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9 Attorneys for Plaintiffs ANGELICA ESMERALDA LEYVA and

10 MICHELLE DELAROSA, on behalf of themselves

11 and all others similarly situated and aggrieved

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **FOR THE COUNTY OF MERCED**

14 ANGELICA ESMERALDA LEYVA and
15 MICHELLE DELAROSA as individuals, and
16 on behalf of all others similarly situated and
17 aggrieved,

18 Plaintiffs,

19 v.

20 COMMUNITY HEALTH CENTERS OF
21 AMERICA, a California corporation; and
22 DOES 1 through 100, inclusive,

23 Defendants.

CASE NO.: 23CV-03293

[Assigned for all purposes to Hon. Stephanie
Jamieson, in Dept. 8]

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT AND CERTIFYING
CLASS FOR SETTLEMENT PURPOSES
ONLY**

1 This Court, having considered the Motion of plaintiffs Angelica Esmeralda Leyva and
2 Michelle Delarosa (collectively, “Plaintiffs”) for Preliminary Approval of Class and Representative
3 Action Settlement and Provisional Class Certification for Settlement Purposes Only (“Motion for
4 Preliminary Approval”), the Declarations of Vedang J. Patel, David D. Bibiyan, Angelica Esmeralda
5 Leyva, Michelle Delarosa, and Sean Hartranft, the Class Action and PAGA Settlement Agreement
6 (“Settlement,” “Agreement” or “Settlement Agreement”), the proposed Notice of Class Action
7 Settlement and Hearing Date for Final Court Approval (“Class Notice” or “Notice”), and other
8 documents submitted in support of the Motion for Preliminary Approval, hereby **ORDERS,**
9 **ADJUDGES AND DECREES THAT:**

10 1. The definitions set out in the Settlement Agreement are incorporated by reference
11 into this Order; all terms defined therein shall have the same meaning in this Order.

12 2. The Court certifies the following settlement class (“Class” and “Class Members”) for
13 the purpose of settlement only: all current and former hourly-paid or non-exempt employees of
14 Community Health Centers of America (“Defendant”) within the State of California at any time
15 during the period from September 12, 2019, through October 27, 2025 (“Class Period”).

16 3. The Court preliminarily appoints the named plaintiffs Angelica Esmeralda Leyva and
17 Michelle Delarosa as Class Representatives; and David D. Bibiyan and Vedang J. Patel of Bibiyan
18 Law Group, P.C.; Emil Davtyan and Alvin B. Lindsay of D. Law, Inc.; David Yeremian of David
19 Yeremian & Associates, Inc.; and Peggy Reali and Walter Haines of United Employees Law Group,
20 PC as Class Counsel.

21 4. The Court preliminarily approves the proposed class settlement upon the terms and
22 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
23 settlement appears to be within the range of reasonableness of settlement that could ultimately be
24 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
25 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
26 probable outcome of further litigation relating to liability and damages issues. It further appears that
27 extensive and costly investigation and research have been conducted such that counsel for the parties
28 at this time are reasonably able to evaluate their respective positions. It further appears to the Court

1 that the settlement at this time will avoid substantial additional costs to all parties, as well as the
2 delay and risks that would be presented by the further prosecution of the Action. It further appears
3 that the settlement has been reached as the result of intensive, non-collusive and arms-length
4 negotiations utilizing an experienced third-party neutral.

5 5. The Court approves, as to form and content, the Class Notice that has been submitted
6 herewith.

7 6. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to
8 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The
9 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies
10 with the requirements of law and appears to be the best notice practicable under the circumstances.

