

**FILED**  
Clerk of the Superior Court

MAY 01 2025

By: N. McKinley

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN DIEGO**

LYDELL BURSTON, QUINTIN BAKER,  
individually and on behalf of all others  
similarly situated,

Plaintiff,

v.

Sekisui Diagnostics, LLC,

Defendants.

Case No.: 37-2024-00006729-CU-OE-NC

**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

**Date: April 25, 2025**

**Time: 1:30 p.m.**

**Dept.: N-28**

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL:

2 The Motion for Preliminary Approval of Class Action Settlement came before this  
3 Court, on April 25, 2025 at 1:30 p.m. The Court, having considered the papers submitted in  
4 support of the Motion, HEREBY ORDERS THE FOLLOWING:

5 1. Capitalized terms shall have the definitions set forth in the Class Action and  
6 PAGA Settlement Agreement and Class Notice (the "Settlement") entered into between the  
7 Parties.

8 2. The following Class is conditionally certified for purposes of settlement only:  
9 "all individuals who are or were employed by Defendant as Material Handlers in California  
10 during the Class Period." The Class Period is defined as "February 9, 2020 to the date  
11 preliminary approval is granted by the Court."

12 3. The Settlement Class shall consist of all Class Members who do not timely  
13 exclude themselves ("opt out") from the Settlement Class by mailing a timely Request for  
14 Exclusion (or "Opt Out") in accordance with the requirements set forth in the Class Notice and  
15 Settlement.

16 4. The Court grants preliminary approval of the Settlement based upon the terms set  
17 forth in the Settlement filed herewith, and finds that the Class and the Settlement Class meet the  
18 requirements for conditional certification for settlement purposes only under California Code of  
19 Civil Procedure section 382.

20 5. The Court further finds, on a preliminary basis, (a) the Settlement appears to be  
21 fair, adequate, and reasonable to the Class when balanced against the probable outcome of  
22 further litigation relating to class certification, liability and damages issues, and potential  
23 appeals; (b) sufficient investigation, research, and informal discovery, have been conducted  
24 such that counsel for the parties are able to reasonably evaluate their respective positions; (c)  
25 settlement at this time will avoid substantial costs, delay, and risks presented by further  
prosecution of the litigation; and (d) the proposed Settlement was reached through prudent and  
non-collusive negotiations.

1           6.     Plaintiffs Lydell Burston and Quintin Baker are conditionally approved as the  
2 class representatives for the Class.

3           7.     The Incentive Awards of \$7,500 to Plaintiff Lydell Burston and \$12,500 to  
4 Plaintiff Quintin Baker for their services as the class representatives are conditionally approved.

5           8.     Plaintiffs' Counsel Thomas Wheeler (*Of Counsel*), Siamak Nehoray, and  
6 Kambiz Drake of Southern California Attorneys, P.C. are conditionally approved as Class  
7 Counsel for the Class.

8           9.     The Fee and Expense Award of up to \$60,833 in attorneys' fees and up to  
9 \$10,000 in actual litigation costs payable to Plaintiffs' Counsel is conditionally approved.

10          10.    A Final Approval Hearing on the question of whether the Settlement, attorneys'  
11 fees and costs to Class Counsel, and Incentive Awards to Plaintiff should be given Final  
12 Approval as fair, reasonable and adequate as to Settlement Class Members is scheduled in  
13 Department N-28 on the date and time set forth in Paragraph 22g below.

14          11.    The Court hereby appoints ILYM Group, Inc. as the Settlement Administrator.

15          12.    The estimated Administration Costs of up to \$10,000.00 to ILYM Group, Inc. for  
16 its services as the Settlement Administrator are hereby conditionally approved.

17          13.    The Court finds the allocation from the common fund to PAGA penalties,  
18 including the LWDA's 75% share, as fair, adequate, and reasonable in light of the overall gross  
19 settlement and that the proposed settlement of PAGA penalties has been adequately submitted  
20 to the LWDA in advance of the preliminary approval hearing. Therefore, the PAGA Award of  
21 \$10,000 (75% of \$7,500, with the remaining 25% allocated to Class Members) is conditionally  
22 approved.

23          14.    The Court approves, as to form and content, the Class Notice in substantially the  
24 form attached to the Settlement submitted in conjunction with the Motion, with modifications as  
25 set forth in the Court's tentative ruling. The Court approves the procedures for Class Members  
to participate in, to request exclusion from, and to object to the Settlement as set forth in the  
Class Notice.



1           15.     The Court directs the mailing of the Class Notice by first class mail to all Class  
2 Members in accordance with the Implementation Schedule set forth in Paragraph 21 below.  
3 The Court finds the dates selected for the mailing and distribution of the Class Notice, as set  
4 forth in the Implementation Schedule, meet the requirements of due process and provide the  
5 best notice practicable under the circumstances and shall constitute due and sufficient notice to  
6 all persons entitled thereto.

