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Superior Court of California  
County of Los Angeles

JUN 26 2019

Sherri R. Carler, Executive Officer/Clerk of Court  
By: Dejane Wortham, Deputy

AARON C. GUNDZIK (State Bar No. 132137)  
REBECCA G. GUNDZIK (State Bar No. 138446)  
GARTENBERG GELFAND HAYTON LLP  
15260 Ventura Blvd., Suite 1920  
Sherman Oaks, CA 91403  
Telephone: (213) 542-2100  
Facsimile: (213) 542-2101

MARSHALL A. CASKEY (State Bar No. 657602)  
DANIEL M. HOLZMAN (State Bar No. 1087602)  
CASKEY & HOLZMAN  
24025 Park Sorrento, Ste. 400  
Calabasas, CA 91302  
Telephone: (818) 657-1070  
Facsimile: (818) 297-1775

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LOS ANGELES SUPERIOR COURT

MAY 31 2019

S. DREW

Attorneys for Plaintiffs David Kuenstle and Lukas Austin-Page, individually  
and on behalf of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

DAVID KUENSTLE and LUKAS AUSTIN-  
PAGE, individually and on behalf of all others  
similarly situated,

Plaintiff,

vs.

CHILDREN'S HOSPITAL LOS ANGELES  
MEDICAL GROUP, INC., a California  
corporation; and DOES 1 through 25,

Defendants.

Case No.: BC653858

Assigned to Hon. Ann I. Jones  
Department SSC11

~~PROPOSED~~ ORDER OF FINAL  
APPROVAL OF CLASS ACTION  
SETTLEMENT

Date: June 26, 2019

Time: 10:00 a.m.

Dept.: 11 (Spring Street Courthouse)

Complaint Filed: March 13, 2017

The Court, having considered whether to order final approval of the settlement of  
this matter pursuant to the First Amended Stipulation of Class Action Settlement (the  
"Settlement Agreement" or "Stipulation"), having granted preliminary approval on March  
20, 2019, having directed that notice be given to all Class Members of preliminary approval  
of the Settlement Agreement and the final approval hearing and the right to be excluded  
from or object to the settlement, having read and considered all of the papers of the parties

1 and their counsel, and having received no objections to the settlement, and good cause  
2 appearing therefor,

3 IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

4 1. The Motion for Final Approval of the settlement is granted;

5 2. The parties to this action are Plaintiffs David Kuenstle and Lukas Austin-  
6 Page ("Plaintiffs") and Defendant Children's Hospital Los Angeles Medical Group, Inc.  
7 ("CHLAMG" or "Defendant").

8 3. After participating in an arms' length mediation, Plaintiffs and Defendant  
9 have agreed to a proposed settlement of this action on behalf of the Class Plaintiffs seek to  
10 represent. The terms of the proposed settlement are fully set forth in the First Amended  
11 Stipulation of Class Action Settlement (the "Settlement Agreement" or "Stipulation")  
12 attached as Exhibit A to the Declaration of Aaron Gundzik in Support of Motion for Final  
13 Approval of Class Action Settlement.

14 4. This Court has jurisdiction over the subject matter of this action (the  
15 "Action") and over all parties to the Action, including the Representative Plaintiffs and the  
16 Class Members.

17 5. The terms used in this Order have the meaning assigned to them in the  
18 parties' Settlement Agreement.

19 6. The Court finds that the Settlement Class consists of:

20 all persons during the Class Period (which is March 13, 2013 through November 5,  
21 2018) employed by Defendant, either directly or through a professional corporation,  
22 who are or were licensed physicians or surgeons and who are or were primarily  
23 engaged in duties that require licensure pursuant to Chapter 5 (commencing with  
24 Section 2000) of Division 2 of the Business and Professions Code, who are not  
25 members of the University of Southern California Faculty, and who, because of  
26 how they were compensated, were classified as exempt from applicable State and  
27 Federal wage-hour laws.  
28

1           7.       The Settlement Class Period is March 13, 2013 through November 5, 2018.

2           8.       In settlement, Defendant will pay the gross amount of \$1,300,000, plus the  
3 employers' share of all required payroll tax deductions. From this gross amount, the parties  
4 propose to deduct \$11,500 in fees to be paid to the Settlement Administrator, Service and  
5 Release Payments to the Representative Plaintiffs in the amount of \$10,000 each, a payment  
6 to the California Labor Workforce and Development Agency in the amount of \$18,750,  
7 Class Counsel's costs of \$18,528.20, and Class Counsel's attorneys' fees of \$433,333,  
8 which is justified in light of the benefit to the Class.

