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Attorneys for Plaintiff Bryan Zuniga

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

BRYAN ZUNIGA, individually and on behalf
of others similarly situated,

vs.

INOVA DIAGNOSTICS, INC., a California
corporation; WERFEN USA LLC, a
Massachusetts limited liability company; and
DOES 1 through 25, inclusive,

Defendants.

Case No. 37-2023-00055201-CU-OE-CTL
(Consolidated With Case No.: 37-2024-
00007407-CU-OE-CTL)

Honorable Katherine Bacal
Department C-63

**SUPPLEMENTAL DECLARATION OF
ANNABEL BLANCHARD IN SUPPORT OF
PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: August 22, 2025
Time: 11:00 a.m.
Dept.: C-63

Complaint Filed: December 21, 2023
Trial Date: Not Set

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1. I am an attorney duly licensed to practice law in all Courts of the State of California. I am a member of Blackstone Law, APC (“Class Counsel”), attorneys of record for Plaintiff Bryan Zuniga (“Plaintiff”).

3. On July 17, 2025 Plaintiff filed his Motion for Preliminary Approval of Class Action and PAGA Settlement (“Motion”), which was set for a hearing on August 8, 2025. On August 7, 2025 the Court issued a Tentative Ruling (the “Tentative Ruling”) attached hereto as **Exhibit 1**, wherein the Court indicated how it might rule, and requested additional documents and information related to the Motion and the settlement agreement. At the hearing on August 8, 2025, the Court heard from the Parties and noted that plaintiff’s counsel wished to submit supplemental briefing. The Court then continued the hearing on Plaintiff’s Motion to August 22, 2025 at 11:00 a.m. in order to allow the Parties more time to address the Court’s inquiries (*see* August 8, 2025 Minute Order attached hereto as **Exhibit 2**). Plaintiff’s counsel now submits this supplemental declaration in order to address the Court’s concerns.

a. The Parties have executed an amendment to the settlement agreement such that the Class List will now only contain the last four (4) digits of the Class Members' Social Security numbers. The Amendment No. 1 to the Class and PAGA Settlement Agreement and Release is attached hereto as **Exhibit 3**.

1

**DECLARATION OF ANNABEL BLANCHARD IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

1 declaration of Annabel Blanchard where it states in bold “Error! Reference source not found”?

2 a. In lieu of the text “Error! Reference source not found” in paragraph 36, the word
3 “Defendants” should be inserted.

4 b. In paragraph 37, the text “Error! Reference source not found” should simply be
5 deleted.

6 6. Issue 3: What authority or evidence supports plaintiff’s argument that it is “common in
7 the marketplace” to award 35% of the common fund [for attorneys’ fees] in San Diego County?

8 a. Counsel in similar class action and representative matters in San Diego County
9 have routinely been awarded at least thirty-five percent (35%) fee requests. (See, e.g., *Coombs v.*
10 *Imaging Healthcare Specialists, LLC*, San Diego County Superior Court, Case No. 37-2020-
11 00043781-CU-OE-CTL, final approval granted June 16, 2023 granting 35% fee request; *Nguyen Ngo,*
12 *et al. v. Medimpact Healthcare System*, San Diego Superior Court, Case No. 37-2020-00015657-CU-
13 OE-CTL, final approval granted June 24, 2022 granting 35% fee request; *Beltran v. San Diego County*
14 *Credit Union*, San Deigo County Superior Court, Case No. 37-2019-00015722-CU-OE-CTL, final
15 approval granted on January 20, 2023, granting 35% fee request; *Fuentes v. Apex Contracting and*
16 *Restoration*, San Diego County Superior Court, Case No. 37-2022-00001417-CU-OE-CTL, final
17 approval granted on August 23, 2023, granting 35% fee request).

18 7. Issue 4: Did plaintiff intend to cite to Labor Code section 2699(l) in the proposed order
19 at paragraph 4?

20 a. Plaintiff intended to cite to Labor Code section 2699(e)(1) which reads: “For
21 purposes of this part, whenever the Labor and Workforce Development Agency, or any of its
22 departments, divisions, commissions, boards, agencies, or employees, has discretion to assess a civil
23 penalty or seek injunctive relief, a court is authorized to exercise the same discretion, subject to the
24 same limitations and conditions, to assess a civil penalty and award injunctive relief.”

25 8. Issue 5: Did plaintiff present adequate evidence to justify a \$10,000 service award,
26 given that it appears to award over \$200 per hour for his time?

