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Attorneys for PLAINTIFF CATHERYN MACUGAY
on behalf of herself and others similarly situated

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

CATHERYN MACUGAY, on behalf of herself
and others similarly situated,

Plaintiff,

vs.

COMMUNITY HOSPITAL OF THE
MONTEREY PENINSULA; and DOES 1 to
100, inclusive,

Defendants.

Case No.: 22CV002050

CLASS ACTION

*[Assigned for all purposes to the Hon. Thomas
W. Wills, Dept. 15]*

**~~[REVISED PROPOSED]~~ ORDER
GRANTING PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Hearing Information:

Date: December 15, 2023

Time: 8:30 a.m.

Dept.: 15

1 The Motion for Preliminary Approval of a Settlement came before this Court on December
2 15, 2023, at Monterey Courthouse in Department 15 of the Monterey County Superior Court
3 Courthouse located at 1200 Aguajito Road, Monterey, California 93940. At the hearing, counsel
4 for Plaintiff dismissed Plaintiff's PAGA-only action (Case No. 22CV002777) without prejudice.
5 The Court notes that Plaintiff's PAGA claims are now incorporated in the First Amended
6 Complaint of Case No. 22CV002050. The Court, having considered the proposed Class Action and
7 PAGA Settlement Agreement ("Settlement"), attached as **Exhibit 1** to the Declaration of Antonia
8 McKee in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, and
9 the Exhibits attached thereto (hereafter collectively, the "Settlement"); having considered the
10 Motion for Preliminary Approval of Class Action Settlement filed by the parties; having considered
11 the respective points and authorities and declarations submitted by the parties in support thereof;
12 and good cause appearing, **HEREBY ORDERS THE FOLLOWING:**

13 The Court grants preliminary approval of the settlement as set forth in the Settlement and
14 finds the terms to be within the range of reasonableness of a settlement that ultimately could be
15 granted approval by the Court at the final Fairness Hearing. For purposes of the settlement, the
16 Court finds that the proposed settlement class is ascertainable and that there is a sufficiently well-
17 defined community of interest among the Class in questions of law and fact. Therefore, for
18 settlement purposes only, the Court grants conditional certification of the following "Settlement
19 Class" defined as follows:

20 Any and all current and former hourly non-exempt employees of
21 Defendant in California during January 8, 2020, through May 25, 2023,
22 except July 23, 2021, through May 25, 2023, as to the Labor Code section
23 203 claims only.

24 1. For purposes of the settlement, the Court further designates named Plaintiff
25 CATHERYN MACUGAY as Class Representative, and Joseph Lavi, Esq., Vincent C. Granberry,
26 Esq. and Antonia McKee of Lavi & Ebrahimian, LLP as Class Counsel.

27 2. The Court appoints CPT Group, Inc. as the Settlement Administrator.

28 3. A final fairness hearing on the question of whether the proposed settlement should

1 be finally approved as fair, reasonable and adequate as to the members of the Settlement Class is
2 scheduled in Department 15 of this Court, on July 26, 2024, at 8:30 a.m., or another date and time
3 which is convenient to the Court.

4 4. At the final fairness hearing, the Court will consider: (a) whether the settlement
5 should be approved as fair, reasonable, and adequate for the class; (b) whether a judgment granting
6 approval of the settlement should be entered; and (c) whether Plaintiff's application for an award of
7 attorneys' fees, reimbursement of litigation expenses, and class representative enhancement should
8 be granted.

9 5. Counsel for the parties shall file memoranda, declarations, or other statements and
10 materials in support of their request for final approval by no later than 16 court days prior to the
11 final fairness hearing.

12 6. Class Counsel shall file a motion for an award of attorneys' fees, reimbursement of
13 litigation expenses and class representative enhancement by no later than 16 court days prior to
14 the final fairness hearing.

15 7. The Court approves, as to form and content, the Notice of Class Action Settlement
16 attached to the Settlement. An identical Spanish version shall also be provided.

17 8. The Court directs Defendant to provide the Settlement Administrator with the
18 names, last known mailing addresses, dates of employment, Social Security numbers, and any
19 other information needed to calculate Individual Settlement Payments and Individual PAGA
20 Payments for the Class within fifteen (15) calendar days of the entry of this Order.

21 9. The Court directs the mailing of the Notice, Objection Form, and Exclusion Form,
22 by first class mail to the members of the Class on or before fourteen (14) calendar days of the
23 Settlement Administrator's receipt of the Class Data.

24 10. The proposed members of the Class shall have sixty (60) calendar days after the
25 Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class
26 Notice is re-mailed) to object or opt-out of the Class Settlement by sending a signed written
27 Request for Exclusion to the Administrator by fax, email, or mail.

28 11. The Court finds that the forms of Notice to the Class regarding the pendency of the

1 action and of this settlement, and the methods of giving notice to members of the Class constitute
2 the best notice practicable under the circumstances and constitute valid, due, and sufficient notice
3 to all members of the Class. They comply fully with the requirements of California Code of Civil
4 Procedure section 382, California Civil Code section 1781, California Rules of Court 3.766 and
5 3.769, the California and United States Constitutions, and other applicable law.

6 12. The Court further approves the procedures for Class Members to participate in, opt
7 out of, or object to the Settlement, as set forth in the Notice, Objection Form, and Exclusion
8 Form.

