

FILED
Superior Court of California
County of Los Angeles

11/07/2023

David W. Slayton, Executive Officer / Clerk of Court

By: L. McGreené Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

SAMEHESHA WILLIAMS, CLAUDE
MORIN, individually, and on behalf of other
members of the general public similarly
situated,

Plaintiffs,

v.

KARL STORZ ENDOSCOPY-AMERICA,
INC., a California corporation; and DOES 1
through 100, inclusive,

Defendants.

Case No.: 21STCV43018

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
AND PAGA SETTLEMENT
THEREON AND JUDGMENT**

Hon. Carolyn B. Kuhl
Department 12 (Spring Street Courthouse)
Hearing Date: November 7, 2023
Hearing Time: 10:30 a.m.

Complaint filed: November 22, 2021
FAC filed: January 19, 2023
Trial Date: None Set

[Class Action]

1 On the above-captioned hearing date and time, Plaintiffs’ Motion for Final Approval of
2 Class Action and PAGA Settlement, Attorneys’ Fees and Costs Award, and Individual Service
3 Awards (the “Motion”) came on regularly for hearing. Defendant did not oppose the Motion. The
4 Motion seeks final Court approval of the parties’ settlement of this action (the “Settlement”), on
5 the terms set forth in the Settlement Agreement executed by the Parties (the “Settlement
6 Agreement”) [and as modified herein].

7 Having considered the Motion, Plaintiffs’ memorandum of points and authorities in
8 support thereof, the supporting Declarations of Carolyn H. Cottrell, Makenna Snow, Claude
9 Morin, and Samehesha Williams, and the pleadings and papers on file in this action; and having
10 reviewed and considered the terms and conditions of the proposed Settlement as set forth in the
11 Settlement Agreement, the terms of which are hereby incorporated in this Order; and no opposition
12 to the Motion having been submitted; and the Court having jurisdiction to consider the Motion and
13 relief requested therein, venue being proper before the Court, and due and proper notice of the
14 Motion having been provided; and upon the hearing on the Motion and after due deliberation, and
15 good and sufficient cause appearing therefor,

16 **IT IS HEREBY ORDERED:**

17 1. Capitalized terms used in this Order that are not otherwise identified herein have
18 the meaning assigned to them in the Settlement Agreement.

19 **I. Final Approval of Settlement**

20 2. The Court grants and orders final approval of the terms set forth in the Settlement,
21 except as modified herein. The Court finds that the terms of the Settlement are fair, adequate, and
22 reasonable, and to have been the product of serious, informed, and extensive arm’s-length
23 negotiations among the Parties. In making this finding, the Court considers the nature of the claims,
24 the relative strength of Plaintiffs’ claims, the amounts and kinds of benefits paid in settlement, the
25 allocation of settlement proceeds, and the fact that a settlement represents a compromise of the
26 Parties’ respective positions rather than the result of a finding of liability at trial.

27 3. Pursuant to California Labor Code Section 2699(e)(2), the Court also orders
28 approved the portion of the Settlement involving claims under the Private Attorneys General Act

1 of 2004 (“PAGA”), finding that the Settlement is fair, reasonable, and adequate.

2 4. Specifically, the Court orders approved in full the Settlement Agreement [as
3 modified herein]. The Parties are ordered to comply with and implement the Settlement Agreement
4 according to its terms, including those provisions not expressly stated in this Order and as modified
5 herein.

6 5. The Court retains continuing jurisdiction to enforce this Settlement pursuant to
7 California Rule of Court 3.769(h), even after the entry of judgment based thereon. Without
8 affecting the finality of the Settlement or Judgment entered, this Court shall retain exclusive and
9 continuing jurisdiction over the action and the Parties, including all Settlement Class Members,
10 for purposes of enforcing and interpreting this Order and the Settlement.

11 6. The Court finds, for the purpose of Settlement, that the proposed Settlement Class
12 meets the criteria for certification under California Code of Civil Procedure Section 382. The Court
13 hereby orders confirmed class certification pursuant to California Code of Civil Procedure Section
14 382 of the following class: All current and former hourly-paid or non-exempt employees who
15 worked for any of the Defendants within the State of California at any time during the period from
16 November 22, 2017 through March 6, 2023.

17 7. For purposes of this Settlement, the Court orders confirmed the appointment of
18 Schneider Wallace Cottrell Konecky LLP and Lawyers for Justice, P.C., as Class Counsel, and
19 further orders confirmed the appointment of the Named Plaintiffs as Class Representatives.