27 a. The Settlement provides for a service award of \$10,000 to recognize Plaintiff’s
28 substantial effort, risk, and initiative in assisting with the prosecution and resolution of this case. The

1 proposed service award is fair and reasonable under the *Van Vranken* five-factor test. *Van Vranken v.*
2 *Atl. Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995). The service award accounts for less than
3 one-third of one percent (0.32%) of the Gross Settlement Amount. Without Plaintiff's initiative in
4 pursuing this case, there likely would have been no recovery. Plaintiff contributed invaluable
5 information which catalyzed the case, and was crucial to Class Counsel's developing a litigation
6 strategy. Plaintiff was also helpful in preparing for mediation, which ultimately resulted in the
7 Settlement. Plaintiff's steadfast contributions in light of the risks and stresses of the case should be
8 acknowledged. Additionally, the Court has granted service awards of at least \$10,000 to plaintiffs in
9 several similar wage and hour cases. (See, e.g. *Harvey v. Advisors Mortgage Group, LLC*, San Diego
10 Superior Court Case No. 37-2021-00019330-CU-OE-CTL [Plaintiff awarded \$10,000 enhancement
11 and had contributed approximately 50 hours to pursuing the litigation]; *Evers v. La-Z Boy*
12 *Incorporated*, San Diego Superior Court Case No. 37-2021-00047960-CU-OE-CTL [\$10,000
13 enhancement awarded]; *Barajas v. Cancer Center Oncology Medical Group*, San Diego Superior
14 Court Case No. 37-2023-00029649-CU-OE-CTL [\$10,000 enhancement awarded]; *Tredo v. Ademco*
15 *Inc.*, San Diego Superior Court Case No. 37-2023-00027207-CU-OE-CTL [\$10,000 enhancement
16 awarded]; *Lira v. Anheiser-Bush*, San Diego Superior Court Case No. 37-2023-00038074-CU-OE-
17 CTL [\$10,000 enhancement awarded]).

18 9. Issue 6: The calculation of the Net Settlement Amount appears not to account for
19 \$926,850. Please explain.

20 a. The calculation in the Motion was in error. In fact, the Net Settlement is
21 estimated at \$1,859,175.00 before withholdings for employee-side and employer-side taxes.

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

24 Executed on August 15, 2025, at Beverly Hills, California

25
26 *A. Blanchard*

27 Annabel Blanchard
28

EXHIBIT 1

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO
CENTRAL COURTHOUSE
TENTATIVE RULINGS - August 07, 2025

HEARING DATE: 08/08/25 HEARING TIME: 1:30PM DEPT.: C-63

JUDICIAL OFFICER: BACAL, KATHERINE A.

CASE NO.:37-2023-00055201-CU-OE-CTL

CASE TITLE: Zuniga vs Inova Diagnostics Inc [E-FILE]

CASE TYPE: (U)Other Employment

HEARING TYPE: Motion Hearing

TENTATIVE RULING

The Court to hear from the parties. In particular, the Court would like to hear from the parties on the following questions. If any party would like to provide supplemental briefing in response to the questions, then please alert the Court at the beginning of the hearing.

1. Does the claims administrator need the settlement class members' entire social security numbers (see MPA at p.18) or is there an alternative less intrusive method?
2. What did plaintiff's counsel intend to reference at paragraphs 36 and 37 of the declaration of Annabel Blanchard where it states in bold "Error! Reference source not found"?
3. Plaintiff states that he will seek 35% of the gross settlement amount in attorneys' fees, which he argues is "common in the marketplace." MPA at p.18. What authority or evidence supports plaintiff's argument that it is "common in the marketplace" to award 35% of the common fund in San Diego County?
4. Did plaintiff intend to cite to Labor Code section 2699(l) in the proposed order at paragraph 4?
5. Incentive payments to named class plaintiffs "must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit." *Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1395. Did plaintiff present adequate evidence to justify a \$10,000 service award, given that it appears to award over \$200 per hour for his time?
6. Below are the figures the Court ascertained from the moving papers regarding the allocation and funding from the gross settlement amount. It appears that \$926,850 is not accounted for and allocated. Please explain and provide citations to declarations and/or evidence.

