

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

KHAYO SISHI, on behalf of the State of California;

Plaintiff,

v.

ESKATON PROPERTIES INCORPORATED,
CALIFORNIA HEALTHCARE
CONSULTANTS, INC and DOES 1-100,
inclusive;

Defendants.

Case No: RG21100764

**NOTICE DECLARATION FROM
AISHA LANGE**

I, AISHA LANGE, declare as follows:

1. I am Assistant Director of Operations at Settlement Services, Inc. (“SSI”). The following statements are based on my personal knowledge and information provided by other SSI employees working under my supervision, and, if called on to do so, I could and would testify competently thereto.
2. SSI is serving in this matter as the Administrator in the Action for the purposes of administering the Class Action Settlement Agreement and Release preliminarily approved in the Court’s Order dated January 20, 2023.
3. I submit this Declaration in order to provide the Court and the Parties to this Action with information regarding the dissemination of the Notice of Settlement (“Notice”), processed in accordance with the Court’s Order.
4. On February 17, 2023, Defense Counsel provided SSI with a spreadsheet (the “Class List”), Tab 1 (“Class List”) of which included the name, address, phone, email address, SSN, Work Weeks 6/2/17-6/11/22, Pay Periods 3/29/20-6/11/22, Employed Between 3/29/20-

6/11/2022, Federal Name, Federal ID and State ID for 5,995 records.

5. SSI reviewed the spreadsheet and identified 23 potential duplicate records with the same name and address, but different SSNs. SSI also identified sixteen (16) individuals with zero (0) workweeks 6/2/17-6/11/22 and zero (0) Pay Periods Worked 3/29/20-6/11/22.

6. On February 27, 2023, Defense counsel advised that 2 sets of the records were duplicative and provided updated information. Defense Counsel also advised that the other 9 sets of potential duplicate records were not duplicated and should remain separate.

7. Defense Counsel advised SSI that of the 16 individuals who have zero workweeks 6/2/2017-6/11/22 and zero pay periods 3/29/2020-6/11/2022, five (5) of the individuals should be removed from the Class List and will not receive a Notice. The remaining eleven (11) will be sent a Notice that indicates that they are to receive no award.

8. As such, the records reflect that there are a total of 5,988 Class Members. Of these, there are 3,840 Aggrieved Employees.

9. In order to obtain the most current mailing address for Class Members, SSI processed the Class Lists addresses through the National Change of Address (“NCOA”) database maintained by the United States Postal Service (“USPS”). This process updates addresses for individuals who have moved within the last four years and who filed a change of address card with the USPS.

10. On March 3, 2023, (the “Notice Date”), SSI mailed the Notices by first-class mail, postage prepaid, from Tallahassee, Florida, to 5,988 Class Members. A true and correct copy of the generic forms of the Notice that was mailed is attached hereto as **Exhibit A**.

11. A total of 558 original Notices were returned to SSI by the USPS as undeliverable without forwarding address information. SSI conducted a locator trace for the individuals with a returned Notice prior to the postmark deadline, and possible new addresses were obtained for 497 of them. SSI re-mailed a Notice to these new addresses, fifty-three (53) of which were returned as undeliverable. SSI was unable to find a possible new address for thirty-one (31) class members, and therefore were not mailed another Notice.

12. There were no Notices re-mailed at the request of either Class Counsel or the Class Member.

13. There were 24 Notices re-mailed to PO forward addresses provided by the USPS.

14. On March 3, 2023 (the "Notice Date") SSI emailed the Notices to 3,910 Class Members on the Class List for whom email addresses were provided. Of these, 342 emails were returned undelivered.

15. SSI established and maintained a case-dedicated website, <https://sishieskatonsettlement.com/>, to enable potential Class Members to obtain information about the settlement and to access important documents related to the settlement. The settlement website went live on March 3, 2023. The settlement website included information regarding deadlines to object, request exclusion, as well as a copy of the generic form of the settlement notice, contact information for settlement inquiries, an online change of address form, the Settlement Agreement, and all other papers filed by Class Counsel to obtain preliminary approval of the settlement.

16. On March 3, 2023, SSI also established and maintained a toll-free telephone number, (833) 616-0442. The toll-free telephone number provided Class Members the ability to make inquiries and speak with a live operator. As of the date of this declaration, SSI received approximately four (4) calls on this toll-free telephone hotline. All calls to the toll-free telephone hotline have been responded to in a timely manner.

17. In addition, SSI leases and maintains a Post Office Box, P.O. Box 10269, Tallahassee, FL 32302-2269, for the receipt of all written communications necessary for the administration of the Settlement. The settlement notice and settlement website designate this Post Office Box as the return address.

