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

SAMUEL ELLIOTT, individually, and on
behalf of other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the California
Private Attorneys General Act;

Plaintiff,

vs.

MED-DATA, INCORPORATED, an unknown
business entity; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: RIC1901865

Honorable Sunshine S. Sykes
Department 6

CLASS ACTION

**PLAINTIFF'S COMPLIANCE CHART
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL**

[Notice of Motion and Motion for
Preliminary Approval of Class Action
Settlement; Declarations of Proposed Class
Representative (Samuel Elliott); Declaration
of Proposed Class Counsel (Edwin
Aiwaizian); Declaration of Proposed
Settlement Administrator (Eric Springer);
Declaration of Proposed *Cy Pres* Recipient
(Heather Tiffie); and [Proposed] Order filed
concurrently herewith]

Reservation No. 006997607479
Date: December 1, 2021
Time: 8:30 a.m.
Dept: 6

Complaint Filed: March 13, 2019
FAC Filed: September 9, 2021
Trial Date: None Set

COMPLIANCE CHART

ELLIOTT V. MED-DATA, INCORPORATED

RIVERSIDE COUNTY SUPERIOR COURT CASE NO. RIC1901865

Case Management Order requirements	Requirements met in moving papers
The settlement agreement shall not provide that any order, notice, form, or judgment shall include any provision that this order prohibits from being included in such a document. (Section H.1.a.)	Class Action and PAGA Settlement Agreement (“Settlement Agreement”), attached as “EXHIBIT 1” to the Declaration of Edwin Aiwazian in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement (“Aiwazian Declaration”).
The settlement agreement shall be written, signed by all necessary parties, and filed, either in the form of a separate stipulation or as an authenticated attachment to a declaration of counsel. (Section H.1.b.)	Aiwazian Declaration, ¶ 8, Exh. 1
Regardless of the terms of the proposed settlement, counsel shall not file a Notice of Settlement of Entire Case (Judicial Council form CM-200). (Section H.2.)	No Notice of Settlement of Entire Case was filed by the Parties.
The motion shall be supported by a declaration from the plaintiff’s attorney that, <i>inter alia</i> , sets forth the attorney’s estimate of the number of individuals in the class. (Section H.3.a.i.)	Aiwazian Declaration, ¶ 9.
The motion shall be supported by a declaration from the plaintiff’s attorney that, <i>inter alia</i> , (A) sets forth the attorney’s estimate of the total amount of damages, monetary penalties or other relief that the class would be awarded on each claim if that claim were entirely successful at trial; (B) explains how that estimate was calculated; and (C) states the collective total for all of the claims. (Section H.3.a.ii.)	Aiwazian Declaration, ¶¶ 25-81 (explanation of estimates and calculations of value of claims), 82 (collective summary of value of claims).

The motion shall be supported by a declaration from the plaintiff's attorney that, <i>inter alia</i>, sets forth: (A) the attorney's estimate as to each claim of the total amount of damages, monetary penalties or other relief that the class could reasonably expect to be awarded at trial, taking into account difficulties of proof, the defendant's defenses, and other attendant risks; (B) the attorney's reasons for those estimates; (C) the likely award at trial for all claims collectively; and (D) both the number of class certification orders that the attorney has obtained following contested certification motions concerning similar claims and the number of trials that the attorney has conducted concerning class or individual actions alleging similar claims. (Section H.3.a.iii.)	Aiwazian Declaration, ¶¶ 7 (discussion of class certification orders obtained by Plaintiff's attorneys), 25-81 (explanation of estimates and calculations of value of claims).
The motion shall be supported by a declaration from the plaintiff's attorney that, <i>inter alia</i>, sets forth the attorney's estimate of the recovery by the average class member if the settlement were approved. If the recovery by different class members will vary, the attorney shall also estimate the range (high and low) of possible recoveries. (Section H.3.a.iv.)	Aiwazian Declaration, ¶ 24.
The motion shall be supported by a declaration from the plaintiff's attorney that, <i>inter alia</i>, describes in detail the nature and extent of the formal and informal discovery exchanged and other factual investigation conducted to determine the size of the class and the strength of the class claims. (Section H.3.a.v.)	Aiwazian Declaration, ¶¶ 11-12, & 18.
The motion shall be supported by a declaration from the plaintiff's attorney that, <i>inter alia</i>, states (A) whether the attorney is aware of any class, representative or other collective action in any other court in this or any other jurisdiction that asserts claims similar to those asserted in this action on behalf of a class or group of individuals some or all of whom would also be members of the class defined in this action and (B) whether the attorney made reasonable inquiry of other members of the attorney's law firm and any associated law firm to determine whether those individuals are aware of any such similar actions. If any such similar actions are known to exist, the declaration shall also state (C) the name and case number of any such case, the nature of the claims asserted, the definition of the class or other parties on whose behalf the action is brought, and the procedural status of that case. (Section H.3.a.vi.)	Aiwazian Declaration, ¶ 21.

