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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

SAMANTHA JOE SERRANO, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

HOSPITAL OF BARSTOW, INC d/b/a
BARSTOW COMMUNITY HOSPITAL, a
California Corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CIVDS2006967

Assigned to: Hon. David Cohn, Dept. S-26

CLASS ACTION

**~~[PROPOSED]~~ ORDER GRANTING FINAL
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: August 28, 2023
Time: 9:00 a.m.
Courtroom: Dept. S-26
Judge: Hon. David Cohn

Action Filed: March 05, 2020
Trial Date: Not Set

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 28 2023

BY Victoria Sanchez
VICTORIA SANCHEZ, DEPUTY

File by Fax

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 This matter came on for hearing upon the Motion for Final Approval of the proposed settlement
3 of this action on the terms set forth in the JOINT STIPULATION OF CLASS AND
4 REPRESENTATIVE ACTION SETTLEMENT (*see* Declaration of H. Scott Leviant In Support of
5 Plaintiff's Motion for Final Approval of Class Action Settlement ["Leviant Decl.," at Exh. 1). The
6 JOINT STIPULATION OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT is referred to
7 herein as the "Agreement" or "Settlement."

8 After reviewing the Agreement, the Notice process, having reviewed the entire record on this
9 action, having heard the argument of Counsel for respective Parties, if any, and good cause appearing,
10 the Court Orders as follows:

11 1. To the extent defined in the Agreement, the terms in this Order shall have the meanings
12 set forth therein.

13 2. The Court finds that the Settlement has been reached as a result of intensive, serious and
14 non-collusive arms-length negotiations. The Court further finds that the parties have conducted
15 thorough investigation and research, and the attorneys for the parties are able to reasonably evaluate
16 their respective positions. The Court also finds that settlement at this time will avoid additional
17 substantial costs, as well as avoid the delay and risks that would be presented by the further prosecution
18 of the action. The Court finds that the risks of further prosecution are substantial.

19 3. The Settlement is granted final approval as it meets the criteria for approval. In granting
20 final approval of the Settlement the Court has considered the factors identified in *Dunk v. Ford Motor*
21 *Co.*, 48 Cal. App. 4th 1794 (1996), as approved in *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th
22 224 (2001) and *In re Microsoft IV Cases*, 135 Cal. App. 4th 706 (2006). The Court finds that the terms
23 of the proposed class action Settlement are fair, reasonable, and adequate, pursuant to California Code
24 of Civil Procedure § 382. The Settlement falls within the range of possible approval as fair, adequate
25 and reasonable, and appears to be the product of arm's-length and informed negotiations and to treat all
26 Class Members fairly. The Settlement Class meets the requirements for conditional certification for
27 settlement purposes only under Code of Civil Procedure § 382.
28

1 4. The Class Notice provided to the Settlement Class conforms with the requirements of
2 Code of Civil Procedure § 382, Civil Code § 1781, Rules of Court 3.766 and 3.769, the California and
3 United States Constitutions, and any other applicable law, and constitutes the best notice practicable
4 under the circumstances, by providing individual notice to all Class Members who could be identified
5 through reasonable effort, and by providing due and adequate notice of the proceedings and matters set
6 forth therein to Class Members. The Class Notice fully satisfied the requirements of due process.

7 5. The following persons are certified as Class Members solely for the purpose of entering
8 a settlement in this matter:

9 All non-exempt employees of Defendant who worked for Defendant in
10 California at any time during the Class Period (the "Class Period" is March 5, 2016,
through February 27, 2023). (Settlement, ¶¶ 3-4.)

11 6. The following persons are certified as PAGA Employees solely for the purpose of
12 entering a settlement in this matter:

13 All non-exempt employees of Defendant who worked for Defendant in
14 California at any time during the PAGA Period (the "PAGA Period" is March 5, 2019,
through February 27, 2023.). (Settlement, ¶¶ 10, 12.)

