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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

DULCE SEGURA, individually and on behalf of all others similarly situated, Plaintiff, vs. UNITED MEDICAL DOCTORS; and DOES 1 through 20, inclusive, Defendants.	Case No. 30-2022-01275395-CU-OE-CXC *Assigned for all purposes to:* *Judge Layne H. Melzer* *Dept. CX-102* **SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Date: May 1, 2025 Time: 2:00 p.m. Dept.: CX102

I. INTRODUCTION

Plaintiff Dulce Segura ("Plaintiff") provides this Supplemental Brief in response to the Court's Minute Order, dated January 24, 2025, ruling on Plaintiff's Motion for Preliminary Approval of Class Action Settlement ("Motion"). Concurrently with this Brief, Plaintiff submits the Declaration Of Jessica L. Campbell In Support Of Supplemental Brief In Support Of Plaintiff's Motion For Preliminary Approval Of Class Action Settlement ("Campbell Decl.") with the following exhibits:

- Exhibit 1: Amendment to Class Action and PAGA Settlement Agreement, with the Class Notice included as **Exhibit A** thereto.
- Exhibit 2: PAGA Notice
- Exhibit 3: Redlined version of the Class Notice
- Exhibit 4: Redlined version of the Proposed Order
- Exhibit 5: Class Member Opt-Out Form.
- Exhibit 6: Workweek Dispute Form
- Exhibit 7: Plaintiff's Cost Report
- Exhibit 8: Confirmation Email from LWDA in Response to Moving Paper Submission
- Exhibit 9: Confirmation email from LWDA confirming submission of the Amendment and supplemental brief to the LWDA.
- Exhibit 10: Declaration of Krystal Farias

II. THE COURT'S RULING AND RESPONSES THERETO

A. The Settlement.

Issue 1:Moving Papers Submission.

"Provide proof the moving papers were served on the LWDA."

Issue 1 Response:

Confirmation of the submission of the moving papers to the LWDA is attached to the Campbell Decl. as Exhibit 8.

Additionally, confirmation of submission of the Amendment and this supplemental briefing is attached to the Campbell Decl. as Exhibit 9.

Issue 2: High, Low, or Average Payments.

"The motion does not provide the court with the estimated high, low or average individual payments to the class members. The estimated average payment must be provided for preliminary approval, but if the high and low estimated payments are not available at this time, they must be provided in the motion for final approval."

Issue 2 Response:

Plaintiff's counsel estimates the average payment will be around $743. The high and low payments will be provided at final approval. (*See* Campbell Decl., ¶ 4.)

Issue 3: Opt-Out Form.

"Rather than having class members prepare their own opt-out requests and workweek dispute forms, the class notice must include an exclusion form and a workweek dispute form that class members can complete and submit. The forms should be referenced in the class notice."

Issue 3 Response:

The Parties have created an exclusion form called "Opt-Out Form" and a workweek dispute form called "Class Member Workweek/ Pay Period Dispute Form". Both forms are now referenced in the Class Notice. (*See* Campbell Decl., Exhibit A at pp. 1, 2, 3, 5, 7, 8; Exhibit 3 at pp. 1, 2, 3, 5, 7, 8; Exhibit 5; *see also* Exhibit 6)

Issue 4: Copy of the PAGA Notice

"Provide plaintiff's notice letter to the LWDA."

Issue 4 Response:

A copy of the PAGA letter that was sent to the LWDA is attached to the Campbell Decl. as Exhibit 2.

Issue 5: Related Case Search

"Counsel should provide declarations confirming whether there any other actions (class, PAGA or individual, including PAGA actions in the pre-lawsuit LWDA notice stage) that could be affected by this settlement."

Issue 5 Response:

Plaintiff's counsel checked the LWDA website on April 2, 2025 and found no related actions, and otherwise is aware of no other court actions brought against Defendant, including any that could be affected by the settlement in this action. (*See* Campbell Decl., ¶ 5.)

<u>Issue 6: Percentage of Class Members' potential (non-PAGA) recovery to wages</u>

"The allocation of only 20% of the class action portion of the settlement payments for wages appears to be low. The estimated exposure analysis in the motion allocates about 61% of the class members' potential (non-PAGA) recovery to wages. Either an increase to 33 1/3% or an adequate explanation of why the figure is not at least 33 1/3% is required."