1 2 3	The motion shall describe how the value of any uncashed checks, unpaid cash residue, or other unclaimed or abandoned funds will be distributed. (Section H.3.c.)	Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Motion for Preliminary Approval") at 5:16-6:10 & 21:22-22:6.
4 5 6	The motion shall describe the intended distribution of unclaimed funds in accordance with Code of Civil Procedure section 384, subdivision (b), and shall explain the reason for choosing proposed recipient as opposed to other potential recipients considered. (Section H.3.c.i.)	Motion for Preliminary Approval at 5:16-6:10.
7 8 9	The motion shall be supported by a declaration from a knowledgeable person from the proposed recipient. The declaration shall: Establish that the recipient is a nonprofit organization, foundation, or program of the type described in that subdivision. (Section H.3.c.ii.A.)	Declaration from Heather Tiffe on Behalf of Proposed Cy Pres Recipient Voluntary Legal Services Program-Employment Law Clinic ("Cy Pres Declaration"), ¶ 3.
10 11 12 13	The motion shall be supported by a declaration from a knowledgeable person from the proposed recipient. The declaration shall: Describe the history of the recipient, the types of projects that it has conducted or supported over the last five years, and any particular use to which it would intend to devote the unpaid residue if received. (Section H.3.c.ii.B.)	Cy Pres Declaration, ¶¶ 2, 4.
14 15 16 17	The motion shall be supported by a declaration from a knowledgeable person from the proposed recipient. The declaration shall: Describe the geographic area in which the recipient operates in general, and the nature and extent of the services it provides in Riverside County in particular. (Section H.3.c.ii.C.)	Cy Pres Declaration, ¶¶ 2, 3.
18 19 20 21	The declarations of the attorneys for the plaintiff and for the defendant shall describe both (A) any relationship between the proposed recipient and (1) any class representative or other party, (2) any officer, director, or manager of any party, or (3) any attorney or law firm for any party, and (B) the inquiries the attorney made to determine whether there is any such relationship. (Section H.3.c.iii.)	Aiwazian Declaration, ¶ 23; Settlement Agreement, ¶ 7.m.
22 23 24 25 26 27	The agreement shall not provide that the unclaimed funds be deposited into the Industrial Relations Unpaid Wage Fund. (Lab. Code, § 96.6.) That fund is limited to wages or monetary benefits determined by the Labor Commissioner to be due to an employee after an investigation by the Labor Commissioner, and thus will not accept wages, penalties or interest distributed as part of the settlement of a lawsuit brought by a plaintiff other than the Labor Commissioner. (Section H.3.c.iv.)	Settlement Agreement, ¶ 7.m.