15 7. Plaintiff SAMANTHA JOE SERRANO is appointed the Class Representative. The
16 Court finds that Moon Law Group, PC (formerly known as Moon & Yang, APC), Plaintiff's counsel,
17 are adequate, as they are experienced in wage and hour class action litigation and have no conflicts of
18 interest with absent Class Members, and that they adequately represented the interests of absent class
19 members in the Litigation. Moon Law Group, PC, is appointed Class Counsel.

20 8. The Court appoints ILYM Group, Inc., to act as the Settlement Administrator, pursuant
21 to the terms set forth in the Agreement.

22 9. No Class Member timely requested exclusion from the Class. All Class Members are
23 Settlement Class Members and remain bound by the Final Approval Order and Judgment in the Action.

24 10. Upon entry of this Final Approval Order and the Judgment, funding of the Settlement
25 and compensation to the Class Members shall be implemented pursuant to the terms of the Agreement.

26 11. In addition to any recovery that Plaintiff may receive under the Settlement as a Class
27 Member, and in recognition of the Plaintiff's efforts on behalf of the Settlement Class, the Court hereby
28

1 approves the payment of a Class Representative Enhancement Payment to Plaintiff SAMANTHA JOE
2 SERRANO in the amount of \$10,000.00.

3 12. The Court approves the payment of attorneys' fees to Class Counsel in the total amount
4 of \$781,800.86 to Moon Law Group, PC. Litigation expenses awarded to Moon Law Group, PC, are
5 approved by the Court in the amount of \$18,468.47.

6 13. The Court approves and orders payment in the amount of \$17,224.30 to ILYM Group,
7 Inc., for performance of its services as the Administrator, as set forth in the Notice to the Class.

8 14. Upon completion of administration of the Settlement, the Parties shall file a declaration
9 stating that all amounts payable under the Settlement have been paid and that the terms of the
10 Settlement have been completed.

11 15. The Court sets a case review hearing regarding compliance with all fund distribution
12 requirements under the Settlement for 7/8, 2024, at 8:30 am, in Dept. S-²⁶
13 26 of the above-entitled Court. A Final Report, including a declaration from the Administrator
14 regarding compliance, shall be filed with the Court no later than 6/28, 2024.

15 16. The Court approves and orders payment in the amount of \$75,000.00 to the Labor and
16 Workforce Development Agency in compromise of claims under the Labor Code Private Attorneys
17 General Act of 2004 (Labor Code § 2698 *et seq.*). Further, \$25,000.00 shall be distributed to PAGA
18 Employees as required under the Settlement.

19 17. Class and PAGA claims are released as follows:

20 Upon the final approval by the Court of this Settlement and Defendant's payment of all
21 sums due pursuant to this Settlement, and except as to such rights or claims as may be
22 created by this Settlement, the Class Representatives, the Class and each Class Member
23 who has not submitted a valid and timely request for exclusion as to claims other than
24 the PAGA claim, and each PAGA Employee, regardless of whether they have
25 requested exclusion from the Settlement of Class claims, will release claims as follows:

26 (a) Identity of Released Parties. The released parties are Defendant and its former
27 and present employees, directors, shareholders, officers, owners, attorneys, agents,
28 insurers, agents, successors, assigns, parents, subsidiaries, affiliates, or legal
representatives and any individual or entity which could be jointly liable with
Defendant and all persons or entities acting by, through, under, or in concert with any of
them (collectively "Releasees" or "Released Parties").

(b) Date Release Becomes Active. The Released Claims and Released PAGA
Claims will be released upon the later of (1) the Settlement's Effective Date, or (2) the
satisfaction of Defendant's obligation to provide to the Settlement Administrator a sum

1 in the amount required to satisfy all required payments and distributions pursuant to this
2 Settlement and the Order and Judgment of final approval. Class Members will not
3 release the Released Claims or Released PAGA Claims until both the Effective Date of
the Settlement has occurred, and Defendant has paid all amounts owing under the
Settlement.

