

FILED
San Diego Superior Court

JUN 16 2023

Clerk of the Superior Court
By: R. Cersosimo, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

TYLER COOMBS, individually, and on behalf
of other members of the general public
similarly situated, and on behalf of aggrieved
employees pursuant to the Private Attorneys
General Act ("PAGA");

Plaintiff,

v.

IMAGING HEALTHCARE SPECIALISTS,
LLC, a California limited liability company;
and DOES 1 through 100, inclusive;

Defendants.

Case No.: 37-2020-00043781-CU-OE-CTL

Assigned for All Purposes to:
Honorable Richard S. Whitney
Department C-68

CLASS ACTION

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

Hearing Date: June 16, 2023
Hearing Time: 10:30 a.m.
Hearing Place: Department C-68

Complaint Filed: December 1, 2020
FAC Filed: August 2, 2022
Trial Date: None Set

1 The Court, having read the papers filed regarding Plaintiff Tyler Coombs' ("Plaintiff")
2 Motion for Final Approval of Class Action Settlement, and considering the papers submitted in
3 support of the motion, including the Joint Stipulation and Settlement Agreement ("Settlement
4 Agreement," "Settlement," or "Agreement"), hereby **FINDS AND ORDERS**:

5 Plaintiff and Defendant Imaging Healthcare Specialists, LLC ("Defendant") entered the
6 Settlement Agreement on or about September 1, 2022 to settle this lawsuit.

7 The Court entered an order dated December 21, 2022 preliminarily approving the
8 settlement of this lawsuit ("Preliminary Approval Order"), consistent with the Code of Civil
9 Procedure section 382 and California Rule of Court 3.769, ordering notice to be sent to Class
10 Members, providing Class Members with an opportunity to object to the Settlement or exclude
11 themselves from the Class, and scheduling a Final Approval Hearing.

12 The Court held a Final Approval Hearing on June 16, 2023 to determine whether to give
13 final approval to the Settlement of this lawsuit.

14 1. Incorporation of Other Documents. This Order of Final Approval and Judgment
15 ("Order and Judgment") incorporates the Settlement Agreement. Unless otherwise provided
16 herein, all capitalized terms in this Order and Judgment shall have the same meaning as set forth
17 in the Settlement Agreement.

18 2. Jurisdiction. Because adequate notice has been disseminated and the Class has
19 been given the opportunity to request exclusion, the Court has personal jurisdiction with respect
20 to the claims of all Class Members. The Court has subject matter jurisdiction over this lawsuit,
21 including jurisdiction to approve the Settlement and grants final certification of the Class.

22 3. Final Class Certification. The Court finds the Class satisfies all applicable
23 requirements of Code of Civil Procedure section 382, California Rule of Court 3.769, and due
24 process. The Court certifies the Class consisting of all individuals who have previously been or
25 currently are employed by Defendant as an hourly paid and/or non-exempt employee within the
26 State of California during the time period from, and including, June 6, 2016 through, and
27 including, May 4, 2022 ("Class," "Class Members," and "Class Period"). There are seven
28

1 hundred seventy-two (772) Class Members who did not submit valid and timely requests to
2 exclude themselves from the Settlement (“Participating Class Members”).¹

3 4. Adequacy of Representation. Class Counsel fully and adequately represented the
4 Class for purposes of entering and implementing the Settlement and satisfied the requirements of
5 Code of Civil Procedure section 382.

6 5. Notice Packet. The Court finds the Class Notice and Exclusion Form
7 (collectively, known as the “Notice Packet”) and its distribution to Class Members were
8 implemented pursuant to the Settlement and this Court’s Preliminary Approval Order. The Court
9 also finds the Notice Packet:

10 a. constitutes notice reasonably calculated to apprise Class Members of: (i)
11 pendency of this lawsuit; (ii) material terms and provisions of the Settlement Agreement and
12 their rights; (iii) their right to object to any aspect of the Settlement Agreement; (iv) their right to
13 exclude themselves from the Settlement Agreement; (v) their right to receive Individual
14 Settlement Shares; (vi) their right to appear at the Final Approval Hearing; and (vii) binding
15 effect of the orders and judgment in this lawsuit on all Participating Class Members;

16 b. constitutes notice that fully satisfied the requirements of Code of Civil
17 Procedure section 382, California Rule of Court 3.769, and due process;

18 c. constitutes the best practicable notice to Class Members under the
19 circumstances of this lawsuit; and

20 d. constitutes notice reasonable, adequate, and sufficient to Class Members.

21 6. Final Settlement Approval. The terms and provisions of the Settlement
22 Agreement have been entered into good faith and are the product of arm’s-length negotiations by
23 experienced counsel who have done a meaningful investigation of the claims. The Settlement
24 Agreement and all its terms and provisions are fully and finally approved as fair, reasonable,
25 adequate, and in the best interests of the Parties. The Parties are hereby directed to implement the
26 Settlement Agreement according to its terms and provisions.