20 8. The Court finds that the Class Notice was given to the Settlement Class as required
21 by the Preliminary Approval Order. The Court finds the Class Notice fairly and adequately
22 described the litigation, the Settlement, how they could claim their share of the Settlement, how
23 they could object or exclude themselves from the Settlement, and how they could dispute
24 information on which individual settlement payments were calculated. The Court further finds that
25 the Class Notice was the best notice practicable under the circumstances, and complied with due
26 process, the California Rules of Court, and all other applicable laws. The Court also finds and
27 concludes that the Settlement Class was given a full and fair opportunity to participate in the Final
28 Approval Hearing.

1 9. The Court finds that [no class member has objected to the settlement] or
2 ~~[ADDRESS ANY OBJECTIONS].~~

3 10. The Court finds that Michelle del Giudice has requested to opt out of the Settlement.

4 11. The Court finds that one workweek disputes were received by the Settlement
5 Administrator. The Settlement Administrator resolved the workweek dispute based on information
6 provided by Defendant.

7 12. Defendant makes no admission of liability or wrongdoing by virtue of entering into
8 the Agreement. The Agreement is entered into solely for the purpose of compromising highly
9 disputed claims. Nothing in the Agreement is intended or will be construed as an admission by
10 Defendant of liability or wrongdoing. The Settlement and Plaintiffs' and Defendant's willingness
11 to settle the Action will have no bearing on, and will not be admissible in connection with, any
12 litigation, administrative proceeding, or other special proceeding (other than solely in connection
13 with the Settlement). No act performed or document executed pursuant to, or in furtherance of, the
14 Settlement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the
15 validity of any Released Claims, or of any wrongdoing or liability of Defendant, the Released
16 Parties, or any of them; or (b) is or may be deemed to be or may be used as an admission of, or
17 evidence of, any fault or omission of Defendant, the Released Parties, or any of them, in any civil,
18 criminal or administrative proceeding in any court, administrative agency or other tribunal, except
19 for purposes of settling this action pursuant to the terms of the Settlement or enforcing the release
20 of the Released Claims.

21 **II. Release of Claims**

22 13. Effective on the date when Defendant fully funds the entire Gross Settlement
23 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class
24 Payments, and in consideration for Defendant's performance of its obligations under the
25 Settlement Agreement, Plaintiffs, Class Members, and Class Counsel will release claims against
26 all Released Parties as follows:

- 27 a. Plaintiffs and their respective former and present spouses, representatives, agents,
28 attorneys, heirs, administrators, successors, and assigns generally release and

1 discharge the Released Parties from all claims, transactions, or occurrences that
2 occurred during the Class Period, including, but not limited to, all claims that were
3 or reasonably could have been alleged based on the facts contained in the operative
4 complaint, including all PAGA claims that were or reasonably could have been
5 alleged based on facts contained in the operative complaint and/or Plaintiffs' PAGA
6 Notice ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or
7 actions to enforce this Agreement, or to any claims for vested benefits,
8 unemployment benefits, disability benefits, Social Security benefits, workers'
9 compensation benefits that arose at any time, or based on occurrences outside the
10 Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law
11 different from, or in addition to, the facts or law that Plaintiffs now know or believe
12 to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain
13 effective in all respects, notwithstanding such different or additional facts or
14 Plaintiffs' discovery of them. For purposes of Plaintiffs' Release, Plaintiffs
15 expressly waive and relinquish the provisions, rights, and benefits, if any, of section
16 1542 of the California Civil Code, which reads: "A general release does not extend
17 to claims that the creditor or releasing party does not know or suspect to exist in his
18 or her favor at the time of executing the release, and that if known by him or her
19 would have materially affected his or her settlement with the debtor or Released
20 Party."

- 21 b. All Participating Class Members release and discharge the Released Parties from
22 any and all claims, rights, demands, liabilities, and causes of action of every nature
23 and description arising during the Class Period, including statutory, contractual, or
24 common law claims for wages, damages, penalties, liquidated damages, interest,
25 attorneys' fees, litigation costs, restitution, injunctive or equitable relief, arising out
26 of and based on the following categories of claims that were specifically alleged,
27 could have been alleged, or are in substance the same as those specifically alleged
28 in the Operative Complaint or reasonably related to the factual allegations pled

therein, including: (a) failure to pay and/or appropriately calculate minimum, straight time, overtime, double time, or any other types of wages; (b) failure to provide compliant meal periods and/or pay meal period penalties; (c) failure to provide compliant rest breaks and/or pay rest break penalties; (d) failure to provide accurate wage statements; (e) inaccurate recordkeeping; (f) failure to pay timely wages; (g) failure to timely pay all wages due at termination, including claims for waiting time penalties; and (h) failure to reimburse business expenses. The Released Class Claims include all claims that arise under the California Labor Code, including under California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.3, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1 and 1198, 2800, 2802; California Business and Professions Code §§ 17200 *et seq.*; any applicable California Industrial Welfare Commissions Wage Order; and any similar statutes, regulations, ordinances, and laws, to the extent such claims were pled, or could arise out of the facts pled, as part of the Action.