9           9.       The amount remaining, after deductions approved by the Court, will be  
10 distributed to Settlement Class Members based on (1) the number of Transport and  
11 Anesthesiology Sedation shifts worked by the Class Members during the Class Period, (2)  
12 the number of pay periods worked by the Class Members during the wage statement period  
13 (March 13, 2016 and November 5, 2018), and (3) the total compensation the Class Members  
14 earned for shifts worked in other than Transport and/or Anesthesia.

15          10.       Three Class Members, David Darcy, James Kim and Nicole Flores-Fenlon,  
16 filed requests to be excluded from the settlement. With the exception of these Class  
17 Members, all other members of the Settlement Class will receive a settlement payment and  
18 be bound by the releases and Judgment.

19          11.       Upon the receipt by the Settlement Administer, Phoenix Settlement  
20 Administrators, of the gross settlement amount of \$1,300,000, plus the employer's share of  
21 withholding tax, from Defendant, each and every Released Claim of each Settlement Class  
22 Member, with the exception of David Darcy, James Kim and Nicole Flores-Fenlon, is and  
23 shall be deemed to be released as against the Released Parties. Upon the receipt by the  
24 Settlement Administer, Phoenix Settlement Administrators, of the gross settlement amount  
25 of \$1,300,000 from Defendant, all Settlement Class Members except David Darcy, James  
26 Kim and Nicole Flores-Fenlon will be precluded in the future from making any claim based  
27 on, arising from, or relating to the allegations made in the Third Amended Complaint.

28

1           12.     Neither the settlement, nor any of the terms set forth in the Settlement  
2 Agreement, constitute any admission by Defendant, or any of the other Released Parties, of  
3 liability to the Representative Plaintiffs or any Class Member, nor does this Final Approval  
4 Order constitute a finding by the Court of the validity of any of the claims alleged in the  
5 Action, or of any liability of Defendant or any of the other Released Parties.

6           13.     The Court finds that the Notice of Proposed Class Action Settlement ("Notice  
7 of Settlement") has been mailed to all Class Members as previously ordered by the Court,  
8 and that such Notice of Settlement fairly and adequately described the terms of the proposed  
9 Settlement Agreement, the manner in which the Class Members could object to or  
10 participate in the settlement, and the manner in which Class Members could opt out of the  
11 Class, was the best notice practicable under the circumstances, was valid, due and sufficient  
12 notice to all Class Members, and complied fully with Civil Code §1781(e), Rule of Court  
13 3.769, due process and all other applicable laws. The Court further finds that a full and fair  
14 opportunity has been afforded to Class Members to participate in the proceedings convened  
15 to determine whether the proposed Settlement Agreement should be given final approval.

16           14.     The Court finally approves of the distribution of the Net Settlement Amount  
17 to the Settlement Class Members. Settlement Class Members are not required to submit a  
18 claim form in order to receive payment. Rather, the gross amount paid to each Settlement  
19 Class Member will be based on (1) the number of Transport and Anesthesiology Sedation  
20 shifts worked by the Class Member during the Class Period, (2) the number of pay periods  
21 worked by the Class Member during the wage statement period (March 13, 2016 and  
22 November 5, 2018), and (3) the total compensation the Class Member earned for shifts  
23 worked in other than Transport and/or Anesthesia, as fully explained in the Settlement  
24 Agreement.

25           15.     The Court finds that the Settlement Agreement is fair, reasonable and  
26 adequate as to the Settlement Class, the named Plaintiffs and Defendant, and is the product  
27 of good faith, arms' length negotiations between the parties, and further, that the Settlement  
28 Agreement is consistent with public policy, and fully complies with all applicable provisions

1 of law. Accordingly, the Court hereby finally and unconditionally approves the Settlement  
2 Agreement and specifically approves of the allocation of the Gross Settlement Amount of  
3 \$1,300,000.00 ("Gross Settlement Amount"), plus the payment of the employer's share of  
4 all applicable payroll taxes and fees, as follows:

5 a. The Court approves of the payment of Settlement Administration  
6 Costs of \$11,500 to Phoenix Settlement Administrators;

7 b. The Court approves of Service and Release Payments in the amount  
8 of \$10,000 to Representative Plaintiff David Kuenstle and \$10,000 to Representative  
9 Plaintiff Lukas Austin-Page, as payment for their time and efforts in pursuing this Action  
10 and as additional compensation for the expanded releases they are providing;

11 c. The Court approves of Class Counsel's attorneys' fees request of  
12 \$433,333, which is one-third of the Gross Settlement Amount, finding that it is reasonable in  
13 light of the benefit provided to the Class, to be distributed pursuant to the provisions of  
14 paragraph 16 of this Order;

15 d. The Court approves of Class Counsel's request for reimbursement of  
16 litigation costs and expenses in the amount of \$18,528.20;

17 e. The Court approves of a payment to the California Labor Workforce  
18 and Development Agency in the amount of \$18,750;

19 f. The Court approves of payment of the remainder of the Gross  
20 Settlement Amount (the "Net Settlement Amount"), approximately \$797,889, to the  
21 Settlement Class Members who have not opted out of the settlement, pursuant to the terms  
22 of the Settlement Agreement, Paragraph IV(J), and that all settlement payments shall be  
23 deemed one-third wages, one-third penalties, and one-third interest, the latter two categories  
24 to be reported via an IRS Form 1099.