<u>Issue 6 Response:</u>

The Parties have amended Section 3.2.4.1 to change the wage allocation to one-third as follows:

"<u>Tax Allocation of Individual Class Payments</u>. One-third (33.3%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining two-thirds (66.7%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to tax withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any taxes owed on their Individual Class Payment." (*See* Campbell Decl., Exhibit 1 at p.1, Exhibit 2 at §3.2.4.1., Exhibit A at §3.4, Exhibit 3 at §3.4.)

<u>Issue 7: Workweek Dispute Resolution</u>

"The settlement agreement in ¶¶ 7.5.2, 8.6 and 8.8.4 and the class notice in ¶ 4(3) provide that the Administrator's determination of the validity of opt-outs and each class member's allocation of workweeks will be final and not appealable or otherwise susceptible to challenge. The documents should reflect instead that the court will resolve any opt-out validity or workweek dispute not otherwise resolved by the Administrator and the parties."

<u>Issue 7 Response:</u>

The Parties have amended Sections 7.5.2, 7.6. and 7.8.4. to include the statement that "The

Court will resolve any opt-out validity or workweek". These sections read as follows:

Section 7.5.2. now reads as follows: "Requests for Exclusion (Opt-Outs). The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. If an incomplete Request for Exclusion is timely received by the Administrator, the Administrator shall, within three (3) business days, attempt to contact the individual who submitted the incomplete Request for Exclusion to attempt to cure the deficiencies. Ultimately, the Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The court will resolve any opt-out validity or workweek dispute not otherwise resolved by the Administrator and the Parties."

Section 7.6. now reads as follows: "Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct as long as they are consistent with the Class Data. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods, and the Administrator's determination of the challenges, to Defense Counsel and Class Counsel. The Court will resolve any opt-out validity or workweek dispute not otherwise resolved by the Administrator and the Parties."

Section 7.8.4 now reads as follows: "Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Court will resolve any opt-out validity or workweek dispute not otherwise resolved by the Administrator and the Parties."

(*See* Campbell Decl., Exhibit 1 at p. 2-3, Exhibit 2 at §§ 7.5.2, 7.6. 7.8.4., Exhibit A at § 4.3, Exhibit 3 at § 4.3)

Issue 8: Class Notice Translation.

"There is no information as to how many of the class members or aggrieved employees speak and/or read English, which might require that the class notice also be in another language."

Issue 8 Response:

Defendant has provided a declaration confirming all of the class members and aggrieved employees, are required to, and actually do, speak, read, understand and use English as part of their regular work duties for Defendant. Similarly, none of the employees could perform their work for Defendant if they could only read, understand, and use a language other than English. (*See* Farias Decl., ¶11-17.)

Issue 9: Release Language.

"The releases contain language that renders them overbroad. In general, the releases should be limited to claims pleaded in the First Amended Complaint or that could have been pleaded based upon the facts alleged in the First Amended Complaint. Amaro vs. Anaheim Arena Management, LLC (2021) 69 Cal. App. 5th 521, 537-38. Specifically, the following language should be deleted from the settlement (and the notice):

¶ 5.2 ("in any way reasonably relating to or arising from their work for Defendant" and "in or that arise out of the facts alleged");

¶ 5.3 ("in any way reasonably relating to or arising from their work for Defendant", "or that arise out of the facts alleged in"," in any way relating to or", and "or that arise out of the facts alleged in");

¶ 5.4 ("in any way relating to or arising" and "or that arise out of the facts alleged in")"

Issue 9 Response:

Section 5.2 now reads as follows: "Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, fully and finally release, acquit, remise, and forever discharge Released Parties from all Claims for unpaid wages, unpaid overtime wages, damages, reimbursements, civil and statutory penalties, premium payments, liquidated damages, punitive damages, interest, attorneys' fees, costs of litigation, restitution, and equitable relief, pleaded in the First Amended Complaint or that could have been pleaded based upon the facts alleged in the First Amended Complaint. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period."