27
28 ¹ The Settlement Administrator mailed Notice Packets to seven hundred seventy-seven
(777) Class Members and received five (5) requests for exclusion. So, there are seven

1 7. Binding Effect. The terms and provisions of the Settlement Agreement and this
2 Order and Judgment are binding on Plaintiff, Participating Class Members, Eligible Aggrieved
3 Employees, and their spouses, heirs, registered domestic partners, executors, administrators,
4 successors, and assigns. In addition, those terms shall have res judicata and other preclusive
5 effect in all pending and future claims, lawsuits, or other proceedings maintained by or on behalf
6 of any such persons to the extent those claims, lawsuits, or other proceedings involve matters
7 that were or could have been raised in this lawsuit and are encompassed by the Released Claims.
8 The Settlement Agreement will have no binding effect upon, and provide no res judicata
9 preclusion to, those Class Members who have submitted timely requests for exclusion.

10 8. Enforcement of Settlement. Nothing in this Order and Judgment shall preclude
11 any action to enforce the terms and provisions of the Settlement Agreement.

12 9. Release of Claims. Upon Defendant's fulfillment of its payment obligations
13 under section III(K)(9)(a) of the Agreement, Class Members, who do not submit a timely and
14 valid request for exclusion, waive, release, promise never to assert in any forum, remise, and
15 forever discharge the Released Parties from the Released Claims during the Class Period.

16 a. Effect of PAGA Settlement. Upon Defendant's fulfillment of its payment
17 obligations under section III(K)(9)(a) of the Agreement, the California
18 Labor and Workforce Development Agency ("LWDA") and any other
19 representative, proxy, or agent thereof, including, but not limited to,
20 Plaintiff and any and all Eligible Aggrieved Employees during the Private
21 Attorneys General Act of 2004 ("PAGA") Timeframe, will be barred from
22 and will be deemed and considered to have released and waived the ability
23 to seek and/or pursue any action for civil penalties under Labor Code
24 section 2698, *et seq.* (PAGA), against Defendant and/or the Released
25 Parties based on or arising out of alleged violations of Labor Code
26 sections and/or wage and hour laws alleged in Plaintiff's letter to the
27 LWDA and complaints.

28
hundred seventy-two (772) Participating Class Members.

1 b. Plaintiff's Release of Claims and General Release. Upon Defendant's
2 fulfillment of its payment obligations under Section III(K)(9)(a) of the
3 Agreement, and in exchange for the Class Representative Enhancement
4 Payment to the Plaintiff in an amount not to \$10,000, in recognition of his
5 work and efforts in obtaining the benefits for the Class, and undertaking
6 the risk for the payment of costs if this matter had not successfully
7 resolved, Plaintiff provides a general release of claims for himself and his
8 respective spouse, heirs, successors, and assigns. With respect to the
9 General Release, Plaintiff stipulates and agrees that, as of the Effective
10 Final Settlement Date, Plaintiff shall be deemed to have, expressly waived
11 and relinquished, to the fullest extent permitted by law, the provisions,
12 rights, and benefits of section 1542 of the Civil Code, or any other similar
13 provision under federal or state law.

14 c. Released Parties. The Released Parties include Defendant, its past or
15 present companies, subsidiaries, divisions, affiliated companies, and each
16 of its members, officers, partners, joint ventures, consultants, directors,
17 employees, agents, operators, attorneys, insurers, and any individual or
18 entity that could be held jointly liable with Defendant and/or considered or
19 found liable, to any extent, for Defendant's alleged liability in this lawsuit.

20 10. Class Representative Enhancement Payment. The Court finds the Class
21 Representative Enhancement Payment of \$10,000, to be paid by Defendant to Plaintiff out of the
22 Gross Settlement Amount, to be reasonable and appropriate. The Class Representative
23 Enhancement Payment is to be paid pursuant to the terms and provisions set forth in the
24 Settlement Agreement.

25 a. The rationale for making enhancement payments is class representatives
26 should be compensated for the expense and risk they incurred in
27 conferring a benefit on the Class. Criteria courts consider include: (1) risk
28 to the class representatives in commencing suit; (2) notoriety and personal

difficulties; (3) amount of time and effort spent by the class representatives; (4) duration of the litigation; and (5) personal benefit (or lack thereof) enjoyed by class representatives.

b. The Court reviewed Plaintiff's declaration outlining his involvement. Given the risks inherent in the services as the class representative, duration of the case and time involved, and benefits created for the Class, the Court approves the payment of the Class Representative Enhancement Payment of \$10,000 to Plaintiff.

