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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

JESSICA HARRIGAN, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiffs,

v.

CHILDREN'S SPECIALISTS OF SAN
DIEGO, A MEDICAL GROUP, INC., a
California Corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No. 37-2021-00014044-CU-OE-CTL

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL**

Date: December 2, 2022
Time: 9:00 a.m.

Judge: Hon. Joel Wohlfeil
Dept.: 73

1 Plaintiff's motion for an order finally approving the Stipulation of Settlement of Class and
2 PAGA Action Claims and Release of Claims ("Agreement") and motion for an award of
3 attorneys' fees, costs, and service awards duly came on for hearing on December 2, 2022, before
4 the above-entitled Court. Zakay Law Group, APLC, and the JCL Law Firm, APC, appeared on
5 behalf of Plaintiff JESSICA HERRIGAN ("Plaintiff"). Lewis Brisbois Bisgaard & Smith LLP,
6 appeared on behalf of Defendant CHILDREN'S SPECIALISTS OF SAN DIEGO, A MEDICAL
7 GROUP, INC. ("Defendant").

8 **I.**

9 **FINDINGS**

10 Based on the oral and written argument and evidence presented in connection with the
11 motion, the Court makes the following findings:

12 1. All terms used herein shall have the same meaning as defined in the
13 Agreement.

14 2. This Court has jurisdiction over the subject matter of this litigation pending
15 in the California Superior Court for the County of San Diego ("Court"), Case No. 37-2021-
16 00014044-CU-OE-CTL, entitled *Herrigan v. Children's Specialists of San Diego, a Medical*
17 *Group, Inc.*, and over all Parties to this litigation, including the Class.

18 **Preliminary Approval of the Settlement**

19 3. On July 25, 2022, the Court granted preliminary approval of a class-wide
20 settlement. At this same time the court approved certification of a provisional settlement class for
21 settlement purposes only. The Court confirms this Order and finally approves the settlement and
22 the certification of the Class.

23 **Notice to the Class**

24 4. In compliance with the Preliminary Approval Order, the Notice Packet was
25 mailed by first class U.S. Mail to the Class Members at their last known addresses on September
26 1, 2022. Mailing of the Notice Packet to their last known addresses was the best notice practicable
27 under the circumstances and was reasonably calculated to communicate actual notice of the
28 litigation and the proposed settlement to the members of the Class Members. The Court finds that

1 the Notice Packet provided fully satisfies the requirements of California Rules of Court, rule
2 3.769.

3 5. The Response Deadline for opting out or objecting was October 17, 2022.
4 There was an adequate interval between notice and deadline to permit Class Members to choose
5 what to do and act on their decision. No Class Members objected. No Class Members requested
6 exclusion.

7 **Fairness Of The Settlement**

8 6. The Agreement provides for a Gross Settlement Amount of \$550,000.00.
9 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
10 Cal.App.4th 1794, 1801.)

11 a. The settlement was reached through arms-length bargaining between
12 the parties. There is no evidence of any collusion between the parties in reaching the proposed
13 settlement.

14 b. The Parties' investigation and discovery have been sufficient to
15 allow the Court and counsel to act intelligently.

16 c. Counsel for all parties are experienced in similar employment class
17 action litigation and have previously settled similar class claims on behalf of employees claiming
18 compensation. All counsel recommended approval of the Settlement.

19 d. No objections were received. No requests for exclusion were
20 received.

21 e. The participation rate is high. All Class Members will be
22 participating in the Settlement and will be sent settlement payments.

23 7. The consideration to be given to the Class Members under the terms of the
24 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the
25 claims asserted in this Action and is fair, reasonable, and adequate compensation for the release of
26 the Released Class Claims, given the uncertainties and risks of the litigation and the delays which
27 would ensue from continued prosecution of the Action.

1 8. The Agreement is finally approved as fair, adequate, and reasonable and in
2 the best interests of the Settlement Class Members.

3 **Attorneys' Fees and Litigation Expenses**

4 9. The Agreement provides for a Class Counsel Award in the amount of up to
5 One Hundred Ninety-One Thousand, Five Hundred Eighty Dollars and Eighty-Five Cents
6 (\$191,580.85). Subject to Court approval, the Class Counsel Award consists of attorneys' fees
7 equal to one-third (1/3) of the Gross Settlement Amount, One Hundred Eighty-Three Thousand,
8 Three Hundred Thirty-Three Dollars and Thirty-Three Cents (\$183,333.33) and reimbursement of
9 costs and expenses in the amount of Eight Thousand, Two Hundred Forty-Seven Dollars and
10 Fifty-Two Cents (\$8,247.52).

