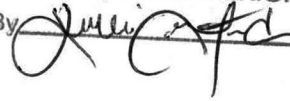


FILED
ALAMEDA COUNTY

DEC 13 2022

CLERK OF THE SUPERIOR COURT

By  Deputy

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

JOSELUIS DAVILA, as an individual and on
behalf of all others similarly situated, and as a
private attorney general,

Plaintiff,

vs.

HAYWARD SISTERS HOSPITAL dba ST.
ROSE HOSPITAL, a California corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. RG20074747

[Hon. Brad Seligman, Department 23]

**AMENDED [~~PROPOSED~~] ORDER
GRANTING MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: December 13, 2022
Time: 3:00 p.m.
Department: 23

Reservation ID: 105787183984

Complaint Filed: September 23, 2020

1 Plaintiff's motion for an Order Granting Preliminary Approval of Class Action Settlement was
2 filed with the Court on November 17, 2022, and a hearing was held before this Court on December 13,
3 2022.

4 **I. RECITALS**

5 1. On September 23, 2020, Plaintiff initiated this class and Labor Code Private Attorneys
6 General Act of 2004 ("PAGA") action. The lawsuit seeks to remedy Defendant's alleged failure to
7 furnish wage statements that accurately show the total hours worked to non-exempt employees who
8 were paid shift differential wages.

9 2. On March 29, 2022, the Parties attended mediation with Russ Wunderli, Esq. With the
10 mediator's assistance and based on a mediator's proposal, the Parties were able to negotiate the
11 settlement terms in the Joint Stipulation of Class Action Settlement and Release (the "Agreement").

12 **II. FINDINGS**

13 3. The Court conditionally certifies the following Class: all current or former non-exempt
14 employees who worked for Defendant, Hayward Sisters Hospital, a California corporation dba St. Rose
15 Hospital, in the State of California who were paid shift differential wages at any time from September
16 23, 2019, through March 29, 2022 (the "Class Period").

17 4. The Court hereby approves the terms and conditions provided for in the Agreement,
18 subject to the modifications stated herein. The Court finds that on a preliminary basis the Agreement
19 falls within the range of reasonableness of a settlement and appears to be presumptively valid, subject to
20 any objections that may be raised at the final fairness hearing and subject to final approval by the Court.
21 It appears to the Court on a preliminary basis that the settlement is fair, adequate, and reasonable as to
22 all potential Class Members when balanced against the uncertain outcome of further litigation relating to
23 liability and damages issues. It also appears that investigation, research, and proceedings have been
24 conducted so that counsel for the Parties are able to reasonably evaluate their respective positions. It
25 appears to the Court that settlement at this time will avoid substantial additional costs by all Parties, as
26 well as avoid the delay and risks that would be presented by the further prosecution of the action. It also
27 appears that settlement has been reached as a result of intensive, serious, and non-collusive arms-length
28 negotiations.

1 **III. ORDERS**

2 After considering the papers and evidence, arguments of counsel, and all other matters presented
3 to the Court, and having taken the matter under submission, **IT IS HEREBY ORDERED** as follows:

4 5. The Court grants preliminary approval of the Joint Stipulation of Class Action and PAGA
5 Settlement (the "Agreement") submitted by the Parties, subject to the modifications stated herein and the
6 amendment to the Notice of Class Action Settlement submitted as Exhibit 1 to the December 12, 2022
7 Supplemental Declaration of Simon L. Yang. First, the Parties agree and the Court orders that the cy
8 pres recipient for uncashed funds shall be Legal Aid at Work. Second, Class Members shall have 45
9 days to respond to the Class Notice. Subject to those modifications, the Agreement appears to be fair,
10 adequate, and reasonable to the Class.

11 6. The Court appoints and designates: (a) Plaintiff, Joseluis Davila, as Class Representative,
12 and (b) Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C., and William L. Marder of
13 Polaris Law Group as Class Counsel for the Class. Class Counsel is authorized to act on behalf of the
14 Class with respect to all acts or consents required by, or which may be given, pursuant to the
15 Agreement, and such other acts reasonably necessary to finalize the Agreement and its terms. Any Class
16 Member may enter an appearance through his or her own counsel at such Class Member's own expense.
17 Any Class Member who does not enter an appearance or appear on his or her own behalf will be
18 represented by Class Counsel.

19 7. A final fairness hearing on the question of whether the proposed Agreement, the
20 allocation of payments to Class Members, attorneys' fees and costs to Class Counsel, the payment to the
21 Labor Workforce & Development Agency, and the Class Representative Award should be finally
22 approved as fair, reasonable, and adequate as to the members of the Class is set for April 11, 2023, at
23 3:00 p.m. in this Court.

24 8. The Court hereby approves, as to form and content, the Notice of Class Action Settlement
25 ("Class Notice"), which is attached as Exhibit 1 to the December 12, 2022 Supplemental Declaration of
26 Simon L. Yang. The Court finds that distribution of the Class Notice to Class Members substantially in
27 the manner and form set forth in the Agreement as modified by this Order meets the requirements of due
28 process and shall constitute due and sufficient notice to all parties entitled thereto.

9. The Court appoints and designates Phoenix Settlement Administrators as the Administrator. The Court hereby directs the Administrator to provide the approved Class Notice to Class Members using the procedures set forth in the Agreement.

10. Any Class Member may choose to opt out of and be excluded from the settlement as provided in the Agreement and Class Notice and by following the instructions for requesting exclusion. Any person who timely and properly opts out of the settlement will not be bound by the Agreement or have any right to object, appeal, or comment thereon. Any request for exclusion must be in writing and signed by each such Class Member opting out and must otherwise comply with the requirements delineated in the Class Notice. Class Members who have not requested exclusion by submitting a valid and timely request for exclusion shall be bound by all determinations of the Court, the Agreement, and Judgment.

11. Any Class Member may object to the Agreement or express his or her views regarding the Agreement. Any Class Member may present evidence and file briefs or other papers relevant to the issues to be heard and determined by the Court as provided in the Class Notice.

12. A Motion for Final Approval shall be filed by the Class Representatives no later than sixteen (16) court days before the final fairness hearing.

13. The Court reserves the right to adjourn or continue the date of the final fairness hearing and all dates provided for in the Agreement without further notice to the Class. The Court retains jurisdiction to consider all further applications arising out of or connected with the Agreement.

14. Should for whatever reason final approval is not granted, the fact that the Parties were willing to stipulate to certification of a class as part of the settlement shall have no bearing on the issue of whether a class should be certified in a non-settlement context.

IT IS SO ORDERED.

DATED: 12/17, 2022

THE HONORABLE BRAD SELIGMAN