9 13. Class Members who wish to object to the approval of this Settlement must mail to
10 the Settlement Administrator by first class mail a written statement objecting to the Settlement
11 setting forth the legal and factual grounds for any objections. If no written objection is submitted,
12 the Participating Class Member may appear at the final settlement hearing to object. To the extent
13 that the Participating Class Member is represented by counsel, his/her attorney shall file with the
14 Superior Court a notice of appearance providing the attorney's contact information. Such written
15 objections should be mailed and postmarked or fax-stamped on or before the Response Deadline, or
16 within sixty (60) calendar days after the Administrator mails the Class Notice (plus an additional 14
17 days for Class Members whose Class Notice is re-mailed). The written Objection shall: (1) contain
18 the name, address, and the last four digits of the Social Security number of the person objecting; (2)
19 be signed by the Participating Class Member; (3) state the grounds on which the Participating Class
20 Member is objecting as well as any documents or evidence supporting his or her objection(s); and
21 (4) be postmarked or fax stamped by the Response Deadline and returned to the Settlement
22 Administrator at the specified address or fax telephone number stated in the Class Notice.

23 14. Class Members wishing to opt-out from the Settlement Agreement must sign and
24 postmark or fax-stamp a written Request for Exclusion or Exclusion Form to the Settlement
25 Administrator on or before the Response Deadline, or within sixty (60) calendar days after the
26 Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class
27 Notice is re-mailed). The date of the postmark or fax stamp on the Request for Exclusion will be
28 the exclusive means to determine whether a Request for Exclusion has been timely submitted. A

1 written Request for Exclusion from the Settlement to the Settlement Administrator must (1) make
2 the following statement or similar statement: “I wish to exclude myself from the settlement
3 reached in the matter of *Macugay v. CHOMP*. I understand that, by excluding myself, I will not
4 receive any money (other than the PAGA Settlement Amount) from the settlement reached in this
5 matter”; (2) contain the name, address, and the last four digits of the Social Security number of the
6 person requesting exclusion; (3) be signed by the Settlement Class Member; and (4) be postmarked
7 or fax stamped by the Response Deadline and returned to the Settlement Administrator at the
8 specified address or fax telephone number stated in the Class Notice.

9 15. The procedures and requirements for submitting objections in connection with the
10 Fairness Hearing are intended to ensure the efficient administration of justice and the orderly
11 presentation of any Class Member’s objection to the Settlement Agreement, in accordance with
12 the due process rights of all Class Members.

13 16. Pending the Fairness Hearing, all proceedings in this action, other than proceedings
14 necessary to carry out or enforce the terms and conditions of the Settlement Agreement and this
15 Order, are stayed.

16 17. Counsel for the parties are hereby authorized to utilize all reasonable procedures in
17 connection with the administration of the settlement which are not materially inconsistent with
18 either this Order or the terms of the Settlement.

19 18. To facilitate administration of the Settlement pending final approval, the Court
20 hereby enjoins all Class Members from filing or prosecuting any claims, suits or administrative
21 proceedings regarding claims released by the Settlement unless and until such Class Members have
22 filed valid Requests for Exclusion with the Claims Administrator and the time for filing claims with
23 the Claims Administrator has elapsed.

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19. The Court orders the following Implementation Schedule for further proceedings:

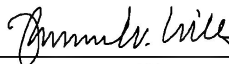
Event	Timing
Data Date: last day for Defendant to provide the Class Members' data to the Settlement Administrator	15 calendar days after the entry of this Order
Notice Date: last day for Settlement Administrator to mail Notice, Objection Form, and Exclusion Form to Class Members.	14 calendar days after the Settlement Administrator's receipt of the class data
Objection/Exclusion Deadline Date: (i) last day for class members to submit opt-outs; and (ii) last day for class members to submit objections.	60 calendar days after the date of mailing of the Notice, Objection Form, and Exclusion Form, or an additional 14 calendar days for Class Members whose Class Notice is re-mailed.
Last day for class counsel to file motion for award of attorneys' fees, reimbursement of litigation expenses, and class representative enhancement.	16 court days prior to the final fairness hearing
Last day for parties to file motion and supporting documents for final approval of class action settlement.	16 court days prior to the final fairness hearing
Last day for Plaintiff to respond to Objections	16 court days prior to the final fairness hearing
Hearing on final approval of class action settlement.	July 26, 2024, at 8:30 a.m.

20. The Fairness Hearing and related prior deadlines set forth above may, from time to time and without further notice to the Class (except those who have filed timely and valid objections), be continued or adjourned by Order of the Court.

21. As stipulated by counsel at the December 15, 2023, hearing for Preliminary Approval, the unclaimed funds shall be transmitted to the cy pres recipient Legal Aid At Work.

IT IS SO ORDERED.

Dated: December 30, 2023


Thomas W. Wills
Judge of the Superior Court

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF MONTEREY

I am an employee in the County of Los Angeles, State of California. I am over the age of 18 and not a party to this action; my business address is 8889 West Olympic Boulevard, Suite 200, Beverly Hills, California 90211.

On December 15, 2023, I served the foregoing document described as

**[REVISED PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

on all interested parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

Elizabeth R. Leitzinger, Esq. (SBN 259677)
Marco A. Lucido, Esq. (SBN 322203)
FENTON & KELLER
A Professional Corporation
2801 Monterey-Salinas Highway
Post Office Box 791
Monterey, CA 93942-0791
Phone: 831-373-1241

Counsel for Defendant:
COMMUNITY HOSPITAL OF THE
MONTEREY PENINSULA

☒ **(BY MAIL)** As follows:

I placed such envelope, with postage thereon prepaid, in the United States mail at Los Angeles, California. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day, with postage thereon fully prepaid, at Los Angeles, California, in the ordinary course of business. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation or postage meter date is more than one day after the date of deposit for mailing in this affidavit.

☒ **(STATE)** I declare, under penalty of perjury under the laws of the State of California, that the above is true and correct. Executed on December 15, 2023, at Beverly Hills, California.

/s/ K. Alondra Iglesias
Alondra Iglesias