7           16.     Any Class Member may choose to opt-out of and be excluded from the Class, as  
8 provided in the Notice, by following the instructions for requesting exclusion from the Class  
9 that are set forth in the Notice. All requests for exclusion must be submitted as provided in the  
10 Notice. Any such person who chooses to opt-out of and be excluded from the Class will still  
11 receive his or her portions of the PAGA Penalties and still release the Released PAGA but will  
12 otherwise not be entitled to any recovery under the Settlement and will not be bound by the  
13 Settlement or have any right to object, appeal, or comment thereon. Any written request to opt-  
14 out must be signed by each such person opting out. Class Members who have not requested  
15 exclusion shall be bound by all determinations of the Court, the Settlement, and Judgment.

16           17.     Any Class Member may appear at the Final Approval Hearing and may object or  
17 express the Class Member's views regarding the Settlement and may present evidence and file  
18 briefs or other papers, that may be proper and relevant to the issues to be heard and determined  
19 by the Court as provided in the Notice. Additionally, Class Members may submit a written  
20 objection as set forth in the Notice.

21           18.     The Settlement is not a concession or admission and shall not be used against  
22 Defendant or any of the Released Parties as an admission or indication with respect to any claim  
23 of any fault or omission by Defendant, or any of the Released Parties. Whether or not the  
24 Settlement is finally approved, neither the Settlement, nor any document, statement, proceeding,  
25 or conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be:

- a.     Construed as, offered or admitted in evidence as, received as or deemed to be  
evidence for any purpose adverse to the Released Parties, including, but not

1 limited to, evidence of a presumption, concession, indication, or admission by  
2 Defendant or any of the Released Parties of any liability, fault, wrongdoing,  
3 omission, concession, or damage; or

- 4 b. Disclosed, referred to, or offered or received in evidence against any of the  
5 Released Parties in any further proceeding in the Action, or in any other civil,  
6 criminal, or administrative action or proceeding, except for purposes of settling  
7 the Action pursuant to the Settlement.

8 19. In the event the Settlement does not become effective in accordance with the  
9 terms of the Settlement, or the Settlement is not finally approved, or is terminated, canceled or  
10 fails to become effective for any reason, this Order shall be rendered null and void and shall be  
11 vacated, and the Parties shall revert to their respective positions as of before entering into the  
12 Stipulation.

13 20. The Court orders the following **Implementation Schedule** for further  
14 proceedings:

- 15 a. Deadline for Defendant to submit  
16 Class Member Data to Settlement  
17 Administrator (within 21 days  
18 after the Court Granting  
Preliminary Approval): May 16, 2025
- 19 b. Deadline for Settlement  
20 Administrator to Mail the Class  
21 Notice to Class Members (within  
14 days of receipt of the Class  
Information from Defendant): May 30, 2025
- 22 c. Dispute Deadline (60 days from  
23 the date the Class Notice is first  
mailed): July 29, 2025
- 24 d. Objection/Exclusion Deadline (60  
25 days from the date the Class  
Notice is first mailed): July 29, 2025
- e. Deadline for Class Counsel to file

1 Motion for Final Approval of  
2 Class Action Settlement (16 court  
days before hearing) :

August 21, 2025

3 f. Deadline for Class Counsel to file  
4 Motion for Attorneys' Fees, Costs  
5 and Incentive Award:

July 18, 2025

6 g. Deadline for Settlement  
7 Administrator to Submit  
8 Declaration Detailing Claims/Opt  
9 Outs/Objections (at least 20 days  
before motion for final approval is  
filed):

August 1, 2025

10 h. Deadline to Submit Any  
11 Responses to Objections and/or  
12 Reply Brief (at least five (5) court  
days before Final Approval  
Hearing):

September 5, 2025

13 g. Final Approval Hearing Date:

\_\_\_\_\_ at 1:30 p.m.

14  
15 21. If for any reason the Court does not execute and file an Order Granting Final  
16 Approval of Class Action Settlement, or if the Effective Date, as defined in the Settlement, does  
17 not occur for any reason whatsoever, the Settlement and the proposed Settlement that is the  
18 subject of this Order, and all evidence and proceedings had in connection therewith, shall be  
19 restored without prejudice to the *status quo ante*, pursuant to the terms set forth in the  
20 Settlement.


21 22. At the Final Approval Hearing, the Court will consider the fairness, adequacy,  
22 and reasonableness of the proposed Settlement preliminarily approved in this Order and notice  
23 process to be effectuated, and to consider the application for a class representative service  
24 payment to the class representatives, the administration expenses, attorneys' fees, and costs.

25 23. The Court reserves the right to continue the Final Approval Hearing without  
further notice to the class. However, if written objections are submitted, class counsel is ordered

1 to serve notice on any such objecting class member of the new date and time of the Final  
2 Approval Hearing.

3  
4 **IT IS SO ORDERED.**

5  
6 Dated: 5-1, 2025

7 BY   
8 The Honorable Earl H. Maas III  
9 Judge of the Superior Court of the State of  
10 California County of San Diego  
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