11 7. The Court hereby preliminarily approves the definition and disposition of the Gross
12 Settlement Amount of \$450,000.00, which is inclusive of: attorneys' fees of up to one third (1/3) of
13 the Gross Settlement Amount, which, if not escalated pursuant to the Agreement, amounts to
14 \$150,000.00, in addition to reasonably incurred litigation costs; service award of up to \$10,000.00
15 to each Plaintiff (totaling \$20,000); costs of settlement administration of no more than \$6,750.00;
16 and Private Attorneys General Act of 2004 ("PAGA") penalties in the amount of \$40,000.00, of
17 which \$30,000.00 (75%) will be paid to the Labor and Workforce Development Agency ("LWDA")
18 and \$10,000.00 (25%) to Aggrieved Employees.

19 8. "Aggrieved Employees" means all current and former hourly-paid or non-exempt
20 employees of Defendant within the State of California at any time during the period from September
21 12, 2022, through the end of the Class Period ("PAGA Period").

22 9. The Gross Settlement Amount expressly excludes Employer Taxes, which will be
23 paid separately and apart by Defendant on the wages portion of the Gross Settlement Amount.

24 10. Class Member's "Workweek" shall mean any week during which a Class Member
25 worked for Defendant for at least one (1) day during the Class Period.

26 11. Based on its records, Defendant estimates that there are no more than 8,536
27 Workweeks worked during the Class Period and that there are no more than 4,702 PAGA Pay
28 Periods during the PAGA Period. In the event that the number of Workweeks worked through the

1 Class Period increases by more than ten percent (10%) or more than 9,390, then at Defendant's
2 election either the: (1) Gross Settlement Amount shall increase proportionally by the Workweeks
3 worked, in excess of 9,390 multiplied by the Workweek Value¹; or (2) the Class Period shall end
4 on the date the number of Workweeks reaches, but does not exceed, 9,390. If it is determined that
5 the number of PAGA Pay Periods through the PAGA Period increases by more than ten percent
6 (10%) or more than 5,172 then, at Defendant's election, either the: (1) Gross Settlement Amount
7 shall increase proportionally by the Pay Periods worked, in excess of 5,172 multiplied by the Pay
8 Period Value²; or (2) the PAGA Pay Period shall end on the date the number of Pay Periods reaches,
9 but does not exceed, 5,172.

10 12. The Court deems Apex Class Action Administration ("Apex" or "Administrator"),
11 the Administrator, and preliminarily approves payment of administrative costs, not to exceed
12 \$6,750.00 out of the Gross Settlement Amount for services to be rendered by Apex on behalf of the
13 class.

14 13. No later than fourteen (14) calendar days after service on Defense Counsel of the
15 Court's order in connection with grant of Preliminary Approval of the Settlement, Defendant will
16 deliver the Class Data to the Administrator in the form of a Microsoft Excel spreadsheet. "Class
17 Data" means Class Members' identifying information in Defendant's possession, including the
18 Class Member's: (a) full name; (b) last-known mailing address; (c) Social Security Number; and (d)
19 number of Workweeks and PAGA Pay Periods.

20 14. To protect Class Members' privacy rights, the Administrator must maintain the Class
21 Data in confidence, use the Class Data only for purposes of the Settlement and for no other purpose,
22 and restrict access to the Class Data to Administrator employees who need access to the Class Data
23 to effect and perform under the Agreement.

24 15. Before mailing Class Notices, the Administrator shall update Class Member
25 addresses using the NCOA.

26
27 ¹ The Workweek Value shall be calculated by dividing the originally agreed-upon Gross Settlement Amount
(\$450,000.00) by 8,536, which amounts to a Workweek Value of \$52.72.

28 ² The Pay Period Value shall be calculated by dividing the originally agreed-upon Gross Settlement Amount by 4,702,
which amounts to a Workweek Value of \$95.70.

1 16. Using best efforts to perform as soon as possible, and in no event later than fourteen
2 (14) calendar days after receiving the Class Data, the Administrator will send to all Class Members
3 identified in the Class Data the Class Notice via first-class USPS mail.

4 17. “Response Deadline” means thirty (30) calendar days after the Administrator mails
5 Notice to Class Members and shall be the last date on which Class Members may: (a) fax, email, or
6 mail Requests for Exclusion from the Settlement; or (b) fax, email, or mail his or her Objection to
7 the Settlement. Class Members to whom Class Notices are resent after having been returned
8 undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the
9 Response Deadline has expired.

