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Clerk of the Superior Court

JAN 17 2025

By: V. Contreras, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

KEVIN WYATT and KIMBERLEE
CALIFANO, individuals, and on behalf of all
persons similarly situated,

Plaintiffs,

v.

BH-SD OPCO, LLC, dba ALVARADO
PARKWAY INSTITUTE BEHAVIORAL
HEALTH SYSTEMS, a Delaware Limited
Liability Company; and DOES 1-50, Inclusive,

Defendants.

Case No. 37-2021-00021168-CU-OE-CTL

**[PROPOSED] ORDER AND JUDGMENT
GRANTING FINAL APPROVAL OF CLASS
AND PAGA ACTION SETTLEMENT AND
APPROVAL OF CLASS COUNSEL FEES AND
EXPENSES PAYMENT AND CLASS
REPRESENTATIVE PAYEMENT**

Date: January 17, 2025

Time: 9:30 a.m.

Judge: Hon. Gregory W. Pollack

Dept.: C-71

1 This matter came on for hearing on January 17, 2024, at 9:30 a.m., in front of the Hon. Gregory
2 W. Pollack, presiding, Plaintiffs' unopposed Motion for Order Granting Final Approval of Class and
3 PAGA Action Settlement and Entering Judgment pursuant to California Rule of Court 3.769, with the
4 attorneys from the JCL LAW FIRM, APC, and ZAKAY LAW GROUP, APLC, as counsel for plaintiff
5 KEVIN WYATT ("Plaintiff Wyatt") and plaintiff KIMBERLEE CALIFANO ("Plaintiff Califano")
6 (hereinafter "Plaintiffs") and counsel from FISHER & PHILLIPS LLP, appearing as counsel for
7 Defendant BH-SD OPCO, LLC dba Alvarado Parkway Institute Behavioral Health Systems
8 ("Defendant").

9 The Court, having received and carefully considering the Stipulation for Class and PAGA Action
10 Settlement and Release of Claims filed with the Declaration of Jean-Claude Lapuyade on December 20,
11 2024 ("Agreement"), a true and correct copy of which Agreement is attached hereto as Exhibit A, the
12 supporting papers filed by the Parties, the evidence and argument received by the Court in conjunction
13 with the unopposed Motion for Preliminary Approval of Class Action Settlement heard on July 26, 2024,
14 the instant Motion for Order Granting Final Approval of Class and PAGA Action Settlement, the Court
15 grants final approval of the Settlement and HEREBY ORDERS, ADJUDICATES and DECREES THE
16 FOLLOWING:

17 1. All capitalized terms used herein shall have the same meaning as defined in the
18 Agreement.

19 2. Pursuant to the Order Granting Preliminary Approval, the Class Notice was sent to each
20 Class Member via U.S. First Class Mail. The Class Notice informed the Class Members of the terms of
21 the Settlement, and of (a) their right to receive an Individual Class Payments, (b) their right to comment
22 on or object to the Settlement, (c) their right to request exclusion from the Settlement and pursue their
23 own remedies, and (d) their right to appear in person or by counsel at the final approval hearing and to
24 be heard regarding approval of the Settlement. Adequate periods of time were provided by each of these
25 procedures.

26 3. Following the conclusion of the response deadline, the Settlement Administrator reports
27 that it received **zero (0) written objections** to the Settlement and **two (2) written requests for exclusion**
28 from the Settlement. The names of the Class Members who requested exclusion are Joseph Batok and

1 Julianne Barner.

2 4. The Court finds and determines that the notice procedure afforded adequate protections to
3 the Class and provides the basis for the Court to make an informed decision regarding approval of the
4 Settlement based on the responses of the Class. The Court finds and determines that the notice provided
5 in this case was the best notice practicable, which satisfied the requirements of law and due process.