1 2 3 4 5	If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by: A declaration from the plaintiff's attorney, stating whether bids were sought from multiple potential administrators and, if so, the results of that competitive bidding. If the parties did not select the lowest bidder, the declaration shall explain that decision. (Section H.3.d.i.)	Aiwazian Declaration, ¶ 15.
6 7 8	If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by a declaration from the administrator describing the administrator's experience. (Section H.3.d.ii.A.)	Declaration of Eric Springer on Behalf of Simpluris, Inc., Proposed Settlement Administrator ("Settlement Administrator Declaration"), ¶¶ 2-3, Exh. A.
9 10 11	If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by a declaration from the administrator describing the fee to be charged by the administrator to perform the services described in the settlement agreement and proposed order. (Section H.3.d.ii.B.)	Settlement Administrator Declaration, ¶ 5, Exh. C.
12 13 14	If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by a declaration from the administrator describing whether that fee is (1) fixed, (2) hourly, or (3) hourly with a cap. (Section H.3.d.ii.C.)	Settlement Administrator Declaration, ¶ 5, Exh. C.
15 16 17	If the settlement contemplates the use of an administrator to implement the terms of the settlement, the motion shall be supported by a declaration from the administrator describing how the fee was calculated. (Section H.3.d.ii.D.)	Settlement Administrator Declaration, ¶ 5, Exh. C.
18 19 20 21	Any release to be given by the participating class members (other than the class representatives) shall be limited to the defendants named in the complaint, together with their officers, directors, employees and agents. If any other parties are sought to be released, the motion shall both (A) identify those other parties by name and (B) explain the facts that justify their inclusion. (Section H.3.e.i.)	Settlement Agreement, ¶ 4.a. Motion for Preliminary Approval, 5:fn. 10.
22 23 24	Any release to be given by the participating class members (other than the class representatives) shall be limited to the claims stated in the complaint and those based solely upon the facts alleged in the complaint. (Section H.3.e.ii.)	Settlement Agreement, ¶ 4.c.

Any release to be given by the participating class members (other than the class representatives) shall be limited to liability that arose during the class period as defined by the settlement agreement. (Section H.3.e.iii.)	Settlement Agreement, ¶ 4.c.
If notice is not to be given by first class mail to addresses believed to be current, the motion shall discuss the proposed method of giving notice, the alternative methods considered, and the reasons that the proposed method is the one most likely to give actual notice to the greatest number of class members. If the identities of the class members are not known, the parties shall consider publication of notice in print, on the web, at the defendant's place of business, and through social media. (Section H.3.f.)	Notice is to be given via First Class Mail. See Settlement Agreement, ¶ 7.b.
If the settlement requires any of the class members to submit claims: i. The motion shall explain why a claim process is reasonably necessary. If the defendant knows (A) the identity of the class members, (B) their addresses or former addresses, and (C) the facts necessary to calculate the recovery of each class member, the Court will require a strong showing of necessity for a claims process. ii. The motion shall explain the anticipated claims rate, and the basis for that prediction. (Section H.3.g.)	The Settlement does not require Class Members to submit claims.
If the settlement provides that any portion of the consideration paid or deposited by the defendant may revert to the defendant, the motion shall explain (i) the circumstances under which that reversion would occur, (ii) the maximum amount of any reversion, and (iii) why that reversion is fair. (Section H.3.h.)	The Settlement does not provide for any reversion to Defendant. Settlement Agreement., ¶ 7.m.

