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and Proposed Class Counsel

FILED

NOV 30 2022

CLERK OF THE SUPERIOR COURT
COUNTY OF STANISLAUS

BY

DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF STANISLAUS

JORDYN TERRY, on behalf of herself and
on behalf of all similarly situated
individuals,

Plaintiff,

v.

PHYSICIANS' SURGERY CENTER OF
MODESTO, INC., a California
corporation, d/b/a RIVER SURGICAL
INSTITUTE, and DOES 1 through 10,
inclusive,

Defendants.

CASE NO: CV-21-001716

Assigned to the Honorable Stacy Speiller, Dept. 22

CLASS ACTION

~~PROPOSED~~ ORDER AND JUDGMENT
GRANTING FINAL APPROVAL OF CLASS
ACTION SETTLEMENT

DATE: November 18, 2022

TIME: 8:30 a.m.

DEPT.: 22

Action Filed: April 1, 2021

1 Plaintiffs' Motion for an Order Granting Final Approval of Class Action Settlement came
2 before this Court on November 18, 2022. The above-captioned Action is a class action lawsuit
3 brought by Plaintiff Jordyn Terry ("Plaintiff") against Defendant Physicians' Surgery Center of
4 Modesto, Inc. ("Defendant") (all together, the "Parties"). Plaintiff alleges, on behalf of a class of
5 certain of Defendant's current and former employees, that Defendant failed to provide compliant
6 meal or rest periods or compensation in lieu thereof; failed to comply with itemized wage statement
7 provisions; and failed to timely pay wages due at separation. Defendant denies any and all alleged
8 wrongdoing and denies any liability to Plaintiff, members of the Class, and PAGA Members.
9 Defendant contends that that it has complied at all times with California law, including the
10 California Labor Code, the Industrial Commission Wage Orders, and the California Business and
11 Professions Code.

12 On June 3, 2022, this Court entered an Order Granting Preliminary Approval of Settlement,
13 resulting in certification of the following provisional Settlement Class: any person who was
14 employed by Defendant in California as a non-exempt employee during the period April 1, 2017
15 through December 21, 2021.

16 That Preliminary Approval Order further directed the Parties to provide Notice to the Class,
17 which informed absent class members of: (a) the proposed Settlement, and the Settlement's key
18 terms; (b) the date, time and location of the Final Approval Hearing; (c) the right of any Class
19 Member to object to the proposed Settlement, and an explanation of the procedures to exercise that
20 right; (d) the right of any Class Member to exclude themselves from the proposed Settlement, and
21 an explanation of the procedures to exercise that right; and (e) an explanation of the procedures for
22 Class Members to participate in the proposed settlement.

23 The Court, upon Notice having been given as required in the Preliminary Approval Order,
24 and having considered the Joint Stipulation of Class Action Settlement (the "Settlement"), as well
25 as all papers filed, hereby ORDERS, ADJUDGES AND DECREES AS FOLLOWS:

26 1. This Court has jurisdiction over the subject matter of the Action and over all Parties
27 to the Action, including all members of the Settlement Class.
28

1 2. The Court finds that the Settlement Class is properly certified for settlement
2 purposes only.

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

10 4. The Court finds the settlement was entered into in good faith, that the settlement is
11 fair, reasonable and adequate, and that the settlement satisfies the standards and applicable
12 requirements for final approval of this class action settlement under California law, including the
13 provisions of California Code of Civil Procedure section 382 and California Rules of Court, Rule
14 3.769.

15 5. The Court approves the Gross Settlement Amount of One Hundred Eighty-Seven
16 Thousand Five Hundred Dollars (\$187,500).

17 6. Zero (0) Class Members have objected to the terms of the Settlement.

18 7. One (1) Class Member has requested exclusion from the Settlement.

19 8. Upon entry of this Order, compensation to the Class Members and PAGA Members
20 shall be affected pursuant to the terms of the Settlement.

21 9. In addition to any recovery that Plaintiff may receive from the Net Settlement
22 Amount, and in recognition of the Plaintiff's efforts on behalf of the Settlement Class, the Court
23 hereby approves the payment of an enhancement payment to Jordyn Terry in the amount of Seven
24 Thousand Five Hundred Dollars (\$7,500). This shall be paid from the Gross Settlement Amount.

25 9. The Court approves the payment of attorneys' fees to Class Counsel in the sum of
26 Sixty-Five Thousand Six Hundred Twenty-Five Dollars (\$65,625), and the reimbursement of
27

1 litigation expenses in the sum of Eight Thousand Two Hundred Thirty-Eight Dollars and Eighty-
2 Seven Cents (\$8,238.87). This shall be paid from the Gross Settlement Amount.

3 10. The Court approves and orders payment in the amount of Four Thousand Dollars
4 (\$4,000) to Simpluris, Inc. for performance of its settlement administration services. This shall be
5 paid from the Gross Settlement Amount.

6 11. The Court approves the PAGA Payment and its apportionment among the PAGA
7 Members, and orders payment in the amount of Fourteen Thousand Sixty-Two Dollars and Fifty
8 Cents (\$14,062.50) to the California Labor and Workforce Development Agency for its 75% share
9 of PAGA penalties. This shall be paid from the Gross Settlement Amount.

10 12. Upon the entry of this Order and Judgment, Plaintiff, Class Members, and PAGA
11 Members shall be bound by the releases of claims as set forth in the Settlement.

12 13. This "Judgment" is intended to be a final disposition of the above captioned action
13 in its entirety, and is intended to be immediately appealable.

14 14. This Court shall retain jurisdiction with respect to all matters related to the
15 administration and consummation of the Settlement, and any and all claims asserted in, arising out
16 of, or related to the subject matter of the lawsuit, including but not limited to all matters related to
17 the settlement and the determination of all controversies relating thereto.

18 **IT IS SO ORDERED.**

19
20 Dated: 11/29/22

21 
22 JUDGE OF THE SUPERIOR COURT
23 STACY P. SPEILLER
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