6 5. With respect to the Class and for purposes of approving this Settlement only, this Court
7 finds and concludes that: (a) the members of the Class are ascertainable and so numerous that joinder of
8 all members is impracticable; (b) there are questions of law or fact common to the Class, and there is a
9 well-defined community of interest among the Class with respect to the subject matter of the Action; (c)
10 the claims of the Class Representatives are typical of the claims of the Class; (d) the Class
11 Representatives have fairly and adequately protected the interests of the Class; (e) a class action is
12 superior to other available methods for an efficient adjudication of this controversy; and (f) the counsel
13 of record for the Class Representatives, i.e., Jean-Claude Lapuyade, Esq. of the JCL Law Firm, APC,
14 Shani Zakay, Esq. of the Zaky Law Group, APLC, (hereinafter "Class Counsel"), are qualified to serve
15 as counsel for the Class Representatives and the Class.

16 6. The Court has certified the Class for settlement purposes only, as that term is defined in
17 and by the terms of the Agreement as follows:

18 All current and former non-exempt employees of Defendant who worked in
19 California at any time during the Class Period [May 12, 2017, to September
20 30, 2023].

21 7. The Court deems the definition of Class sufficient for purposes of California Rule of Court
22 3.765(a).

23 8. The Court hereby confirms Jean-Claude Lapuyade, Esq. of the JCL Law Firm, APC, and
24 Shani Zakay, Esq. of the Zakay Law Group, APLC as Class Counsel for the Class Representative in this
25 Action.

26 9. The Court hereby confirms Plaintiff Wyatt and Plaintiff Califano as the Class
27 Representatives in this Action.

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1 10. The Court finds and determines that the terms set forth in the Agreement are fair,
2 reasonable, and adequate and directs the Parties to effectuate the Settlement according to its terms having
3 found that the Settlement was reached as a result of informed and non-collusive arms-length negotiations
4 facilitated by a neutral mediator. The Court further finds that the Parties conducted extensive
5 investigation, research, and discovery and that their attorneys were able to reasonably evaluate their
6 respective positions. The Court also finds that Settlement will enable the Parties to avoid additional and
7 potentially substantial litigation costs, as well as delay and risks if the Parties were to continue to litigate
8 the case. The Court has reviewed the monetary recovery provided as part of the Settlement and
9 recognizes the significant value accorded to the Class.

10 11. The Court further finds and determines that the terms of the Settlement, including the
11 Gross Settlement Amount of Seven Hundred Thousand Dollars and Zero Cents (\$700,000.00), are fair,
12 reasonable and adequate to the Class and to each member of the Class and that the Settlement is ordered
13 finally approved, and that all terms and provisions of the Settlement should be and hereby are ordered
14 to be consummated. Except as set forth in the Agreement and this Order and Judgment, all members of
15 the Class shall take nothing in the Action.

16 12. The Parties are authorized, without further approval from the Court, to agree to and adopt
17 such amendments, modifications, and expansions of the Agreement and all exhibits attached thereto
18 which are consistent with this Order and Judgment and do not limit the rights of the Parties or Class
19 Members under the Agreement,

20 13. The Court further finds and determines that Class Counsel satisfied California Labor Code
21 § 2699(1)(2) by giving the LWDA notice of the proposed Settlement of claims arising under the Private
22 Attorney General Act (“PAGA”) on July 3, 2024, and again on December 20, 2024.

23 14. The Court finds and determines that the Individual Class Payments to be paid to
24 Settlement Class Members as provided for by the Settlement are fair and reasonable. The Court hereby
25 grants final approval to and orders the payment of those amounts be made to the Settlement Class
26 Members in accordance with the Agreement.

27 15. The Court finds and determines that the LWDA Payment (75% of the PAGA Settlement)
28 of \$37,500.00 and the Aggrieved Employee Payment (25% of the PAGA Settlement) of \$12,500.00 in

1 this case are fair, reasonable, and appropriate. The Court hereby grants final approval to and orders that
2 the payment of those amounts be paid in accordance with the Agreement.