If the settlement includes compensation for unpaid wages, the motion shall describe how the employer's share of any applicable payroll taxes will be handled. The Court suggests that the employer's share not be paid out of the gross settlement fund. The Court is not likely to include the amount of those payments when calculating the plaintiff's counsel's percentage attorney's fee. (Section H.3.i.)	The employer's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares (ie, payroll taxes) is included in the Settlement Sum. Given the size of the Gross Settlement Amount, the Parties submit the taxes and withholdings being included in the Settlement Sum is appropriate and will still adequately compensate the Settlement Class Members. Motion for Preliminary Approval at 5:8-13. Settlement Agreement., ¶ 3.e.
If the amount of the proposed settlement is sought to be justified in part by the assertion that the defendant cannot afford to pay any greater sum, the motion shall be supported by a declaration from plaintiff's counsel or expert describing (i) the date and nature of the defendant's financial records reviewed by the declarant and (ii) the information contained in these financial records that cause the plaintiff to believe that the defendant cannot afford a greater sum. The latter description shall be in sufficient detail to allow the Court to make an independent evaluation of the defendant's ability to fund a larger settlement. (Section H.3.j.)	Not applicable.
The documents that will be read by or used by the class members — the proposed notice, objection form, exclusion form, and any claim form — shall be drafted in a manner that is likely to be readily understood by the members of the class. In particular, they shall not contain any Latin terms (such as et al. and et seq), any legal terms of art (such as nonexempt and class certification), or any unfamiliar symbols or abbreviations (such as §, LLC, and IWO). (Section H.3.k.i.)	See Notice of Class Action Settlement ("Class Notice"), attached as "EXHIBIT 1" to the [Proposed] Order Granting Preliminary Approval of Class Action Settlement ("Proposed Order"). See Exclusion Form, attached as "EXHIBIT 2" to the Proposed Order. See Objection Form, attached as "EXHIBIT 3" to the Proposed Order.

The motion shall be accompanied by a separately filed document entitled “Compliance Chart” that shall consist of two columns. One column shall separately list each requirement prescribed by each paragraph or sub-paragraph of sections H.1 and H3 through H.10 of this order. The other column shall describe — by document name and page and line numbers — where in the moving papers the corresponding requirement is satisfied. (Section H.3.l.)	See this Compliance Chart.
The motion shall be accompanied by a separate proposed order which shall include, as attachments to the order, the proposed notice (Cal. Rules of Court, rule 3.769(e)), proposed exclusion form, proposed objection form, any proposed claim form, and any other form that is proposed to accompany the notice. The Court is likely to modify these proposed forms. Therefore, the Court will not issue an order that merely incorporates by reference the forms attached to the settlement agreement. (Section H.4.a.)	See [Proposed] Order Granting Preliminary Approval, Exh. 1 (Class Notice), Exh. 2 (Exclusion Form), and Exh. 3 (Objection Form).
The settlement agreement shall not be attached to the order. (Section H.4.b.)	Settlement Agreement is attached as “EXHIBIT 1” to the Aiwezian Declaration.
Counsel shall carefully review both the terms and the terminology of the order and accompanying forms (notice, objection form, exclusion form, and any claim form) to confirm that the various documents are internally consistent, consistent with each other, and consistent with the settlement agreement. (Section H.4.c.)	Parties have reviewed the papers for consistency. See [Proposed] Order Granting Preliminary Approval, Exh. 1 (Class Notice), Exh. 2 (Exclusion Form), and Exh. 3 (Objection Form); Settlement Agreement, Exhs. A-C.
The order shall state the name of any settlement administrator, and shall describe the nature of the services that the administrator will be required to perform, either directly or by reference to the settlement agreement. (Section H.4.d.)	Proposed Order, ¶ 9.