11. Attorney Fee Award and Cost Award. The Court finds the Attorney Fee Award of \$472,500, to be paid out of the Gross Settlement Amount by Defendant to Class Counsel, to be reasonable and appropriate. In addition, the Court finds the Cost Award as reimbursement for actual litigation costs incurred of \$13,069.59, to be paid by Defendant to Class Counsel out of the Gross Settlement Amount, to be reasonable and appropriate. Such fees and costs are to be paid pursuant to the terms and provisions set forth in the Settlement Agreement. Defendant shall not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Class Counsel or any other counsel representing Plaintiff or Class Members. Defendant shall also not be required to pay for any other attorneys' fees and expenses, costs, or disbursements incurred by Plaintiff or Class Members in connection with or related in any manner to this lawsuit, Settlement Agreement, settlement administration, and Released Claims.

a. The Court has an independent right and responsibility to review the Attorney Fee Award and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-28.) The Attorney Fee Award of \$472,500 is thirty-five percent (35%) of the common fund created for the benefit of the Class and is supported by use of the percentage-fee method. (See *Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 504.) Considering the exceptional results achieved, financial risk undertaken, difficult nature of this litigation, skills required, percentage fees award in previous and

1 other cases, and contingent fees charged in the marketplace, the Court
2 finds the Attorney Fee Award is consistent with the marketplace, is
3 reasonable, and is approved.

- 4 b. The Court reviewed the declaration of Douglas Han regarding the costs
5 expended in prosecuting this case. Under the terms of the Settlement,
6 Class Counsel may seek reimbursement of up to \$20,000 in litigation
7 costs. The Court finds Class Counsel expended \$13,069.59 in litigation
8 costs, and such costs were reasonable. Thus, the Court approves the
9 payment of the Cost Award of \$13,069.59 from the common fund for the
10 reimbursement of Class Counsel's litigation costs.

11 12. Administration Costs. The Court finds Administration Costs of \$9,699, to be paid
12 by Defendant to the Settlement Administrator out of the Gross Settlement Amount, to be
13 reasonable and appropriate. The Administration Costs are to be paid pursuant to terms and
14 provisions set forth in the Settlement Agreement.

- 15 a. The Court reviewed the declaration of Stephen Gomez from Simpluris,
16 Inc., the Settlement Administrator. The Court finds notice was provided to
17 the Class pursuant to the Preliminary Approval Order, constitutes the best
18 practicable notice to the Class, and satisfied due process. Thus, the Court
19 approves the payment of the Administration Costs of \$9,699 for the
20 Settlement Administrator's services in administering the Settlement.

21 13. PAGA Payment. The Court finds the PAGA Payment of \$100,000, seventy-five
22 percent (75%) of which (\$75,000) will be paid to the LWDA out of the Gross Settlement
23 Amount and twenty-five percent (25%) of which (\$25,000) will be distributed to Eligible
24 Aggrieved Employees, on a pro rata basis, to be reasonable and appropriate. The PAGA Payment
25 is to be paid pursuant to the terms and provisions set forth in the Settlement Agreement.

26 ///

27 ///

1 14. Funding the Settlement. If there are no objections to the Settlement, no later than
2 fourteen (14) calendar days after both the entry of the order granting final approval of the
3 Settlement and the Judgment in the case, Defendant shall deposit the Gross Settlement Amount
4 of \$1,350,000 needed to pay the entire Gross Settlement Amount by wiring the funds to the
5 Settlement Administrator. If there are objections to the Settlement, then no later than fourteen
6 (14) calendar days after either: (a) the expiration of the appellate period without an appeal; or (b)
7 a decision affirming the Settlement without material modification that has been remitted back to
8 the trial court, Defendant shall deposit the Gross Settlement Amount by wiring the funds to the
9 Settlement Administrator. Defendant shall also at this time provide any tax information that the
10 Settlement Administrator may need to calculate each Participating Class Member's Individual
11 Settlement Share and/or Defendant's share of employer-side payroll taxes. Within fourteen (14)
12 calendar days after the funding of the Settlement, the Settlement Administrator shall calculate
13 and pay all payments due under the Settlement.

14 15. Fairness of the Settlement. As noted in the Preliminary Approval Order, the
15 Settlement is entitled to a presumption of fairness. In the moving papers, Plaintiff contends the
16 Settlement was the product of arm's-length negotiations following extensive litigation,
17 discovery, and exchange of documentation. The negotiations were facilitated with the aid of
18 Marc J. Feder, an experienced and well-respected mediator.

19 a. The fairness of the Settlement is demonstrated by there being no
20 objections to and only five (5) requests for exclusion from the Settlement.

21 b. The fairness of the Settlement is further illustrated by the gross *average*
22 Individual Settlement Share being approximately \$927.66, and the gross
23 *highest* Individual Settlement Share being about \$2,415.28.