Section 5.3. now reads as follows: "<u>Release by Participating Class Members Who Are Aggrieved Employees</u>: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, fully and finally release, acquit, remise, and forever discharge Released Parties from: (a) all Claims for unpaid wages, unpaid overtime wages, damages, reimbursements, civil and statutory penalties, premium payments, liquidated damages, punitive damages, interest, attorneys' fees, costs of litigation, restitution, and equitable relief, pleaded in the First Amended Complaint or that could have been pleaded based upon the facts alleged in the First Amended Complaint; and (b) all Claims for PAGA Penalties arising during the PAGA Period that were pleaded in the First Amended Complaint or that could have been pleaded based upon the facts alleged in the First Amended Complaint and the PAGA Notice."

Section 5.4 now reads as follows: "<u>Release by Non-Participating Class Members Who Are Aggrieved Employees</u>: All Non-Participating Class Members who are Aggrieved Employees are deemed to fully and finally release, acquit, remise, and forever discharge, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, Released Parties from all claims for PAGA Penalties during the PAGA Period that were pleaded in the First Amended Complaint or that could have been pleaded based upon the facts alleged in the First Amended Complaint and the PAGA Notice."

(*See* Campbell Decl., Exhibit 1 at § 5.2., § 5.3., § 5.4., Exhibit 2 at § 5.2., § 5.3., § 5.4)

Issue 10: Administrator Bid.

"Provide a bid or quote from the proposed Administrator."

Issue 10 Response:

The administrator has provided a declaration which provides a breakdown of their bid. (*See* Declaration of Jodey Lawrence, at Exhibit B.)

B. Proposed Order.

Issue 11:Final Approval Date.

"The Proposed Order should include a proposed date for final approval."

Issue 11 Response:

The Proposed Order now includes October 9, 2025 at 2:00 p.m. as the proposed date for the Court hearing on final approval. (*See* Campbell Decl., Exhibit 4 at ¶ 13)

C. Other Issues

Issue 12: Plaintiff Incentive.

"Plaintiff seeks $10,000. A declaration has been filed (ROA 70), but it does not provide a time commitment estimate and is otherwise generic."

Issue 12 Response:

Plaintiff spent approximately 70-80 hours on tasks related to prosecution of this case. In addition to her prior declaration, this filing includes a supplemental declaration from Plaintiff explaining her contributions more specifically. For example, Plaintiff spoke to former co-workers and obtained their consent to act as witnesses in the case. This case did not go straight to mediation, so Plaintiff worked with counsel to draft her discovery responses to the discovery requests served by Defendant. Her deposition was also noticed before the Parties booked a mediation, so she spent time preparing for her deposition through discussions with her counsel. Once mediation was booked, she discussed the case theories and settlement strategy with counsel. After the settlement was reached, she spent time reviewing the agreement and seeking clarification from her counsel regarding the settlement terms and process for approval. Overall, in addition to the numerous phone calls with counsel, Plaintiff exchanged almost 100 emails with counsel, committing more time than a typical class representative to ensure the case proceeded rapidly and a fair result was obtained for the class. (*See generally*, Segura Decl.)

<u>Issue 13: Investigation.</u>

"It is unclear what percentage of Class Members' data was provided and how it was selected, to the extent it was a sample."

<u>Issue 13 Response:</u>

There was no sample. The Class Member data was gathered and produced for all Class Members through March 1, 2023. (*See* Campbell Decl., ¶ 7.)

<u>Issue 14: Valuation.</u>

"None of the discounting is quantified and realistic exposure numbers are not provided."

<u>Issue 14 Response:</u>

Plaintiff's counsel has quantified each claim as follows to provide realistic exposure numbers:

Minimum Wage and Overtime Claims: Plaintiff's minimum wage and overtime claims were premised on the theories that Defendant failed to incorporate non-discretionary bonuses into overtime wages and sick pay. Plaintiff calculated that the claims for failure to incorporate non-discretionary bonuses into the overtime wages and sick pay rate were approximately $25,911.00, combined. Additionally, Plaintiff argued that Defendant maintained illegal rounding practices of the total hours worked. If Plaintiff could prove this claim, then $3,543.00 could be added to the damages. However, Defendant argued that the bonuses were discretionary and that Defendant maintained legal time keeping practices, thus no violation occurred. As such, Plaintiff estimated there was an 80% chance of success at class certification and 60% chance of success on the merits at trial, rendering the claim worth approximately $14,138.00. (Campbell Decl., ¶ 9.)