18. The last date on which Class Members could opt-out of the Settlement was May 2, 2023.

19. As of the date of this declaration, SSI has received five (5) requests for exclusion, and no other such requests, timely or otherwise.

20. The deadline for Class Members to object to the Settlement was a postmark deadline of May 2, 2023.

21. As of the date of this declaration, SSI has received no objections, timely or otherwise.

22. As of the date of this declaration, SSI has received no (0) communications regarding workweek disputes.

23. The Settlement Agreement contemplates that SSI will pay from the \$5,500,000.00 deposited by Defendants in the QSF the following amounts: up to \$1,833,333.33 in attorney's fees; Class Counsel's actual costs incurred, which at the time of preliminary approval were approximately \$29,242.97; up to \$25,000.00 in total service award payments to Khayo Sishi, Sandeep Purewal, Cherra Redd, and Zenaya White; a PAGA payment to the Labor and Workforce Development Agency of \$41,250.00; and up to \$60,000.00 to SSI for costs of administration.

24. The net funds available to the Class Members would be approximately \$3,511,173.70. The average award for the Class Members would be approximately \$587.78.

25. SSI's costs currently total \$25,000.00. An additional \$35,000.00 will be incurred for the check distribution, tax work, and other work to be performed, for an estimated total of \$60,000.00.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed on this 25th day of May 2023, in Tallahassee, Florida.


AISHA LANGE

EXHIBIT A

NOTICE OF SETTLEMENT
PLEASE READ THIS NOTICE CAREFULLY

Khayo Sishi et al. v. Eskaton Properties Inc., et al.,
Superior Court of California, County of Alameda, Case Number RG21100764

You could get a payment from this class action settlement if you worked for Eskaton Properties Incorporated and California Healthcare Consultants, Inc. in California at any time during the period from June 2, 2017 through June 11, 2022.

The Superior Court of California authorized this notice. This is not a solicitation from a lawyer. This is not a lawsuit against you, and you are not being sued. However, your legal rights are affected whether you act or do not act.

You are receiving this Notice of Settlement (“Notice”) because the records of Eskaton Properties Incorporated and California Healthcare Consultants, Inc., (collectively, “Defendants”)¹ show you performed work for Defendants and/or Releasees in California sometime between June 2, 2017 and June 11, 2022. The records indicate you are a potential class member and **you may be entitled to receive money from a Settlement² in this case, as described below.**

1. Why Should You Read This Notice?

This Notice explains your right to share in the monetary proceeds of this Settlement, exclude yourself (“opt out”) of the Settlement, or object to the Settlement. If you object to the Settlement, you cannot opt out of the Settlement, and you will be bound by the terms of Settlement in the event the Court denies your objection.

The Superior Court of California, County of Alameda, has preliminarily approved the Settlement as fair and reasonable. The Court will hold a Final Approval Hearing on July 28, 2023 at 9:30 a.m., before the Honorable Eumi Lee at the Hayward Hall of Justice, 24405 Amador Street, Hayward, CA 94544 in Department 512.

2. What Is This Case About?

This lawsuit alleges that individuals whom Defendants and/or Releasees employed as hourly non-exempt employees between June 2, 2017 and June 11, 2022 were not compensated for all hours worked, including at the minimum wage and overtime rates, were not provided complaint meal and rest breaks, were not reimbursed for all necessary business expenses, were not compensated for all costs of mandatory physical exams and/or drug testing, were not compensated for reporting time pay, were not compensated for sick time at the appropriate rate, were not provided written

¹ Including Releasees: Eskaton, Inc., Eskaton Village-Grass Valley, Inc., Eskaton Village-Placerville, Inc., Eskaton Village-Roseville, Inc., Eskaton Lodge Granite Bay, Inc., Eskaton Fountainwood Lodge, Inc., The Reutlinger Community, Inc., and O’Connor Woods Housing Corporation, Inc.

² This notice summarizes the proposed Settlement. The capitalized terms in this Notice of Settlement have defined meanings that are set out in detail in the Settlement Agreement. To review a copy of the Settlement Agreement, please visit the Settlement website at <https://sishieskatonsettlement.com/>.

notice of material terms of employment, were not provided all wages during employment and at separation from employment, and were not provided timely and compliant itemized wage statements. This lawsuit seeks recovery of unpaid wages, statutory damages, civil penalties under the California Labor Code Private Attorneys General Act (“PAGA”), restitution, interest, attorneys’ fees and costs. The claims in this lawsuit are brought under California law.

