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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

EVELYN MARTINEZ and SANDY ACOSTA, as
individuals and on behalf of all others similarly
situated, and as private attorneys general,

Plaintiffs,

vs.

CITY OF HOPE NATIONAL MEDICAL CENTER,
a California corporation; CITY OF HOPE, a
California corporation; CITY OF HOPE MEDICAL
FOUNDATION, a California corporation; and DOES
1 through 50, inclusive,

Defendants.

Case No. CIVDS2015729

[Hon. David Cohn, Department S26]

**[PROPOSED] ORDER GRANTING MOTION
FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND FINAL JUDGMENT**

Date: December 5, 2022
Time: 10:00 a.m.
Department: S26

Complaint Filed: August 4, 2020
FAC Filed: September 28, 2021
SAC Filed: April 7, 2022

1 Plaintiffs Evelyn Martinez and Sandy Acosta Andy Diaz and Defendants City of Hope, City of
2 Hope National Medical Center, and City of Hope Medical Foundation (together, the “Parties”) have
3 entered into the Stipulation of Class Action and PAGA Settlement (“Agreement”) to settle the above-
4 captioned class action subject to the Court’s approval (the “Settlement”).

5 This matter is now before the Court on Plaintiffs’ Motion for Final Approval of Class Action
6 Settlement. The Court has read, heard, and considered all the pleadings and documents submitted, and
7 the presentations made in connection with the Motion which came on for hearing on December 5, 2022.

8 **I. BACKGROUND**

9 On August 4, 2020, Plaintiff Martinez initiated this class and representative Labor Code Private
10 Attorneys General Act of 2004 (“PAGA”) action. On September 28, 2021, Plaintiff Martinez filed an
11 amended complaint to add claims based on failures to provide compliant meal and rest breaks and unfair
12 business practices. On April 7, 2022, Plaintiff Acosta joined Plaintiff Martinez in the operative Second
13 Amended Complaint. The operative complaint alleges claims based on Defendants’ failing to properly
14 pay wages for all hours (including and not limited to, regular, overtime, and minimum wages), failing to
15 provide compliant meal period and rest periods and associated premium pay, failing to timely pay wages
16 during employment, failing to timely pay wages upon termination and associated waiting time penalties,
17 failing to provide compliant wage statements, failing to keep requisite payroll records, and failing to
18 reimburse business expenses.

19 **A. Class Members**

20 The “Class” is defined as: “All non-exempt employees of City of Hope, City of Hope National
21 Medical Center, and City of Hope Medical Foundation who were employed at any time between July 23,
22 2016 to March 31, 2022 in the State of California, with the exception of individuals whose entire
23 employment by Defendants during the period July 23, 2016 to March 31, 2022 is covered by the
24 settlement in *Jordan A. Seper v. City of Hope National Medical Center*, Los Angeles Superior Court
25 Case No. BC630925.”

26 **B. Operation of the Settlement**

27 Pursuant to the Preliminary Approval Order dated June 21, 2022, this Court conditionally
28 certified the Class and granted preliminary approval to the Agreement. The Preliminary Approval Order

1 also approved of the proposed forms of notice and notice plan. The Court entered the Preliminary
2 Approval Order after review and consideration of all of the pleadings filed in connection herewith, and
3 the oral presentations made by counsel at the hearing.

4 In compliance with the Preliminary Approval Order, the Notice of Class Action Settlement
5 (“Class Notice”) was sent to all 7,036 Settlement Class Members via first class mail. Follow-up mailings
6 were sent to 138 individuals, and 23 Class Notices remain undeliverable. The notice process was timely
7 completed.

8 This Court finds that the Settlement appears to be the product of serious, informed, non-collusive
9 negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment to any
10 individuals. The Court finds that the Settlement was entered into in good faith pursuant to California
11 Code of Civil Procedure section 877.6. The Court further finds that the Settlement is fair, reasonable,
12 and adequate and that Plaintiff has satisfied the standards for final approval of a class action settlement
13 under California law. Under the provisions of California Code of Civil Procedure section 382 and
14 Federal Rule of Civil Procedure 23, as approved for use by the California state court in *Vasquez v.*
15 *Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial court has discretion to certify a class where:

16 [Q]uestions of law or fact common to the members of the class predominate over any
17 questions affecting only individual members, and that a class action is superior to the
available methods for the fair and efficient adjudication of the controversy ...