Meal Period Claims: Plaintiff's meal period claim was premised on the theory that Defendant failed to maintain legal meal period policies and practices. This claim was potentially worth about $1,940,668.00, in light of the fact that Defendant maintained illegal meal period policies and due to the violations shown in the records. However, Defendant argued that it provided compliant meal breaks to its employees in practice. Thus, Plaintiff discounted this claim for the risk that the damages could at least be reduced, and because the claim would have relied on Class Member testimony, making it a riskier claim at class certification and liability stages. At the liability stage, Class Members could testify that they voluntarily waived meal periods, invalidating those claims. As such, Plaintiff assumed there was a 60% chance of success at class certification and 20% chance of success on the merits at trial, rendering the claim worth approximately $232,880.16. (Campbell Decl., ¶ 10.)

Rest Break Claim: Plaintiff's rest period claim was premised on the theory that Defendant failed to maintain legal rest period policies and practices. This claim was potentially worth about $4,305,170.00. Plaintiff alleged that Class Members were unable to take their rest breaks or their rest breaks were interrupted. However, Defendant argued that Class Members were actually provided their timely rest breaks. As such, this claim would have relied on Class Member testimony, making it a riskier claim at class certification and liability stages. As such, Plaintiff's counsel believed there was a 20% chance succeeding at class certification and a 10% chance at trial, resulting in a value of $86,103.40. (Campbell Decl., ¶ 11.)

Derivative Waiting Time and Wage Statement Penalties: Plaintiff's Counsel also considered the arguable presence of various penalties, and weighed the potential recoveries against probable defenses. Specifically, Defendant could argue that Plaintiff could not prove the "willful" prong needed to obtain waiting time penalties under Labor Code § 203. Additionally, Defendant could argue that Plaintiff could not show that Class Members suffered an "injury" as a result of wage statement violations, as required by Labor Code § 226, or that the wage statements correctly reflected the wages paid and owed. Moreover, Plaintiff would not recover any of these derivative penalties if she failed to prove the underlying claims. Thus, although these waiting time penalties could have reached $1,970,960.00 and the wage statement penalties could have reached $848,200.00 if Plaintiff prevailed on every claim, they were heavily discounted. Plaintiff discounted these claims assuming the waiting time claim had an 80% chance of class certification (to match the unpaid wage claim) but then only a 20% chance at the merits since Plaintiff would have to prove the intent requirement at that stage, resulting in a realistic value of $315,353.60; and the wage statement claim had a 60% chance of class certification (matching the meal period claim since the unpaid wage claim would occur in fewer pay periods) but then only a 10% chance at the merits given the intent requirement, resulting in a realistic value of $50,892.00 for the wage statement claim. (Campbell Decl., ¶ 12.)

Issue 15: UCL.

"UCL is not separately valued"

Issue 15 Response:

UCL carries a 4-year statute of limitation whereas most wage claims only allow for a 3-year statute, therefore the UCL claim added one year or 365 days of value to the wage claims. The entire class period is 2061 days. The UCL claim added 365 days which makes up 18% of the class period. Accounting for each wage claim, the value added by the UCL is about $1.13 million as follows:

- Minimum and Overtime Claim potential value is increased by approximately $5,301.72;
- Meal Period Claim potential value is increased by approximately $349,320.24;
- Rest Period Claim potential value is increased by approximately $774,930.60.

(*See* Campbell Decl., ¶ 6.)

Issue 16: Counsel Fees.

"Counsel seeks 1/3 in fees and up to $25K in costs. There is no backup/evidence provided at this time."

Issue 16 Response:

Plaintiff's counsel are submitting backup/evidence with this brief showing they currently have spent 283.6 hours on the case resulting in $168,615.00 in fees, and their costs total $22,630.27. (*See* Campbell Decl., ¶ 13. Exhibit 7.)

Dated: April 7, 2025

AEGIS LAW FIRM, PC

By /s/ Jessica L. Campbell
Jessica L. Campbell
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