1 2 3 4 5 6 7	The order shall provide that the notice shall be accompanied by an exclusion form that the class members may use. The order shall provide that any exclusion form shall be submitted to the settlement administrator rather than filed with the court. The order shall not require the class member to send copies of the exclusion form to counsel, but may require the settlement administrator to do so. The order shall provide that the settlement administrator shall file a declaration concurrently with the filing of any motion for final approval, authenticating a copy of every exclusion form received by the administrator. (Section H.4.e.)	Proposed Order, ¶¶ 11, 12, & 15, Exh. 2.
8 9 10 11 12 13	The proposed order shall provide that the notice shall be accompanied by an objection form that the class members may use. The order shall provide that any objection shall be submitted to the settlement administrator rather than filed with the court. The order shall not require the class member to send copies of the objection form to counsel, but may require the settlement administrator to do so. The order shall provide that the settlement administrator shall file a declaration concurrently with the filing of any motion for final approval, authenticating a copy of every objection form received by the administrator. (Section H.4.f.)	Proposed Order, ¶¶ 11, 13, & 15, Exh. 3.
14 15 16 17	Neither the order, the notice, nor the objection form shall require an objecting party to do either of the following, either personally or through counsel, to appear at the hearing on the motion for final approval for that party's objection to be considered. (Section H.4.g.i.)	Proposed Order, ¶ 13. Class Notice, § 18. <i>See also</i> Objection Form.
18 19 20	Neither the order, the notice, nor the objection form shall require an objecting party to do either of the following, either personally or through counsel, to file or serve, or to state in the objection, a notice of intention to appear at the hearing on the motion for final approval. (Section H.4.g.ii.)	Proposed Order, ¶ 13. Class Notice, § 18. <i>See also</i> Objection Form.
21 22	The order shall require that either counsel or the administrator must give notice to any objecting party of any continuance of the hearing of the motion for final approval. (Section H.4.h.)	Proposed Order, ¶ 18.
23 24 25 26	Neither the order nor the notice shall purport to enjoin the class members from filing any actions or administrative claims or proceedings pending the final hearing on the settlement, or for any other period. (Section H.4.i.)	The Proposed Order and Notice do not purport to enjoin class members. <i>See</i> Proposed Order; Class Notice.

1 2 3	If notice is to be given by mail, and if the class members will be required to submit a claim form, the order shall provide that the notice be accompanied by a stamped envelope addressed to the claims administrator. (Section H.4.j.i.)	The Settlement does not require claims to be made by Class Members.
4 5 6	If notice is to be given by mail, and if the class members will be required to submit a claim form, the order shall provide that the claims administrator be required to send a reminder notice to every class member from whom no claim or exclusion request is received within 30 days of mailing the notice. (Section H.4.j.ii.)	The Settlement does not require claims to be made by Class Members.
7 8 9	The notice shall include an estimate of the likely recovery by the individual class member to whom the notice is sent, if known. If it is not known, the notice shall include an estimate of the likely recovery by the average class member. If the recovery by different members will vary, the notice shall also include an estimate of the range of possible recoveries. (Section H.5.a.)	Class Notice, § 7.
10 11 12 13 14 15	To avoid discouraging any dissenting class members from objecting to the proposed settlement, the notice shall clearly indicate that the Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing. (Section H.5.b.)	Class Notice, § 20.
16 17 18 19 20 21	The notice shall advise the class members of where they can find the settlement agreement, by describing (i) the full title and filing date either of the settlement agreement or of the declaration or other document to which the agreement was attached when filed with the Court, (ii) the address of the courthouse to which the case is assigned, and (iii) the address of the court's website at which the case file can be viewed on-line. (Section H.5.c.)	Class Notice, § 23.
22 23 24	Neither the notice nor the documents enclosed with it shall describe any settlement administrator as the "claims administrator" unless the class members are required to submit claims. (Section H.5.d.)	The settlement administrator is referred to as "Settlement Administrator." See Class Notice; Exclusion Form; Objection Form.
25 26 27 28	The notice shall include a description of any release being given by the class members. (Section H.5.e.)	Class Notice, § 16.

