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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

CHRIS FARLEY, IRENE IMSOM,
SHELBY WARD, and DARLENE
GRIFFITH, individuals, on behalf of
themselves and on behalf of all persons
similarly situated,

Plaintiff,

vs.

SHARP MEMORIAL HOSPITAL, a
California Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: **37-2021-00006007-CU-OE-CTL**

[Consolidated with Case No.
37-2021- 00047190-CU-OE-CTL]

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: April 19, 2024
Hearing Time: 8:30 a.m.

Judge: Hon. Robert Longstreth
Dept.: 65

Date Action Filed: February 9, 2021
Trial Date: Not set

1 The motions of Plaintiffs the Estate of Chris Farley, Shelby Ward, Darlene Griffith, and
2 Irene Imson (“Plaintiffs”) for an order finally approving the Class Action and PAGA Settlement
3 Agreement (“Agreement”) with Defendant Sharp Memorial Hospital (“Defendant”) and for an
4 award of attorneys’ fees and costs, service payment, and the fees of the Administrator duly came
5 on for hearing on April 19, 2024 before the Honorable Robert Longstreth.

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7 **I.**

8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

- 11 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 12 2. This Court has jurisdiction over the subject matter of this litigation pending before
13 the California Superior Court for the County of San Diego, and over all Parties to this litigation,
14 including the Class.
- 15 3. Based on a review of the papers submitted by Plaintiffs and a review of the
16 applicable law, the Court finds that the Gross Settlement Amount of Four Million Sixty Thousand
17 Dollars (\$4,060,000) and the terms set forth in the Agreement are fair, reasonable, and adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length
19 negotiations conducted after Class Counsel had adequately investigated the claims and became
20 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
21 Settlement, the significant risks relating to certification, liability, and damages issues, and the
22 assistance of an experienced mediator in the settlement process, among other factors, support the
23 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

- 25 5. On December 1, 2023, the Court granted preliminary approval of the Settlement.
26 At this same time, the Court approved conditional certification of the Class for settlement
27 purposes only.

1 **Notice to the Class**

2 6. In compliance with the Preliminary Approval Order, the Class Notice was mailed
3 by first class mail to members of the Class at their last known addresses on or about January 4,
4 2024. Mailing of the Class Notice to their last known addresses was the best notice option under
5 the circumstances and was reasonably calculated to communicate actual notice of the litigation
6 and the proposed settlement to the Class. The Class Notice given to the Class Members fully and
7 accurately informed the Class Members of all material elements of the proposed Settlement and of
8 their opportunity to object to or comment thereon or to seek exclusion from the Settlement;
9 constituted valid, due, and sufficient notice to all Class Members; and complied fully with the
10 laws of the State of California, the United States Constitution, due process and other applicable
11 law. The Class Notice fairly and adequately described the Settlement and provided Class
12 Members adequate instructions and a variety of means to obtain additional information.

13 7. The Response Deadline for opting out of the Class or submitting written objections
14 to the Settlement was March 4, 2024, which was extend by 14 days for re-mailed Class Notices.
15 There was an adequate interval between mailing of the Class Notice and the response deadline to
16 permit Class Members to choose what to do and act on their decision. A full opportunity has been
17 afforded to the Participating Class Members to participate in this hearing, and all Participating
18 Class Members and other persons wishing to be heard have been heard. Class Members also have
19 had a full and fair opportunity to exclude themselves from the proposed Settlement and Class.
20 Accordingly, the Court determines that all Class Members who did not timely and properly submit
21 a request for exclusion are bound by the Settlement and this Final Approval Order and Judgment.

22 **Fairness Of Settlement**

23 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
24 48 Cal.App.4th 1794, 1801 (1996).

25 a. The settlement was reached through arm's-length bargaining between the
26 parties during an all-day mediation before Tripper Ortman, a respected and experienced mediator
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1 of wage and hour class actions. There has been no collusion between the parties in reaching the
2 proposed settlement.

3 b. Plaintiffs' investigation and discovery have been sufficient to allow the
4 Court and counsel to act intelligently.

5 c. Counsel for both parties are experienced in similar employment class action
6 litigation. All counsel recommended approval of the Agreement.

7 d. The percentage of objectors and requests for exclusion is small. No
8 objections were received. Ten (10) requests for exclusion were received.

9 e. The participation rate was high. 6,691 Participating Class Members will be
10 mailed a settlement payment, representing 99.85% of the overall Class.

11 9. The consideration to be given to the Class Members under the terms of the
12 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
13 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
14 Members' claims, given the uncertainties and significant risks of the litigation and the delays
15 which would ensue from continued prosecution of the action.

16 10. The Agreement is approved as fair, adequate and reasonable and in the best
17 interests of the Class Members.

