	Fee	Qty	Amount
Reschedule Fee	1.00	1	1.00
TOTAL			\$1.00

Payment


Amount:
\$1.00


Type:
MasterCard

Account Number:
[REDACTED]

Authorization:
09697S

Payment Date:
1969-12-31

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