11 10. A Class Counsel Award of One Hundred Ninety-One Thousand, Five
12 Hundred Eighty Dollars and Eighty-Five Cents (\$191,580.85) comprised of attorneys' fees in the
13 amount of One Hundred Eighty-Three Thousand, Three Hundred Thirty-Three Dollars and Thirty-
14 Three Cents (\$183,333.33) and reimbursement of costs and expenses in the amount of Eight
15 Thousand, Two Hundred Forty-Seven Dollars and Fifty-Two Cents (\$8,247.52) is reasonable in
16 light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the
17 results achieved by Class Counsel. The requested attorneys' fee award represents one-third (1/3)
18 of the common fund, which is reasonable and at the low end of the range for fee awards in
19 common fund cases and is supported by Class Counsel's lodestar.

20 **Class Representative Service Award**

21 11. The Agreement provides for a Class Representative Service Award of up to
22 \$10,000 for Plaintiff, Jessica Horrigan, subject to the Court's approval. The Court finds that the
23 amounts of \$10,000 is reasonable in light of the risks and burdens undertaken by the Plaintiff in
24 this class action litigation.

25 **Settlement Administration Costs**

26 12. The Agreement provides for Settlement Administration Costs to be paid in
27 an amount not to exceed \$8,000.00. The Declaration of the Settlement Administrator provides
28

1 that the actual claims administration expenses were \$8,000.00. The amount of this payment is
2 reasonable in light of the work performed by the Settlement Administrator.

3 **II.**

4 **ORDERS**

5 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

6 1. The Class is certified for the purposes of settlement only. The Settlement
7 Class is hereby defined to include:

8 All non-exempt employees who are or previously were employed by Defendant in
9 California during the Class Period. The Class Period is the period between March
10 30, 2017, to January 18, 2022.

11 2. Every person in the Class who did not opt out is a Settlement Class
12 Member.

13 3. The Agreement is hereby approved as fair, reasonable, adequate, and in the
14 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
15 this Order and the terms of the Agreement.

16 4. Class Counsel are awarded a Class Counsel Award in the amount of
17 \$191,580.85 comprised of attorneys' fees in the amount of \$183,333.33 and litigation expenses in
18 the amount of \$8,247.52. Class Counsel shall not seek or obtain any other compensation or
19 reimbursement from Defendant, Plaintiff, or members of the Class.

20 5. The payment of the Class Representative Service Award to the Plaintiff in
21 the amount of \$10,000 is approved.

22 6. The payment of \$8,000.00 to the Settlement Administrator for Settlement
23 Administration Costs is approved.

24 7. The PAGA Settlement of \$20,000 is hereby approved as fair, reasonable,
25 adequate, and adequately protects the interests of the public and the LWDA. Further, the Court
26 finds that Plaintiff and Class Counsel negotiated the PAGA Settlement at arms-length, absent of
27 any fraud or collusion.

1 8. Final Judgment is hereby entered in this action. The Final Judgment shall
2 bind each Settlement Class Member.

3 9. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
4 California and all Aggrieved Employees, pursuant to the California Private Attorneys' General
5 Act ("PAGA")

6 10. The term "Aggrieved Employees" is hereby defined to include all
7 employees who are or previously were employed by Defendant in California and who were
8 classified as non-exempt employees during the PAGA Period. The PAGA Period means the
9 period of January 1, 2020, through and including January 18, 2022.

10 11. In addition to the release given by each Settlement Class Member, Plaintiff
11 also generally releases Defendant from any and all of the Released Class Claims as defined in the
12 Agreement.

13 12. The Agreement is not an admission by Defendant, nor is this Final
14 Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
15 wrongdoing by Defendant. Neither this Final Approval Order, the Settlement, nor any document
16 referred to herein, nor any action taken to carry out the Settlement is, may be construed as, or may
17 be used as an admission by or against Defendant of any fault, wrongdoing, or liability whatsoever.
18 The entering into or carrying out of the Agreement, and any negotiations or proceedings related
19 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or
20 concession with regard to the denials or defenses by Defendant and shall not be offered in
21 evidence in any action or proceeding against Defendant in any court, administrative agency or
22 other tribunal for any purpose as an admission whatsoever other than to enforce the provisions of
23 this Final Approval Order and Judgment, the Settlement, or any related agreement or release.
24 Notwithstanding these restrictions, any of the Parties may file in the Action or in any other
25 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
26 records on file in the Action as evidence of the Settlement to support a defense of res judicata,
27 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
28 claims being released by the Settlement.

1 13. Notice of entry of this Final Approval Order and Judgment shall be given to
2 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send
3 notice of entry of this Final Approval Order and Judgment to individual Class Members and the
4 Final Approval Order and Judgment shall be posted on Settlement Administrator's website as
5 indicated in the Notice Packet.

6 14. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
7 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a
8 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
9 connection with the distribution of settlement benefits.

10 15. If the Settlement does not become final and effective in accordance with the
11 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
12 Defendant consistent with the terms of the Settlement, then this Final Approval Order and
13 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall
14 be vacated.

15
16 IT IS SO ORDERED.

17 DATED: _____, 2022

Hon. Joel Wohlfeil
JUDGE OF THE SUPERIOR COURT