

William L. Marder (SBN 170131)
bill@polarislawgroup.com

POLARIS LAW GROUP
501 San Benito Street, Suite 200
Hollister, CA 95023
Telephone: (831) 531-4214
Facsimile: (831) 634-0333

Dennis S. Hyun (SBN 224240)
dhyun@hyunlegal.com
HYUN LEGAL APC
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 9007
Telephone: (213) 488- 6555
Facsimile: (213) 488-6554

Majed Dakak (SBN 271875)
mdakak@bkslaw.com
KESSELMAN BRANTLY STOCKINGER LLP
1230 Rosecrans Avenue, Suite 400
Manhattan Beach, CA 90266
Telephone: (310) 307-4555
Facsimile: (310) 307-4570

Attorneys for Plaintiff and the Putative Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

CARLA ZAYAC, on behalf of herself and other
similarly situated and as a proxy for the State of
California,

Plaintiff,

vs.

SUTTER VALLEY MEDICAL
FOUNDATION, a California corporation;
SUTTER VALLEY HOSPITALS, a California
corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. 34-2021-00293728

*[Assigned for all purposes to Department 28,
Hon. Lauri A. Damrell]*

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

*[Filed concurrently with Notice of Motion and
Motion for Final Approval; Declaration of
Majed Dakak; Declaration of Dennis Hyun;
Declaration of William Marder; Declaration of
Carla Zayac; and Declaration of Taylor
Mitzner]*

Date: September 29, 2023
Time: 9:00 a.m.
Department: 28
Reservation No.: 3172023-MO

Complaint Filed: February 2, 2021
FAC Filed: March 3, 2021

1 Plaintiff Carla Zayac (“Plaintiff”) filed a motion for an Order Granting Final Approval of Class
2 Action Settlement, and on September 29, 2023, a hearing was held on this matter.

3 The Court has considered the papers and evidence, including the Joint Stipulation of Class
4 Action and PAGA Settlement and Release (“Settlement,” and/or “Settlement Agreement,” and/or
5 “Agreement”), the arguments of counsel, and all other matters presented to the Court regarding final
6 approval of the Settlement, approval of requested allocations from the Settlement fund, and entry of
7 final judgment.

8 **I. Background**

9 On or about November 25, 2020, Plaintiff sent written notice to Defendant Sutter Valley Medical
10 Foundation and to the California Labor and Workforce Development Agency (“LWDA”) of Defendants’
11 alleged violations of Labor Code §§ 201-204, 226, 226.7, 246, and 512, pursuant to Labor Code § 2698,
12 *et seq.*, the Private Attorneys General Act of 20024 (“PAGA”). On that basis, on February 2, 2021,
13 Plaintiff filed her initial Complaint in this Action in the Sacramento County Superior Court as a Class
14 and PAGA Action asserting Violation of Labor Code § 201, 233, 246; Violation of Labor Code § 226;
15 Violation of Labor Code § 226.7 & 512; and Violation of Business & Professions Code § 17200, *et seq.*,
16 and Labor Code § 2698, *et seq.*, the latter as a proxy for the State of California pursuant to PAGA. All
17 claims in the initial court Complaint were asserted solely against Defendant Sutter Valley Medical
18 Foundation.

19 On or about February 12, 2021, Plaintiff sent written notice to Defendant Sutter Valley Hospitals
20 and the LWDA adding Sutter Valley Hospitals as a respondent to Plaintiff’s PAGA claims. . On March
21 3, 2021, Plaintiff filed a First Amended Complaint adding Sutter Valley Hospitals as a named Defendant
22 for purposes of all the Plaintiff’s individual, class and PAGA claims.

23 On September 9, 2022, the Parties participated in a full-day, arms-length mediation before
24 Michael J. Loeb of JAMS. With the assistance of the mediator, the Parties were able to come to a
25 settlement of the claims in the Action, subject to the Court’s approval. The Settlement was
26 memorialized in a Memorandum of Understanding, subject to later completion of a long-form
27 Settlement Agreement. The Parties were able to negotiate the settlement terms in the Agreement. As set
28

1 forth in the Agreement, the Parties have specifically excluded any and all claims for meal and rest period
2 violations from the Class Members' and PAGA Released Claims. Under the Settlement, Plaintiff agreed
3 to voluntarily withdraw all claims she alleged against Defendant Sutter Valley Medical Foundation,
4 because Class Counsel has determined, in agreement with defense counsel, that neither Plaintiff nor the
5 persons she wishes to represent were employed by Sutter Valley Medical Foundation during the relevant
6 Class Period, and Plaintiff therefore requests that the Court dismiss all such claims without prejudice.