\$3,089,500	Gross settlement amount
(\$1,081,325.00)	Attorney fee request
(\$30,000)	Litigation costs
(\$10,000)	Enhancement award
(\$9,000)	Administration costs
(\$100,000)	PAGA portion
(\$932,325)	Net settlement amount

\$926,850

EXHIBIT 2

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 08/08/2025

TIME: 1:30 PM

DEPT: C-63

JUDICIAL OFFICER: KATHERINE A. BACAL

CLERK: T. Crandall

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: J. Palomo

CASE NO: **37-2023-00055201-CU-OE-CTL** CASE INIT.DATE: 12/21/2023

CASE TITLE: **Zuniga vs Inova Diagnostics Inc [E-FILE]**

CASE CATEGORY: Civil CASE TYPE: (U)Other Employment

HEARING TYPE: Motion Hearing

APPEARANCES

ERIC AKIRA TATE, Attorney for Defendant(s), present via remote video appearance.

Alexandra Rosa, attorney for Bryan Zuniga, Plaintiff, present via remote video appearance.

Jasmine Kianfard, attorney for Bryan Zuniga, Plaintiff, present via remote video appearance.

Upon the Court's inquiry, Plaintiff's counsel indicates she would like to submit supplemental briefing.

Supplemental briefing papers are due by 8/15/2025.

Motion Hearing (Civil) Re: Preliminary Approval is scheduled for 8/22/2025 at 11:00AM in Department C-63 before Judge Katherine A. Bacal.

Notice is waived.

****Clerk's Note:** The motion time assigned at the hearing was 1:30PM. The clerk received a call on behalf of Attorney Tate that counsel stipulated to move the hearing to 11:00AM.**

DATE: 08/08/2025

MINUTE ORDER

Page 1

Add to Cart

EXHIBIT 3

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INOVA DIAGNOSTICS, INC. and
16 WERFEN USA LLC

17
18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 COUNTY OF SAN DIEGO

20 BRYAN ZUNIGA, individually, and on behalf
of others similarly situated,

21 Plaintiff,

22 v.

23 INOVA DIAGNOSTICS, INC., a California
corporation; WERFEN USA LLC, a
24 Massachusetts limited liability company; and
DOES 1 through 25, inclusive,

25 Defendants.

Case No.: 37-2023-00055201-CU-OE-CTL

Consolidated With Case No.: 37-2024-
00007407-CU-OE-CTL

(Assigned For All Purposes to the Honorable
Katherine Bacal, Dept. C-63)

**AMENDMENT NO. 1 TO CLASS AND
PAGA SETTLEMENT AGREEMENT
AND RELEASE**

Date Action Filed: December 21, 2023
Trial Date: Not Yet Set

1 **AMENDMENT NO. 1 TO**

2 **CLASS AND PAGA SETTLEMENT AGREEMENT AND RELEASE**

3 This Amendment No. 1 to the Class and PAGA Settlement Agreement and Release is
4 entered into between Plaintiff Bryan Zuniga (“Plaintiff”) and Inova Diagnostics, Inc. (“Inova”)
5 and Werfen USA LLC (“Werfen”) (together, “Defendants”), (collectively, the “Parties”) pursuant
6 to Section 6.13 of the Class and PAGA Settlement Agreement and Release (“Original Agreement”)
7 entered into between the Parties on July 17, 2025.
8

9 **A. Page 14, Section 4.2.1 of the Original Agreement is hereby amended to state as**
10 **follows:**

11 **Information Regarding Class Members.** Within fifteen (15) business days following
12 entry of the Preliminary Approval Order, Defendants will provide the Settlement
13 Administrator the following information with respect to each Class Member: (i) name,
14 (ii) last known residence address, (iii) last four (4) digits of each Class Member’s Social
15 Security number, (iv) dates of employment, (v) individual number of Class Work Weeks
16 during the Settlement Period, and (vi) individual number of PAGA Pay Periods during the
17 PAGA Period (if applicable). Defendants will provide this information in spreadsheet
18 format. The information Defendants provide to the Settlement Administrator, along with
19 any updated contact information identified by the Settlement Administrator as set forth in
20 Sections 4.2.2 and 4.2.3, below, shall be used solely to administer the Class Notice and
21 Plan of Allocation process described herein, shall remain confidential, and shall not be
22 disclosed to anyone, except pursuant to the express written authorization of Defendants or
23 the individual in question, by order of the Court, or to the extent necessary to fulfill the
24 Settlement Administrator’s reporting obligations hereunder.

25 DATED: August 14, 2025

BLACKSTONE LAW, APC

26
27 By: A. Blanchard
28 Barbara DuVan-Clarke
Annabel Blanchard
Attorneys for Plaintiff Bryan Zuniga

1 DATED: August 14, 2025

MORRISON & FOERSTER LLP

2
3 By: 
4
5 Eric Akira Tate
6 William N. Lawther
7 *Attorneys for Defendants* Inova Diagnostics,
8 Inc. and Werfen USA LLC
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