24 16. Uncashed Checks. Participating Class Members and Eligible Aggrieved
25 Employees must cash or deposit their settlement checks within one hundred eighty (180)
26 calendar days after the checks are mailed by the Settlement Administrator to them. Uncashed
27 settlement checks will be uncanceled and paid to the California Controller's Unclaimed Property
28 Fund in the name of the Participating Class Member and Eligible Aggrieved Employee.

1 17. Modification of Settlement Agreement. The Participating Class Members are
2 hereby authorized, upon approval of the Court, to agree to and adopt amendments to or
3 modifications of the Settlement Agreement by an express written instrument signed by counsel
4 for all Parties or their successors-in-interest. Such amendments or modifications shall be
5 consistent with this Order and Judgment and cannot limit the rights of Participating Class
6 Members under the Settlement Agreement.

7 18. Final Accounting and Compliance. The Court sets a nonappearance case review
8 for February 2, 2024 in Department C-68. Within five (5) court days before this hearing, Plaintiff
9 shall file a compliance status report. Pursuant to Code of Civil Procedure section 384, the
10 compliance status report shall specify the total amount paid to Participating Class Members and
11 the residual of the unclaimed settlement funds that will be paid to the entity identified as the
12 recipient of such funds in the Settlement Agreement.

13 19. Retention of Jurisdiction. The Court has jurisdiction to enter this Order and
14 Judgment. This Court expressly retains jurisdiction for the administration, interpretation,
15 effectuation, and/or enforcement of the Settlement Agreement and of this Order and Judgment,
16 and for any other necessary purpose, including, without limitation:

- 17 a. enforcing the terms and provisions of the Settlement and resolving any
18 disputes, claims, or causes of action in this lawsuit that, in whole or in
19 part, are related to or arise out of the Settlement or this Order and
20 Judgment;
- 21 b. entering such additional orders as may be necessary or appropriate to
22 protect or effectuate this Order and Judgment approving the Settlement,
23 and permanently enjoining Plaintiff from initiating or pursuing related
24 proceedings, or to ensure the fair and orderly administration of the
25 Settlement; and
- 26 c. entering any other necessary or appropriate orders to protect and effectuate
27 this Court's retention of continuing jurisdiction.

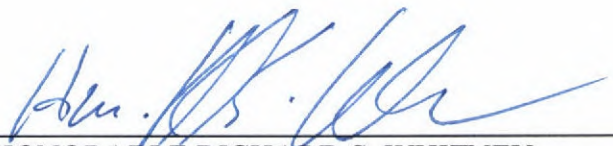
28 ///

1 The Motion for Final Approval of Class Action Settlement, Attorney Fee Award, Cost
2 Award, and Class Representative Enhancement Payment is GRANTED. The Settlement
3 Administrator is directed to carry out the terms of the Settlement Agreement forthwith.

4 THE PARTIES ARE HEREBY ORDERED TO COMPLY WITH THE TERMS OF
5 THE SETTLEMENT AGREEMENT. PURSUANT TO CALIFORNIA RULES OF COURT
6 3.769, THE COURT HEREBY ENTERS FINAL JUDGMENT BASED UPON THE TERMS
7 OF THIS ORDER AND SETTLEMENT AGREEMENT AND, WITHOUT AFFECTING THE
8 FINALITY OF THIS MATTER, RETAINS EXCLUSIVE AND CONTINUING
9 JURISDICTION TO ENFORCE THIS ORDER, THE SETTLEMENT AGREEMENT, AND
10 THE JUDGMENT THEREON.

11 **IT IS SO ORDERED.**

12
13 DATED: 6-16-24



HONORABLE RICHARD S. WHITNEY
SUPERIOR COURT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**PROOF OF SERVICE
1013A(3) CCP**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 751 N. Fair Oaks Avenue, Suite 101, Pasadena, CA 91103 and my electronic service address is bitty@justicelawcorp.com

On June 28, 2023, I served the foregoing document described as

ORDER OF FINAL APPROVAL AND JUDGMENT

for the following case: **Coombs v. Imaging Healthcare Specialists, LLC**
LWDA/Court Case No.: **LWDA Case No.: CM-878912-22**
Court Case No.: 37-2020-00043781-CU-OE-CTL
San Diego County Superior Court

on interested parties in this action by electronically submitting as follows:

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, California 95814

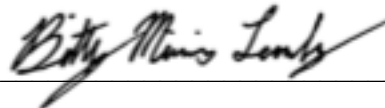
[X] BY ELECTRONIC SUBMISSION

Pursuant to California Senate Bill No. 836, I caused the documents described above to be electronically submitted by and through the procedure stated on the website of the State of California Labor and Workforce Development Agency.

[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on June 28, 2023, at Pasadena, California.



Bitty Minnis-Lemley