7 **A. Class Members**

8 The Settlement Class is defined to include: all current and former non-exempt employees of
9 Defendant Sutter Valley Hospitals (herein "Defendant") in the State of California who recorded paid
10 sick leave in at least one workweek and also received, in that same workweek, nondiscretionary
11 remuneration other than base hourly wages from August 8, 2016, to March 27, 2023 (the "Class
12 Period").

13 **B. Operation of the Settlement**

14 Pursuant to the Court's Preliminary Approval Order, the Court conditionally certified the Class
15 and granted preliminary approval to the Settlement. The Preliminary Approval Order also approved of
16 the proposed form of notice to the Class. The Court entered the Preliminary Approval Order after review
17 and consideration of all of the pleadings filed in connection herewith. Pursuant to the Court's Tentative
18 Ruling, the Parties revised the Notice of Pendency of Class Action Settlement and Final Hearing ("Class
19 Notice"). The Class Notice was sent to all Class Members via first class mail. The notice process was
20 timely completed.

21 This Court finds that the Agreement appears to be the product of serious, informed, non-
22 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential treatment
23 to any individuals. The Court finds that the Settlement was entered into in good faith pursuant to
24 California Code of Civil Procedure section 877.6. The Court further finds that the Agreement is fair,
25 adequate, and reasonable and that Plaintiffs have satisfied the standards for final approval of a class
26 action settlement under California law. Under the provisions of California Code of Civil Procedure
27
28

section 382 and Rule 23 of the Federal Rules of Civil Procedure, as approved for use in *Vasquez v. Superior Court*, 4 Cal. 3d 800, 821 (1971), the trial court has discretion to certify a class where:

[Q]uestions of law or fact common to the members of the class predominate over any 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

FED. R. CIV. PROC. 23.

Certification of a settlement class is the appropriate judicial device under these circumstances.

Good cause appearing, **IT IS HEREBY ORDERED AND ADJUDICATED** as follows:

1. For purposes of this Order, the Court adopts all defined terms as set forth in the Agreement.

2. The Court has jurisdiction over the subject matter of the litigation, Plaintiff, Participating Class Members, and Defendant.

3. The Court finds that the dissemination of the Class Notice to the Class Members by the appointed Settlement Administrator, Phoenix Settlement Administrators, constituted the best notice practicable under the circumstances to all Class Members, and fully met the requirements of California law and due process under the State and Federal Constitutions.

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

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

6. The Court hereby certifies the following Class for settlement purposes only: all non-exempt current or former employees of Defendant Sutter Valley Hospitals in the State of California who recorded paid sick leave in at least one workweek and also received, in that same workweek, nondiscretionary remuneration other than base hourly wages from August 8, 2016, to March 27, 2023.

7. With respect to the Class and for purposes of approving the Settlement only, and for no other purpose, the Court finds and concludes that: (a) the members of the Class are ascertainable and so numerous that joinder of all members is impracticable; (b) there are questions of law or fact common to

1 the Class, and there is a well-defined community of interest among members of the Class with respect to
2 the subject matter of the claims in the Action; (c) the claims of the Class Representative are typical of
3 the claims of the members of the Class; (d) the Class Representative has fairly and adequately protected
4 the interests of the members of the Class; (e) a class action is superior to other available methods for an
5 efficient adjudication of this controversy; and (f) the counsel of record for the Class Representative, i.e.,
6 Class Counsel, are qualified to serve as counsel for Plaintiff in her individual and representative
7 capacities and for the Class.

8 8. The Court approves the Settlement Agreement's PAGA component. The PAGA-Eligible
9 Employees are those Class Members who have been employed as non-exempt employees of Defendant
10 Sutter Valley Hospitals between May 31, 2019 and March 27, 2023, and who, in at least one workweek
11 during this period, recorded paid sick leave and received, during the same workweek, non-discretionary
12 remuneration other than base hourly wages.

13 9. Not later than ten (10) calendar days after the Effective Date, the Settlement
14 Administrator will provide Defense Counsel with an accounting of all anticipated payments from the
15 QSF as specified in this Agreement and approved by the Court, including all necessary routing and
16 payment instructions to the QSF, and including the amount due for the employer's share of payroll taxes
17 on the wage payments to be made outside the Maximum Settlement Amount. The Settlement
18 Administrator also will provide counsel for the Parties with at least fourteen (14) calendar days, whether
19 before or after the funding date but before the date of the scheduled distribution date, in which to review
20 and approve the Administrator's proposed payment calculations.

