



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO**

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Case Number: CGC-06-454919

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ORDER

WENDY EDWARDS et al VS. GOLDEN GATEWAY CENTER, LP, A CALIFORNIA LIMITED

001C03240191

Instructions:

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FILED
San Francisco County Superior Court

JUN 13 2011

CLERK OF THE COURT
By: [Signature]
Deputy Clerk

Attorneys for Plaintiffs, Intervenors, and the Class

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO
10 UNLIMITED JURISDICTION

12 WENDY EDWARDS, et al.,

13 Plaintiffs,

14 vs.

15 GOLDEN GATEWAY CENTER, LP, et al.,

16 Defendants.

17
18 AND Complaint in Intervention.
19
20

CASE NO.: CGC-06-454919

~~PROPOSED~~ ORDER GRANTING
PLAINTIFFS' *EX PARTE* APPLICATION
FOR AN ORDER PRELIMINARILY
APPROVING CLASS SETTLEMENT AND
PRELIMINARILY APPROVING
ATTORNEYS' FEES AWARD

DATE: JUNE 13, 2011
TIME: 2:30 PM.
DEPT: 613

21 This *ex parte* application came for hearing on Monday, June 13, 2011 at 2:30 PM in Department
22 613, the Honorable Ernest H. Goldsmith, presiding. Drexel A. Bradshaw, Esq., and S. Clinton Woods,
23 Esq., appeared on behalf of Plaintiffs, moving party. Glenn Zwang, Esq. appeared on behalf of Golden
24 Gateway Defendants. Edward Garson, Esq. appeared on behalf of Defendant Alpha Restoration &
25 Waterproofing.

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1 After full consideration of the evidence, and the written and oral submissions by the parties, and
2 GOOD CAUSE APPEARING, the Court hereby makes the following orders:

- 3
- 4 1. WHEREAS the Court has jurisdiction over the parties to, and subject matter of this Action.
- 5 2. WHEREAS this Court has reviewed the Settlement Agreement ("the Agreement"), as well as the
6 files, records and proceedings to date in this matter. The Court finds that a) the Agreement is
7 "within the range" of possible final approval as fair, reasonable and adequate; that b) the
8 Agreement is the result of arms-length negotiations between experienced attorneys familiar with
9 the legal and factual issues of this case; c) all Class Members appear to have been treated fairly
10 under the Agreement, and d) the Agreement is sufficient to warrant notice thereof to members of
11 the Class of the Proposed Settlement and the Fairness Hearing described below. Accordingly,
12 the Plaintiffs' Motion for Preliminary Approval of the Settlement is GRANTED pursuant to Cal.
13 Rules of Court, Rule 3.769, for the reasons articulated in Plaintiffs' papers;
- 14 3. WHEREAS any requirement of written notice for Plaintiffs' motion was obviated by stipulation
15 of the parties and for good cause apparent;
- 16 4. WHEREAS this Court has reviewed Plaintiffs' motion for Preliminary Approval of an award of
17 Attorneys' Fees and Costs. This Court finds that a) as a significant benefit has been conferred on
18 a class of persons; b) the issues presented in the underlying litigation were complex and novel,
19 and Plaintiffs' Counsel skillfully navigated those issues to achieve that benefit; c) Plaintiffs'
20 Counsel bore the risk in pursuing this litigation; and d) this is a fee shifting case where
21 application of the "lodestar" method is appropriate. Accordingly, Plaintiffs' Motion for
22 Preliminary Approval of an award of attorneys' fees and costs in the amount of \$2,050,000 is
23 GRANTED subject to the following: 1) Plaintiffs' submission of a written fee application to the
24 Court accounting for all hours expended and costs incurred in pursuing this litigation; 2) the
25 Courts' review and approval of Plaintiffs's written fee application; and 3) any objections to the
26 fee application from Class Members.
- 27 5. WHEREAS this Court finds that the form and methods of the Proposed Notice set forth by the
28 Parties appear to be adequate, proper and to comport with due process. The Court finds that the

1 content of the notice are the best practicable notice under the circumstances and are reasonable
2 calculated to appraise the Class Members of the pendency of this action, the definition of the
3 Class, the terms of the Agreement, the time and place of the Fairness Hearing and their right to
4 appear, their right to object to the Settlement, and the binding effect of any final judgment of
5 their legal rights. The Class Notice as described in the Settlement Agreement shall be
6 disseminated according to the following schedule:

- 7 a. This Court finds that the Notice shall be sent by Plaintiffs' Counsel to all Class Members
8 via first class mail on or before August 16 2011;
- 9 b. Objections to the Settlement, objections to the fee award, and Notices of Intent to
10 Appear at Fairness Hearing must be in writing and received by all Parties and the Court
11 by September 15 2011;
- 12 c. The Court will hold a Fairness Hearing and Hearing for Final Approval on
13 September 23 2011 at 10:00 am, where the Court will consider written objections, if
14 any, and subject to those objections and all final determinations of the Court, enter an
15 Order finalizing the Agreement, the Settlement and dismissing the Action with prejudice.

16 6. In the event that the Settlement does not meet the final approval of the Court in complete
17 accordance with the terms of the Agreement, then this Order shall be rendered null and void and
18 be vacated and the Settlement Agreement shall be rendered null and void;

19 7. Counsel for Plaintiffs and Defendants are hereby authorized to use all reasonable procedures in
20 connection with the approval and administration of the Settlement that are not materially
21 inconsistent with this Order or the Agreement, including making, without further approval of the
22 Court, minor changes to the form or content of the Agreement and/or Notice, and other exhibits
23 that they jointly agree are reasonable and necessary.

24 IT IS SO ORDERED.

25
26 Date: June 13, 2011


27 Hon. Ernest H. Goldsmith
28 Judge of the Superior Court