Defendants contend that they have strong legal and factual defenses to these claims, but they recognize the risks, distractions, and costs associated with litigation. Defendants contend that the wage and hour policies and practices at issue are lawful and have been lawful throughout the relevant time period. Defendants also contend that Plaintiffs’ claims do not meet the requirements for class certification.

This Settlement is the result of good faith, arm’s length negotiations between Plaintiffs and Defendants, through their respective attorneys. Both sides agree that in light of the risks and expenses associated with continued litigation, this Settlement is fair and appropriate under the circumstances, and in the best interests of the Settlement Class Members. This Settlement is a compromise and is not an admission of liability on the part of Defendants.

The Court has not ruled on the merits of Plaintiffs’ claims or Defendants’ defenses.

The Settlement Administrator has created a Settlement website, which can be accessed at <https://sishieskatonsettlement.com/>. The Settlement website allows interested persons to view the Settlement Agreement, all papers filed by Class Counsel to obtain Court approval of the Settlement Agreement, and this Notice of Settlement (in generic form). The Settlement website also provides contact information for Class Counsel and the Settlement Administrator.

3. How Will the Settlement Payment Be Distributed?

The Gross Settlement Amount (GSA) is \$5,500,000.00. The GSA will mostly be distributed to the current and former employees who meet the definitions for participating in the Settlement, but it will also be used to pay for attorneys’ fees and costs awarded by the Court, any enhancement payments to Plaintiffs that are awarded by the Court, all Settlement Administrator’s costs, and a payment to the California Labor and Workforce Development Agency (LWDA) that is required by the PAGA.

The Settlement Administrator’s costs are estimated to be no more than \$60,000, and this amount will be paid from the GSA.

The Named Plaintiffs will ask the Court to award them in the amounts of up to \$10,000 to Plaintiff Khayo Sishi and up to \$5,000.00 each to Plaintiffs Sandeep Purewal, Cherra Redd, and Zenaya White³ for their services to the Settlement Class, paid from the GSA.

The attorneys for Plaintiffs and the Settlement Class (referred to as “Class counsel”) will ask the Court to award them up to 33% of the GSA, which is \$1,833,333.33, to compensate them for their

³ While Vanessa Barber is a Plaintiff in this action, she has chosen not to be a class representative, and as such, a service award will not be requested on her behalf. Zenaya White has a separate action against Defendants and she has been incorporated into the instant action, as such, a service award is being requested on her behalf.

services in this matter. Class Counsel will also request reimbursement for their actual attorneys' costs, which are currently approximately \$29,242.97 (see Section 9 below), from the GSA. Class Counsel will file a motion with the Court setting forth the bases for their requested costs and fees.

The payment to the LWDA and Aggrieved Employees in connection with the PAGA component of the Settlement will be \$55,000.00, and this payment will be paid from the GSA.

After deductions of these amounts, what remains of the GSA (the total of the "Net Settlement Amount" and "Net PAGA Amount") will be available to pay monetary Settlement Awards to Plaintiffs, Aggrieved Employees, and all Class Members who do not opt out of the Settlement Class (collectively, "Settlement Class Members").

4. How Much Can I Expect to Receive?

According to records maintained by Defendants, your total estimated settlement payment will be <<Award Rounded>>, subject to any mandatory withholding or deductions. This amount is an estimated amount, and your final settlement payment is expected to differ from this amount (i.e., it could be higher or lower) and will be calculated as set forth below. All Settlement Award determinations will be based on Defendants' records. Based on Defendants' records, you are estimated to have worked <<Work Weeks>> workweeks and <<Pay Periods>> pay periods for Defendants or Releasees during the relevant period in the State of California.

You do not need to do anything to be sent your settlement payment. If you participate in the Settlement, you will have 180 days to cash the check. If at the conclusion of the 180-day check void period, there are any uncashed checks, those monies will be paid to the Parties' agreed upon *cy pres* recipient, Legal Aid at Work, subject to the Court's approval in the Final Approval Order, if the total residual amount is less than \$75,000. If the total residual amount is \$75,000 or greater, a second distribution will occur to those Participating Individuals who cashed their check on a *pro rata* basis.

If you dispute the number of workweeks as shown on this Notice of Settlement, you may produce evidence to the Settlement Administrator establishing the dates you contend to have worked for Defendants. To do so, send a letter to the Settlement Administrator explaining the basis for your dispute and attach copies of the supporting evidence. Unless you present convincing evidence proving you worked more workweeks than shown by Defendants' records, your Settlement Award will be determined based on Defendants' records. Any disputes must be postmarked by **May 2, 2023** and should be mailed to Sishi, et al. v. Eskaton, et al. Settlement Administrator, c/o Settlement Services, Inc., PO Box 10269, Tallahassee, FL 32302-2269. The Settlement Administrator will notify you of the decision on the dispute.