18 **Attorneys' Fees and Costs**

19 11. An award of \$1,353,333 for attorneys' fees, representing one-third of the Gross
20 Settlement Amount, and \$46,591.32 for litigation costs and expenses, is reasonable, in light of the
21 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
22 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
23 and billing statement.

24 **Class Representative Service Payments**

25 12. The Agreement provides for a Class Representative Service Payments of not more
26 than \$10,000 to each of the Plaintiff, subject to the Court's approval. The Court finds that Class
27 Representative Service Payments in the amount of \$10,000 to each of the Plaintiffs are reasonable
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1 in light of the risks and burdens undertaken by the Plaintiffs in the litigation, for their time and
2 effort in bringing and prosecuting this matter on behalf of the Class, and for their execution of a
3 general release.

4 **Administration Expenses Payment**

5 13. The Administrator shall calculate and administer the payment to be made to the
6 Participating Class Members in the manner set forth in the Agreement, transmit payment for
7 attorneys' fees and costs to Class Counsel, transmit the Class Representative Service Payments to
8 the Plaintiffs, distribute the PAGA Penalties, issue any required tax reporting forms, calculate
9 withholdings and perform the other remaining duties set forth in the Agreement. The
10 Administrator has documented \$50,500 in fees and expenses, and this amount is reasonable in
11 light of the work performed by the Administrator.

12 **PAGA Penalties**

13 14. The Agreement provides for PAGA Penalties out of the Gross Settlement Amount
14 of \$125,000, which shall be allocated with 75% (\$93,750) allocated to the LWDA PAGA Payment
15 and 25% (\$31,250) allocated to the Individual PAGA Payments to be distributed to the Aggrieved
16 Employees. The Administrator will calculate each Individual PAGA Payment by (a) dividing the
17 amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$31,250) by the total
18 number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA
19 Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods.
20 The Aggrieved Employees are all current and former non-exempt employees of Defendant,
21 excluding bargaining unit nurses, at any time during the PAGA Period, which is January 20, 2020
22 through April 23, 2023. The Court finds the PAGA Penalties to be reasonable. All Aggrieved
23 Employees will be sent their share of the PAGA Penalties and will be subject to the release of the
24 Released PAGA Claims as set forth below, whether or not they opt out of the Settlement, because
25 the Aggrieved Employees do not have the right to opt out of the PAGA portion of the Settlement.

1 II.
2 ORDERS

3 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

4 1. The certification of the Class for the purposes of settlement is confirmed. The
5 Class is defined as follows:

6 All individuals who are or previously were employed by Defendant who were
7 classified as non-exempt employees, excluding bargaining unit nurses, at any time
8 during the Class Period.

9 The "Class Period" is February 9, 2017 through April 23, 2023.

10 2. All persons who meet the foregoing definition are members of the Class, except for
11 those individuals who filed a valid request for exclusion ("opt out") from the Class. The following
12 individuals are excluded from the Class: Danielle Robbins, Dawn Keith, Jeanette Rodriguez, John
13 Weber, Julianne Hunt, Katherine Smith, Luis Ontiveros, Maria Derisi, Yvonne Dostal, and
14 Ashkan Khabazian. Any opt-out who is also an Aggrieved Employee is still bound by the release
15 of the Released PAGA Claims.

16 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
17 best interest of the Class.

18 4. Class Counsel are awarded attorneys' fees in the amount of \$1,353,333 and costs in
19 the amount of \$46,591.32. Class Counsel shall not seek or obtain any other compensation or
20 reimbursement from Defendant, Plaintiffs or members of the Class.

21 5. The payment of the Class Representative Service Payments in the amount of
22 \$10,000 to each of the Plaintiffs is approved.

23 6. The payment of \$50,500 to the Administrator for their fees and expenses is
24 approved.

25 7. The PAGA Penalties in the amount of \$125,000 are approved and shall be allocated
26 in accordance with the Agreement.

1 8. The Agreement and this Settlement are not an admission by Defendant, nor is this
2 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
3 wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for
4 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any
5 document referred to herein, nor any action taken to carry out the Agreement is, may be construed
6 as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability
7 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
8 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
9 admission or concession with regard to the denials or defenses by Defendant. Notwithstanding
10 these restrictions, Defendant may file in the Action or in any other proceeding this Final Approval
11 Order and Judgment, the Agreement, or any other papers and records on file in the Action as
12 evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or other
13 theory of claim or issue preclusion or similar defense as to the Released Class Claims and/or the
14 Released PAGA Claims.

15 9. Notice of entry of this Final Approval Order and Judgment shall be given to all
16 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
17 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
18 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
19 to individual Class Members.