1 2 3	The information required to be provided by the class member on any claim form shall not exceed the minimum information necessary to (a) identify the claimant, (b) process the claim, and (c) contact the claimant to clarify any uncertainties. (Section H.6.)	The Settlement does not require claims to be made by Class Members.
4 5 6	The objection form shall (i) instruct the objecting class member that the objection must be mailed or delivered to the settlement administrator, (ii) state the name and address of the settlement administrator, and (iii) state the date by which the objection must be mailed or otherwise delivered. (Section H.7.a.)	Class Notice, § 18. <i>See also</i> Objection Form.
7 8 9 10	The information required to be provided by an objecting class member on the objection form shall not exceed the minimum information necessary to (i) identify the objector as a person entitled to object to the settlement, (ii) describe the nature of and basis for the objection, and (iii) contact the objector to clarify any uncertainties. (Section H.7.b.)	Class Notice, § 18. <i>See also</i> Objection Form.
11 12 13	If a claim must be submitted to participate in the settlement, the objection form shall remind the objector that, to participate in the settlement in the event that the objection is overruled, the objector must also submit a claim. (Section H.7.c.)	The Settlement does not require claims to be made by Class Members.
14 15 16 17	The exclusion form shall (i) instruct the class member seeking exclusion that the exclusion form must be mailed or delivered to the settlement administrator, (ii) state the name and address of the settlement administrator, and (iii) state the date by which the exclusion form must be mailed or otherwise delivered. (Section H.8.a.)	Class Notice, § 17. <i>See also</i> Exclusion Form.
18 19 20	The information required to be provided by a class member on the exclusion form shall not exceed the minimum information necessary to (i) identify the person as a class member and (ii) contact the person to clarify any uncertainties. (Section H.8.b.)	Class Notice, § 17. <i>See also</i> Exclusion Form.
21 22 23	If the action includes a claim for statutory penalties under the Labor Code Private Attorney General Act of 2004 (“PAGA”), the motion shall explain the terms of any settlement of that claim. (Section H.9.a.)	Motion for Preliminary Approval at 3:1-3,5-14; and 10:1-18.

If the settlement provides for the payment of penalties under PAGA, the motion shall be accompanied by a declaration describing how the penalties were calculated and otherwise establishing facts sufficient to allow the Court to review and approve those penalties as required by Labor Code section 2699, subdivision (1). In particular, the declaration shall explain: (i) the nature of the alleged violations; (ii) the number of alleged individual violations, including both the length of the relevant employment period and the number of employees allegedly employed during that period; (iii) the total amount of penalties for which the defendant is potentially liable were those allegations to be proven. (Section H.9.b.)	Aiwazian Declaration, ¶¶ 69-81.
If the agreed-upon amount of PAGA penalties is less than the statutory maximum, the declaration shall explain why greater penalties would be unjust, arbitrary and oppressive, or confiscatory. (Lab. Code, § 2699, subd. (e)(2); <i>Amaral vs. Cinmx Corp.</i> No. 2 (2008) 163 Ca1.App.4th 1157, 1213-1214.) In particular, the declaration shall explain: (i) the extent to which the alleged violations would be likely to be found true at trial, considering the weight of the evidence, the clarity of the applicable law, and the strength of any factual or legal defense likely to be asserted by the defendant; (ii) the nature and extent of the discovery or other investigation undertaken by the plaintiff to estimate the likelihood of proving those allegations at trial; (iii) the likelihood that any violations would be proven to have been knowing and intentional; (iv) the total amount of penalties for which the defendant would be likely to be found liable at trial; (v) any facts that tend to suggest that the imposition of the total amount of statutory penalties for which the defendant would be likely to be found liable at trial would be unjust, arbitrary and oppressive, or confiscatory; (vi) how the amount of the agreed-upon penalties was calculated or otherwise arrived at; (vii) whether the parties utilized the services of any neutral party to mediate this dispute; (viii) any other factors that are material to a determination that the amount of the agreed-upon penalties is fair. (Section H.9.c.)	Aiwazian Declaration, ¶¶ 11-12, 69-81.
If the Court either denies the motion or continues the hearing on the motion, and if the plaintiff thereafter files any amended settlement agreement, order, notice or form in support of either that motion or a renewed motion, the plaintiff shall file a declaration authenticating a “red-lined” version of the amended document, showing how the earlier version was modified. (Section H.10.)	The Parties will comply with this section if preliminary approval is denied.