10 18. Class Members who wish to exclude themselves from the Class portion of the
11 Settlement must send the Administrator by fax, email, or mail a signed written Request for Exclusion
12 no later than the Response Deadline. Consistent with PAGA, there shall be no right to opt out of the
13 PAGA portion of this settlement. A Request for Exclusion is a letter from a Class Member or his/her
14 representative that reasonably communicates the Class Member’s election to be excluded from the
15 Settlement and includes the Class Member’s: (i) full name; (ii) present address; (iii) email address
16 or telephone number; and (iv) simple statement electing to be excluded from the Settlement. To be
17 valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response
18 Deadline.

19 19. Every Class Member who does not submit a timely and valid Request for Exclusion
20 is deemed to be a Participating Class Member under the Agreement, entitled to all benefits, and
21 bound by all terms and conditions of the Settlement, including the releases under Section E.2. and
22 Section E.3. of the Agreement regardless of whether they receive the Class Notice or object to the
23 Settlement.

24 20. A Participating Class Member who elects to send a written objection to the
25 Administrator must do so no later than the Response Deadline. Participating Class Members may
26 send signed written objections to the Administrator by fax, email, or mail. The written objection
27 must: (i) indicate what the Class Member is objecting to; (ii) explain why the Class Member is
28 objecting; (iii) include any fact that support the objection; and (iv) include the Class Member’s full

1 name, present address, and email address or telephone number. Only Participating Class Members
2 may object to the class action components of the Settlement and/or the Settlement Agreement,
3 including contesting the fairness of the Settlement Agreement, and/or amounts requested for the
4 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Class
5 Representative Service Payment. Participating Class Members may choose to appear in Court (or
6 hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing.

7 21. If a Class Member submits an Objection and a Request for Exclusion, the Request
8 for Exclusion will control, and the Objection will be overruled.

9 22. Each Class Member shall have until the Response Deadline to challenge the number
10 of Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice.
11 The Class Member may challenge the allocation of Workweeks and PAGA Pay Periods (if any) by
12 communicating with the Administrator via fax, email, or mail.

13 23. Defendant shall fund the Gross Settlement Amount and all employer payroll taxes
14 owed on the Wage Portion of the Individual Class Payments by transmitting the funds to the
15 Administrator no later than the Effective Date. "Effective Date" means the later of the following
16 dates: (a) if no objection to the settlement is made, then no later than twenty-one (21) calendar days
17 after service on Defense Counsel of the Court's order in connection with Final Approval; (b) if an
18 objection is made but no appeal is filed, then no later than twenty-one (21) calendar days after the
19 running of the appeal period; or (c) if an appeal is filed, then no later than twenty-one (21) calendar
20 days after the final judgment becomes final and is no longer subject to appeal.

21 24. For any Class Member whose check is uncashed and cancelled after the void date
22 (180 calendar days after the date of mailing), the Administrator shall transmit the funds represented
23 by such checks to the Alliance for Children's Rights, a recognized *cy pres*, in the name of the Class
24 Member, thereby leaving no "unpaid residue" subject to the requirements of Code of Civil Procedure
25 section 384, subdivision (b).

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1 25. All papers filed in support of final approval, including supporting documents for
2 attorneys' fees and costs, shall be filed by _____.

3 26. A Final Approval Hearing shall be held with the Court on _____
4 at _____ in Department 8 of the above-entitled Court to determine: (1) whether the proposed
5 settlement is fair, reasonable and adequate, and should be finally approved by the Court; (2) the
6 amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the amounts of service
7 award to the Class Representatives; (4) the amount to be paid to the Administrator; and (5) the
8 amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.

9
10 **IT IS SO ORDERED.**

11
12 Dated: _____

Judge of the Superior Court