- c. All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties under the California Labor Code predicated on the claims that were alleged, or reasonably could have been alleged, in the Operative Complaint. The release of the PAGA Claims is effective, regardless of whether the Aggrieved Employee submits a timely and valid request for exclusion.

14. Defendant shall fully fund the Gross Settlement Amount of \$900,000.00, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes, by transmitting the funds to the Administrator no later than 30 days after the Effective Date. The Settlement Administrator will provide counsel for the Parties with an opportunity to review and approve the Settlement Administrator's proposed payment calculations after the funding date but before the Settlement Administrator sends out the Individual Settlement Payments. Within 15 calendar days

1 after KSEA funds the Gross Settlement Amount, the Administrator will mail checks for all
2 Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
3 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation
4 Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class
5 Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class
6 Representative Service Payment shall not precede disbursement of Individual Class Payments and
7 Individual PAGA Payments.

8 15. For any Class Member whose Individual Class Payment check or Individual PAGA
9 Payment check is uncashed after the void date, the Administrator shall transmit the funds
10 represented by such checks to the California Controller's Unclaimed Property Fund in the name of
11 the Class Member thereby leaving no "unpaid residue" subject to the requirements of California
12 Code of Civil Procedure Section 384, subd. (b).

13 **III. Service Awards and Awards to Class Counsel**

14 16. The Court finds and orders that the Named Plaintiffs are entitled to reasonable
15 Service Awards to be paid from the Gross Settlement Amount for services as Class Representatives
16 and in consideration of their general release of Defendant. The requested service awards to Claude
17 Morin and Samehesha Williams are approved in the amount of ~~\$15,000.00~~ ^{\$10,000.00} each.

18 17. The Court finds and orders that Class Counsel are entitled to award(s) to be paid by
19 Defendant of reasonable fees and costs in the amount provided in the Settlement Agreement, of
20 ~~\$315,000.00 for attorneys' fees and \$_____ for costs.~~ ^{\$300,000.00 for attorneys' fees and \$13,000.00 for costs.} The court finds that the fees are justified
21 and appropriate based on the benefit obtained for the class.

22 18. Judgment is ordered entered on the claims settled pursuant to the Settlement
23 Agreement, consistent with this Final Approval Order.

24 19. The Court retains continuing jurisdiction to enforce this Settlement pursuant to
25 California Rule of Court 3.769(H), even after the entry of judgment based thereon. Without
26 affecting the finality of the Settlement or Judgment entered, this Court shall retain exclusive and
27 continuing jurisdiction over the action and the Parties, including all Settlement Class Members,
28 for purposes of enforcing and interpreting this Order and the Settlement.

20. For the reasons set forth above, the Motion for Final Approval of Class Action Settlement, the Attorney Fee Award, the Cost Award, and the Class Representative Enhancement Payment is granted. The Settlement Administrator is directed to carry out the terms of the Settlement Agreement forthwith.

21. By this Order of Final Approval and Judgment, Plaintiffs shall release, relinquish and discharge all claims in Plaintiffs' Release, as defined in the Settlement and incorporated by reference herein. By this Order of Final Approval and Judgment, each of the Class Members who did not opt out of the Settlement shall be deemed to have fully, and forever released, relinquished, and discharged all claims in Release by Participating Class Members as defined in the Settlement and incorporated by reference herein. By this Order of Final Approval and Judgment, each of the Participating and Non-Participating Class Members who are Aggrieved Employees shall be deemed to have fully, and forever released, relinquished and discharged all claims in Release by Aggrieved Employees as defined in the Settlement and incorporated by reference herein.

22. The Parties are hereby ordered to comply with the terms of the Settlement Agreement.

IT IS SO ORDERED.

DATED: 11/07/2023



A handwritten signature in black ink that reads "Carolyn B. Kuhl".

Carolyn B. Kuhl / Judge

JUDGE OF THE SUPERIOR COURT