18 FED. R. CIV. P. 23. Certification of a settlement class is the appropriate judicial device under these
19 circumstances.

20 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
21 FOLLOWS:

22 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
23 Agreement filed in this case.

24 2. The Court has jurisdiction over the subject matter of the litigation, the Class
25 Representatives, the other members of the Settlement Class, and Defendants.

26 3. The Court finds that the dissemination of the Class Notice to the Class Members by the
27 appointed Settlement Administrator, Simpluris, Inc., constituted the best notice practicable under the
28 circumstances to all persons within the definition of the Class, and fully met the requirements of

1 California law and due process under the United States Constitution.

2 4. The Court approves the settlement of the above-captioned action, as set forth in the
3 Agreement, as fair, just, reasonable, and adequate as to the Parties. The Parties are directed to perform in
4 accordance with the terms set forth in the Agreement.

5 5. Except as otherwise provided in the Agreement, the Parties are to bear their own costs
6 and attorneys' fees.

7 6. The Court hereby certifies the following Class for settlement purposes only: All non-
8 exempt employees of City of Hope, City of Hope National Medical Center, and City of Hope Medical
9 Foundation who were employed at any time between July 23, 2016 to March 31, 2022 in the State of
10 California, with the exception of individuals whose entire employment by Defendants during the period
11 July 23, 2016 to March 31, 2022 is covered by the settlement in *Jordan A. Seper v. City of Hope*
12 *National Medical Center*, Los Angeles Superior Court Case No. BC630925.

13 7. With respect to the Class and for purposes of approving the settlement only and for no
14 other purpose, this Court finds and concludes that: (a) the members of the Class are ascertainable and so
15 numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to
16 the Class, and there is a well-defined community of interest among members of the Class with respect to
17 the subject matter of the non-exempt claims in the Action; (c) the claims of Class Representatives are
18 typical of the claims of the members of the Class; (d) the Class Representatives have fairly and
19 adequately protected the interests of the members of the Class; (e) a class action is superior to other
20 available methods for an efficient adjudication of this controversy; and (f) the counsel of record for the
21 Class Representatives, *i.e.*, Class Counsel, are qualified to serve as counsel for the Plaintiffs in their
22 individual and representative capacities for the Class.

23 8. On the Effective Date of this Order, as defined by the Agreement, Defendants shall remit
24 to a Qualified Settlement Fund established by the Settlement Administrator the Gross Settlement
25 Amount of \$5,500,000.00, pursuant to the terms of the Agreement.

26 9. From the Gross Settlement Amount, the Settlement Administrator shall pay:

27 (a) attorneys' fees in the amount of \$1,925,000.00 and reimbursement of litigation costs in
28 the amount of \$51,359.05 to Class Counsel;

- 1 (b) service awards of \$15,000.00 in recognition of Class Representatives unique services,
2 and as consideration for their executions of general releases, to each Plaintiff;
3 (c) the sum of \$300,000.00 to the California Labor and Workforce Development Agency for
4 its 75% share of PAGA Penalties, and the sum of \$100,000.00 to PAGA Aggrieved
5 Employees for their 25% share of PAGA Penalties; and
6 (d) the sum of \$29,995.00 to the Settlement Administrator, Simpluris, Inc., for its fees and
7 costs relating to the settlement administration process.

8 10. The Court finds that these amounts are fair and reasonable. The Settlement Administrator
9 is directed to make such payments in accordance with the terms of the Agreement.

10 11. The Court approves the Individual Settlement Payment amounts, which shall be
11 distributed by the Settlement Administrator pursuant to the terms of the Agreement from the Net
12 Settlement Amount, after payment of those amounts set forth in Paragraph 9.

13 12. The Court hereby enters final judgment in this case in accordance with the terms of the
14 Settlement, Preliminary Approval Order, and this Order. Without affecting the finality of the Settlement
15 or Judgment entered, this Court shall retain exclusive and continuing jurisdiction over the action and the
16 Parties, including all Settlement Class Members, for purposes of enforcing and interpreting this Order
17 and the Settlement.

18 **IT IS SO ORDERED AND ADJUDGED.**

19
20 DATED: _____, 2022

THE HONORABLE DAVID COHN