21 10. Defendant shall pay the Maximum Settlement Amount, together with the amount the
22 Settlement Administrator has determined or estimated to be Defendant's share of employer taxes due on
23 the wages being paid under the Settlement, in one lump sum payment within thirty (30) calendar days
24 after the Effective Date. Defendant shall provide the Maximum Settlement Amount to the Settlement
25 Administrator in any feasible manner, including, but not limited to, a wire transfer or a check. From the
26 Maximum Settlement Amount, the Administrator shall pay:

1. to Class Counsel, attorneys' fees in the amount of \$1,662,500.00 and reimbursement of costs in the amount of \$11,715.09;
2. to Plaintiff as her Service Award, and as consideration for the execution of her general release, the amount of \$15,000.00;
3. to the California Labor and Workforce Development Agency, the amount of \$356,250.00, for its 75% share of PAGA Penalties; and
4. to Phoenix Settlement Administrators, the amount of \$62,500.00 for its fees and costs in administering the Settlement.

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

12. The Court approves the Individual PAGA Payment amounts and Individual Class Payment amounts, which shall be distributed by the Administrator pursuant to the terms of the Agreement.

13. The Court hereby orders the parties to implement the terms of the Agreement, including distributing any uncashed settlement checks to Court Appointed Special Advocates of Sacramento County.

14. The Court approves the Agreement's Class Members' Released Claims following the Agreement's Effective Date and Defendant's funding of the Maximum Settlement Amount and its share of employer-side payroll taxes as follows:

all Participating Class Members will fully, finally and forever release, settle, compromise, relinquish, and discharge all of the Released Parties from any and all claims, rights, demands, liabilities, and causes of action of every nature and description, arising from August 8, 2016 through March 27, 2023, including statutory, contractual, or common law claims for wages, damages, penalties, liquidated damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief – whether asserted under the California Labor Code, Business and Professions Code §§ 17200 et seq., the applicable wage orders at California Code of Regulations, Title 8, Section 11000 et seq., or otherwise – that arise out

1 of or are reasonably related to the factual allegations that were alleged or could have been
2 alleged in Plaintiff's Complaint herein, including but not limited to: (a) any and all claims
3 for failure to provide paid sick leave in accordance with the Healthy Workplaces, Healthy
4 Families Act of 2014 ("HWHFA"), Labor Code §§ 245-249, including failure to pay sick
5 leave at the correct regular rate of pay; (b) any and all claims for violation of the "kin care"
6 law, Labor Code § 233; (c) any and all derivative claims for failure to furnish accurate
7 itemized wage statements in accordance with Labor Code § 226 arising out of the above-
8 alleged claims; (d) any and all derivative claims for failure to provide sick leave wages
9 when due upon separation of employment under Labor Code §§ 201-203; (e) any and all
10 derivative claims for "late payment" penalties under Labor Code §§ 204 and 210 arising
11 out of the above-alleged claims; (f) any and all derivative claims for violation of California
12 Business and Professions Code §§ 17200 et seq. arising out of the above-alleged claims;
13 (g) any and all claims for violation of the Private Attorneys General Act of 2004, Labor
14 Code §§2698 et seq. arising out of the above-alleged claims; and (h) any and all claims for
15 attorneys' fees and costs arising out of the above-alleged claims. This release does not
16 include the meal and rest break claims alleged in Plaintiff's Complaint which, as discussed
17 above, are excluded from this Settlement.

18 15. The Court approves the Agreement's PAGA Released Claims, defined in the Agreement
19 as:

20 All Participating and Non-Participating Class Members who are PAGA-Eligible
21 Employees shall release the Released Parties from any and all claims for PAGA civil
22 penalties, arising from May 31, 2019 through March 27, 2023, that were alleged or
23 reasonably could have been alleged based on the facts contained in Plaintiff's operative
24 Complaint, as enumerated above, and/or in Plaintiff's LWDA Notice. This release does not
25 include the meal and rest break claims alleged in Plaintiff's Complaint, which are excluded
26 from this Settlement.

1 16. All Class Members who did not opt out of the Settlement shall be bound by the releases
2 provided in the Agreement. Pursuant to the Settlement Administrator's declaration, the Court finds that
3 only the following four eligible class members have requested exclusion from the Class Settlement:
4 Nonna Arutyunyan, Robert Morrison, Barbara A Young, and Keyanna Raihani. All PAGA Members
5 shall be bound by the PAGA releases provided in the Agreement. The Class Representative shall be
6 bound by the additional general release provided in the Agreement.

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

12 18. Pursuant to Code of Civil Procedure section 668.5, final judgment shall be entered as of
13 the filing of this Order. This judgment makes no finding of any violation of the Labor Code, liability, or
14 other wrongdoing. Nothing in this Settlement or any of its terms, the order approving the Settlement, or
15 this judgment are an admission of any liability or finding of any violation of the Labor Code on the part
16 of Defendant.

17 19. Pursuant to Plaintiff's request and the terms of the Settlement, the claims asserted by
18 Plaintiff against Defendant Sutter Valley Medical Foundation are hereby dismissed without prejudice.

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

20
21
22 DATED: _____, 2023

THE HONORABLE LAURI A. DAMRELL
SACRAMENTO SUPERIOR COURT JUDGE