4 (c) Claims Released by Settlement Class Members. Each and every Class Member,
5 on behalf of himself or herself and his or her heirs and assigns, unless he or she has
6 submitted a timely and valid Request for Exclusion (which will not effectuate an opt-
out from the release of Released PAGA Claims), hereby releases Releasees from the
following claims for the entire Class Period:

7 1) any and all claims, rights, demands, liabilities, and causes of action of any kind,
8 whether known or unknown, arising from the alleged violation of any provision of
9 common law, California law and/or federal law which was or could have been raised in
10 Plaintiff's operative complaint, including claims based on California Labor Code
11 sections 201, 202, 203, 204, 206.5, 218.5, 226, 226.3, 226.7, 510, 512, 558, 1174, 1194,
12 1197, 1197.1, 1198, 2698 et seq., California Code of Regulations, Title 8 Section 11000
et seq., the applicable Industrial Welfare Commission (IWC) Wage Orders, Business &
Professions Code sections 17200-17208 or any related damages, penalties, restitution,
disgorgement, interest or attorneys' fees, and that arose on or before the final day of the
Class Period ("Released Claims");

13 2) as to any Class Member who cashes their Settlement Payment, the signing and
14 negotiation of that check shall serve as the Class Member's consent to join the action
for purposes of releasing claims arising under the Fair Labor Standards Act that are
related to the claims stated in the Action, implicitly or explicitly; and,

15 (d) Claims Released by the Class, Including PAGA Employees. All PAGA
16 Employees employed during the Released PAGA Claims Period (whether requesting
exclusion from the Settlement or not) will release the Released PAGA Claims.

17 For purposes of this Settlement, "Released PAGA Claims" means all claims that have
18 been pled or could have been pled, based upon the factual allegations and issues set
forth in the Notice to the LWDA and alleged in the [Third Amended Complaint],
19 including civil penalties under PAGA, fees, and all other claims and allegations made or
which could have been made in the Action based on the facts and allegations pled in
20 Plaintiff's Notice to the LWDA and the [Third Amended Complaint]. Plaintiff's Notice
to the LWDA is attached [to the Agreement] as Exhibit "B."

21 18. The Parties are ordered to give notice of this final Order and Judgment to the LWDA,
22 pursuant to Labor Code § 2699(1)(3).

23 19. The Court hereby directs the Parties to effectuate the terms of the Settlement as set forth in
24 the Agreement.

1 20. The Court retains jurisdiction to consider all further applications arising out of or in
2 connection with the settlement.

3 **IT IS SO ORDERED.**

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5 Dated: _____

8/28/2023

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Hon. ~~David Cohn~~ *Jessica McKinn*
SAN BERNARDINO COUNTY SUPERIOR COURT
JUDGE

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

On the date indicated below, I served the document described as: **[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Amanda C. Sommerfeld
Amanda W. Molinari
JONES DAY
555 South Flower Street
Los Angeles, CA 90071-2300
Telephone: (213) 243-2357
Email: amolinari@jonesday.com
Email: asommerfeld@jonesday.com

Counsel for Defendant Hospital of Barstow, Inc.

- ☐ **BY MAIL (ENCLOSED IN A SEALED ENVELOPE):** I deposited the envelope(s) for mailing in the ordinary course of business at Los Angeles, California. I am "readily familiar" with this firm's practice of collection and processing correspondence for mailing. Under that practice, sealed envelopes are deposited with the U.S. Postal Service that same day in the ordinary course of business with postage thereon fully prepaid at Los Angeles, California.
- ☒ **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-mail of record in this action.
- ☐ **BY PERSONAL SERVICE:** I delivered the document, enclosed in a sealed envelope, by hand to the offices of the addressee(s) named herein.
- ☐ **BY OVERNIGHT DELIVERY:** I am "readily familiar" with this firm's practice of collection and processing correspondence for overnight delivery. Under that practice, overnight packages are enclosed in a sealed envelope with a packing slip attached thereto fully prepaid. The packages are picked up by the carrier at our offices or delivered by our office to a designated collection site.

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 this **August 1, 2023** at Los Angeles, California.

H. Scott Leviant
Type or Print Name


Signature