Payments to Settlement Class Members will be calculated on the number of eligible workweeks. Each Settlement Class Members will be eligible to receive a *pro rata* share of the Net Settlement Amount based on the total number of eligible workweeks that the Settlement Class Members worked for Defendants during the relevant periods, calculated as follows:

1. For each workweek, or fraction thereof, during which the Settlement Class Member worked for either Defendants at any time between June 2, 2017 and June 11, 2022, he or she shall be eligible to receive a *pro rata* portion of the Net Settlement Amount based on the number of workweeks the Class Member worked. Each workweek will be equal to one (1) settlement share.
2. The total number of settlement shares for all Settlement Class Members will be added together and the resulting sum will be divided into the Net Settlement Amount to reach a per share dollar figure. That figure will then be multiplied by each Settlement Class Members' number of settlement shares to determine the Settlement Class Members' *pro rata* portion of the Net Settlement Amount.

Additionally, Aggrieved Employee who worked for Defendants, including Releasees, in California any time between March 29, 2020 and June 11, 2022, he or she shall be eligible to receive a *pro rata* portion of the Net PAGA Amount (i.e., \$13,750.00). The total number of pay periods for all Aggrieved Employees will divided into the Net PAGA Amount to reach a per share dollar figure. That figure will then be multiplied by each Aggrieved Employee's number of pay periods to determine the Aggrieved Employees' *pro rata* portion of the Net PAGA Amount. The resulting Net PAGA Amount per Aggrieved Employee, if any, will be added to his or her share of the Net Settlement Amount, to determine the Settlement Award for that individual.

For tax reporting purposes, Settlement Awards will be allocated as follows: any portion of each Settlement Award that is provided from the Net PAGA Amount shall be allocated as penalties. For the remainder of each Settlement Award, one-fourth (1/4) shall be allocated to wages and three-fourths (3/4) shall be allocated to penalties and interest. None of the Parties or attorneys makes any representations concerning the tax consequences of this Settlement or your participation in it. Settlement Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement.

It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your monetary Settlement Award. If you fail to keep your address current, you may not receive your Settlement Award.

5. What Are The Releases?

Upon Final Approval of the Settlement Agreement and funding of the total settlement amount, all Plaintiffs, Class Members, and Aggrieved Employees release claims as follows ("Released Claims") against Defendants, their present and former parent companies, subsidiaries, related or affiliated companies, and their shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity that could be liable for any of the Released Claims, including Eskaton, Inc., Eskaton Village-Grass Valley, Inc., Eskaton Village-Placerville, Inc., Eskaton Village – Roseville, Inc., Eskaton Lodge Granite Bay, Inc., Eskaton Fountainwood Lodge, Inc., The Reutlinger Community, Inc., and O'Connor Woods Housing Corporation, Inc., and Defendants' Counsel (collectively, the "Releasees"):

- Plaintiffs and Class Members release Defendants and Releasees from any and all claims that are or could have been alleged in the operative complaints pending against Defendants and Releasees, and the Second Amended Complaint that the Parties will stipulate to in the Action, including but not limited to claims under California Labor Code §§ 201-204, 210, 216, 218, 218.5, 222.5, 226, 226.3, 226.7, 246, 248.5, 256, 510, 512, 516, 558, 558.1, 1021.5, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2800, 2802, and 2810.5, reporting time wages, and violations of California Unfair Competition Laws (Cal. Bus. & Prof. Code §§ 17200, *et seq.*), and any amendment(s) thereto based on the factual allegations contained therein.
- Plaintiffs and the Aggrieved Employees, on behalf themselves and the Labor & Workforce Development Agency (“LWDA”), fully release the claims and rights to recover civil penalties against Defendants and Releasees on behalf of the LWDA and Aggrieved Employees to recover civil penalties, costs, expenses, attorneys’ fees, or interest for any Labor Code or Wage Order violation alleged or that could have been alleged in any Complaint or PAGA letters, including but not limited to the Second Amended Complaint and amended PAGA letter, in the Action, including violations of the following: California Labor Code §§ 201-204, 210, 216, 218, 218.5, 222.5, 226, 226.3, 226.7, 246, 248.5, 256, 510, 512, 516, 558, 558.1, 1021.5, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2800, 2802, 2810.5, and reporting time wages. The release period for PAGA claims runs from March 29, 2020 to June 11, 2022.