3 16. The Court finds and determines that the fees and expenses in administrating the Settlement
4 incurred by Apex Class Action LLC in the amount of \$13,000.00 are fair and reasonable. The Court
5 hereby gives final approval to and orders that the payment of that amount in accordance with the
6 Settlement.

7 17. The Court finds and determines the Class Representative Payments in the amount of
8 \$10,000.00 to each Class Representative, Kevin Wyatt and Kimberlee Califano, is fair and reasonable.
9 The Court hereby orders the Settlement Administrator to make this payment to the Class Representatives
10 in accordance with the terms of the Agreement.

11 18. Pursuant to the terms of the Settlement, and the authorities, evidence and arguments
12 submitted by Class Counsel, the Court hereby awards a Class Counsel Fees Payment in the amount of
13 \$233,333.33, which represents one-third of the Gross Settlement Amount. The Class Counsel Fees
14 Payment shall be allocated as follows: 50% to the JCL Law Firm, APC, and 50% to the Zakay Law
15 Group, APLC. Second, the Court hereby awards a Class Counsel Expenses Payment in the amount of
16 \$26,899.19 for actually incurred litigation expenses as evidenced by Class Counsels' billing records.
17 The Settlement Administrator shall allocate the expenses award according to Class Counsels' actually
18 incurred litigation expenses as stated and supported in their respective declarations filed in support of
19 this motion. The Court finds such amounts to be fair and reasonable. The Court hereby orders the
20 Settlement Administrator to make these payments in accordance with the terms of the Agreement.

21 19. Without affecting the finality of this order or the entry of judgment in any way, the Court
22 retains jurisdiction of all matters relating to the interpretation, administration, implementation,
23 effectuation, and enforcement of this order and the Settlement.

24 20. Neither Defendant nor any related persons or entities shall have any further liability for
25 costs, expenses, interest, attorneys' fees, or for any other charge, expense, or liability, except as provided
26 for by the Agreement.

27 21. Neither the making of the Agreement nor the entry into the Agreement constitutes an
28 admission by Defendant, nor is this Order a finding of the validity of any claims in the Action or of any

1 other wrongdoing. Further, the Agreement is not a concession and shall not be used as an admission of
2 any wrongdoing, fault, or omission of any entity or persons; nor may any action taken to carry out the
3 terms of the Agreement be construed as an admission or concession by or against Defendant or any
4 related person or entity.

5 22. Nothing in this order shall preclude any action to enforce the Parties' obligations under
6 the Settlement or under this order, including the requirement that Defendant makes payments to the
7 Settlement Class Members in accordance with the Settlement.

8 23. The Court hereby enters final judgment in accordance with the terms of the Agreement,
9 the Order Granting Preliminary Approval of Class and PAGA Action Settlement granted on August 16,
10 2024, and this order.

11 24. Upon the Funding Date, each Class Member who has not validly opted out has released
12 the "Released Class Claims" against Defendants and all the "Released Parties," as set forth in the
13 Agreement.

14 25. Plaintiffs have generally released all claims as set forth in the Agreement.

15 26. The Parties will bear their own costs and attorneys' fees except as otherwise provided by
16 this Court's Order awarding the payment of attorneys' fees and costs.

17 27. Upon completion of administration of the Settlement, the Settlement Administrator will
18 provide written certification of such completion to the Court and counsel for the Parties which shall be
19 filed with the Court five (5) court days before the non-appearance compliance hearing set for
20 (), 2025 at () a.m., in Dept. C-71.

21 28. Accordingly, the Motion for Final Approval of Class and PAGA Action Settlement and,
22 Motion for Final Approval of the Payment of the Class Counsel Fees and Expenses Payment and the
23 Class Representative Payments are GRANTED.

24 **IT IS SO ORDERED, ADJUDICATED AND DECREED**

25
26 Date: _____, 2024

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28
JUDGE OF THE SUPERIOR COURT

GREGORY W. POLLACK