20 10. If the Agreement does not become final and effective in accordance with the terms
21 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
22 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
23 revert to their respective positions as of before entering into the Agreement, and expressly reserve
24 their respective rights regarding the prosecution and defense of this Action, including all available
25 defenses and affirmative defenses, and arguments that any claim in the Action could not be
26 certified as a class action and/or managed as a representative action.

1 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

2 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
3 Plaintiff, and all members of the Class, shall take nothing in the Action.

4 2. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
5 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any
6 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
7 arising from or in connection with the distribution of settlement benefits.

8 3. The Parties are authorized to agree to and to adopt such amendments, modifications
9 and expansions of the Agreement and all exhibits attached thereto which are consistent with this
10 Final Approval Order and Judgment and as approved by the Court.

11 4. Each party shall bear its own attorneys' fees and costs, except as otherwise
12 provided in the Agreement and in this Final Approval Order and Judgment.

13 5. As of the Effective Date and upon full funding of the Gross Settlement Amount by
14 Defendant, Defendant and the Released Parties shall receive a release from the Participating Class
15 Members of the "Released Class Claims", which are all of the following claims for violations of
16 the Labor Code that were actually alleged or that could have been alleged based upon the facts
17 alleged in the Operative Complaint in the Actions on behalf of the Participating Class Members
18 for the entire Class Period, as well as any and all wage and hour claims and that were asserted or
19 could have been asserted based upon the facts alleged in the Operative Complaint in the Actions,
20 arising at any time during the Class Period, including: (a) failure to pay wages including overtime
21 and minimum wage for all hours worked; (b) failure to provide meal periods; (c) failure to provide
22 rest periods; (d) failure to timely pay wages at termination/end of employment and during
23 employment; (e) failure to provide accurate wage statements; (f) failure to indemnify for necessary
24 business expenses; (g) failure to maintain records as required by Labor Code sections 226, 1174
25 and Wage Order 5; (h) unfair business practices (Business and Professions Code section 17200 et
26 seq.); (i) claims for violation of the provisions of Wage Order 5 regarding alleged unpaid wages
27 (both minimum wage and overtime), failure to provide meal periods, failure to authorize and
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1 permit rest breaks, failure to provide seating; (j) claims for the attorney's fees and costs incurred in
2 the prosecution of the Actions on behalf of the Participating Class Members; (k) any other claims,
3 remedies, penalties, or interest that could have been plead based on the facts alleged in the
4 Operative Complaint filed in the Actions; (l) all claims that Plaintiffs, the Class Members may
5 have against the Released Parties relating to: (i) the payment, taxation, and allocation of attorney's
6 fees and costs to Plaintiffs' Counsel pursuant to this Settlement Agreement; and (ii) the payment,
7 taxation, and allocation of Class Representative Service Payments pursuant to the Agreement..
8 Except as expressly set forth in this Agreement, Participating Class Members do not release any
9 other claims, including claims for vested benefits, wrongful termination, violation of the Fair
10 Employment and Housing Act, unemployment insurance, disability, social security, workers'
11 compensation, or claims based on facts occurring outside the Class Period.

12 6. As of the Effective Date and upon full funding of the Gross Settlement Amount by
13 Defendant, Defendant and the Released Parties shall receive a release from the State of California
14 and the Aggrieved Employees of the "Released PAGA Claims", which are all claims for civil
15 penalties under PAGA, that were actually alleged or that could have been alleged in the Actions
16 by Plaintiffs, on behalf of the State of California, and the Aggrieved Employees for the entire
17 PAGA Period, as well as any and all claims for PAGA Penalties that were asserted or could have
18 been asserted based on the factual or legal allegations contained in the PAGA Notice and
19 Operative Complaint in the Actions, arising at any time during the PAGA Period, including: (a)
20 penalties under PAGA for alleged violations of Labor Code sections 201-203, 204 et. seq., 210,
21 226, 226.7, 233, 246, 351, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 2699 et. seq.,
22 2802, (b) penalties under PAGA for violation of the provisions of Wage Order 5 regarding alleged
23 unpaid wages (both minimum wage and overtime), failure to provide meal periods, failure to
24 authorize and permit rest breaks, failure to provide seating; (c) claims for the attorney's fees and
25 costs incurred in the prosecution of this Actions on behalf of the Aggrieved Employees. The
26 Released PAGA Claims do not include PAGA claims outside of the PAGA Period.

1 7. As of the Effective Date, Plaintiffs generally release and discharge the Defendant
2 and the Released Parties from the Plaintiffs' Released Claims as set forth fully in the Agreement.
3 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

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5 Dated: _____

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HON. ROBERT LONGSTRETH
JUDGE, SUPERIOR COURT OF CALIFORNIA

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FINAL APPROVAL ORDER AND JUDGMENT