6. What Are My Rights?

- **Do Nothing:** If you are a Class Member and you do not timely and validly opt-out, you will automatically become a part of the Settlement Class and you will receive your prorated Settlement Award. By doing nothing you will be bound by the Settlement including its release provisions.
- **Opt-Out:** If you are a Class Member and you do not wish to be bound by the Settlement, you must submit a written exclusion from the Settlement (“opt-out”), postmarked by **May 2, 2023**. The written request for exclusion must contain your full name, address, telephone number, email address (if applicable), last four digits of your social security number, and must be signed individually by you. No opt-out request may be made on behalf of a group. The opt-out request must be sent by mail to the Settlement Administrator at Sishi, et al. v. Eskaton, et al. Settlement Administrator, c/o Settlement Services, Inc., PO Box 10269, Tallahassee, FL 32302-2269. **Any person who requests exclusion (opts out) of the settlement will not be entitled to any Settlement Award and will not be bound by the Settlement Agreement or have any right to object, appeal or comment thereon.**
- **Object:** If you are a Class Member and wish to object to the Settlement, you must submit a written statement objecting by **May 2, 2023** to the Settlement Administrator at Sishi, et al. v. Eskaton, et al. Settlement Administrator, c/o Settlement Services, Inc., PO Box 10269, Tallahassee, FL 32302-2269. The statement must state the factual and legal grounds for your objection to the settlement. The statement must state your full name, address, telephone number, and email address (if applicable), and must be signed by you.

If you mail a written objection, you may also, if you wish, appear at the Final Approval Hearing to discuss your objection with the Court and the parties to the lawsuit. Your written objection must state whether you will attend the Final Approval Hearing, and your written notice of your intention to appear at the Final Approval Hearing must be filed with the Court and served upon Class Counsel and Defendants' counsel on or before the Notice Deadline, **May 2, 2023**. To be heard at the Final Approval Hearing you must also not opt out of the Settlement. If you wish to object to the Settlement but fail to return your timely written objection in the manner specified above, you shall be deemed to have waived any objection and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement. The postmark date of mailing to the Class Counsel and Defendants' Counsel shall be the exclusive means for determining that an objection is timely mailed to counsel. Objections shall only be considered if the Settlement Class Member has not opted out of the Settlement. The failure to submit a written objection as a prerequisite to appearing in court to object to the settlement may be excused upon a showing of good cause.

7. Can Defendants Retaliate Against Me for Participating in this Lawsuit?

No. Your decision as to whether or not to participate in this lawsuit will in no way affect your work or employment with Defendants or future work or employment with Defendants. It is unlawful for Defendants to take any adverse action against you as a result of your participation in this lawsuit. In fact, Defendants encourage you to participate in this Settlement.

8. Who Are the Attorneys Representing Plaintiffs and the Settlement Class?

Plaintiffs and the Settlement Class Members are represented by the following attorneys acting as Class Counsel:

Carolyn H. Cottrell
Ori Edelstein
Michelle S. Lim
Kristabel Sandoval
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, CA 94608
Telephone: (800) 689-0024
Facsimile: (415) 421-7105
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Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, CA 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396

9. How Will the Attorneys for the Settlement Class Be Paid?

Class Counsel will be paid from the Gross Settlement Amount of \$5,500,000. You do not have to pay the attorneys who represent the Class Members. The Settlement Agreement provides that Class Counsel will receive attorneys' fees of up to one-third (1/3) of \$5,500,000 (i.e., \$1,833,333.33) plus their out-of-pocket costs, currently estimated at approximately \$29,242.97. Class Counsel will file a Motion for Attorneys' Fees and Costs with the Court. The amount of attorneys' fees and costs awarded will be determined by the Court at the Final Approval Hearing.

10. Where can I get more information?

If you have questions about the Notice or Settlement, or if you did not receive this Notice in the mail and you believe that you a Class Member, you should contact the Settlement Administrator or Class Counsel.

This Notice is only a summary. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at the Settlement website at <https://sishieskatonsettlement.com/>, by contacting the Settlement Administrator toll-free at (833) 610-0442, by contacting Class Counsel toll-free at (800) 689-0024, or by accessing the Court docket in this case for a fee through the Court's electronic public records system at <https://publicrecords.alameda.courts.ca.gov/prs>.

PLEASE DO NOT CONTACT THE COURT, THE CLERK OF THE COURT, THE JUDGE, OR DEFENDANTS FOR INFORMATION ABOUT THE PROPOSED SETTLEMENT OR THIS LAWSUIT.