25 g. If a Settlement Class Member's settlement check(s) is not cashed  
26 within 180 days of issuance, it shall be voided and the funds from all such uncashed checks  
27 shall be sent to the California State Controller as unclaimed property.  
28

1           16.    The Court approves of the following implementation schedule for further  
2 proceedings:

- 3           •    Settlement Effective Date: Since there has been no objection to the  
4 settlement, pursuant to Section II(M) of the Settlement Agreement, the  
5 Effective Date is the date of the Court's entry of Order of Final Approval of  
6 Class Action Settlement and Judgment, provided Plaintiffs and Class Counsel  
7 waive their right to appeal the final judgment.
- 8           •    Deadline for Defendant to deliver the Gross Settlement Amount of  
9 \$1,300,000 to the Settlement Administrator: Within ten (10) calendar days  
10 after the Effective Date.
- 11          •    Mailing of Payments to Class Members: Within ten (10) days of Defendant's  
12 deposit of the Gross Settlement Amount with the Settlement Administrator.
- 13          •    Payment to Class Representatives: Within ten (10) days of Defendant's  
14 deposit of the Gross Settlement Amount with the Settlement Administrator.
- 15          •    Payment to Class Counsel of Class Counsel's attorneys' fees and Class  
16 Counsel's costs: Within ten (10) days of Defendant's deposit of the Gross  
17 Settlement Amount with the Settlement Administrator.
- 18          •    Payment to the California Labor Workforce and Development Agency:  
19 Within ten (10) days of Defendant's deposit of the Gross Settlement Amount  
20 with the Settlement Administrator.
- 21          •    Payment to the Settlement Administrator: Within ten (10) days of  
22 Defendant's deposit of the Gross Settlement Amount with the Settlement  
23 Administrator.
- 24          •    Final Report from Settlement Administrator: After final distribution of Net  
25 Settlement Fund.

26 //

27 //

28 //

1           17.     A compliance hearing is set for JAN 31 2020 at 8:30am. If a  
2 satisfactory compliance status report is filed at least 5 court days before the compliance  
3 hearing, no appearances will be required.

4  
5 Dated: JUN 26 2019

**RAFAEL A. ONGKEKO, JUDGE**  
~~Hon. Ann L. Jones~~

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**PROOF OF SERVICE**

**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 eighteen (18) and not a party to the within action. My business address is 15260 Ventura Blvd., Suite 1920, Sherman Oaks, California 91403.

On May 31, 2019, I served the following document described as

**- [PROPOSED] ORDER OF FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

on the interested parties in this action:

(X) by serving ( ) the original (X) true copies thereof as follows:

**PLEASE SEE ATTACHED SERVICE LIST**

<input type="checkbox"/> <b>BY MAIL</b> I caused such envelope to be deposited in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.	<input type="checkbox"/> <b>BY FACSIMILE TRANSMISSION</b> I caused said document(s) to be transmitted by facsimile transmission to the name(s) and facsimile telephone number(s) of the person(s) named on the attached service list. The facsimile machine telephone number of the sending facsimile machine was (213) 542-2101. A transmission report was issued by the sending facsimile machine confirming that the transmission was completed without error. A true and correct copy of said transmission report is attached hereto.
<input type="checkbox"/> <b>BY OVERNIGHT DELIVERY</b> Said document was placed in an envelope designated by the express service center and placed for collection in a box regularly maintained by said carrier with whom we have a direct billing account, to be delivered to the office of the addressee listed above on the next business day.	<input checked="" type="checkbox"/> <b>BY ELECTRONIC TRANSMISSION</b> I caused the above-described document to be electronically served through Case Anywhere pursuant to the Court's Order Authorizing Electronic Service dated May 18, 2017, to the names and email addresses listed on the Service List attached hereto.

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

( ) FEDERAL I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

(X) EXECUTED on May 31, 2019, at Sherman Oaks, California.

  
Nicole Salazar



## Electronic Service List

Case: **Kuenstle v. Children's Hospital Los Angeles Medical Group, Inc.**  
Case Info: **BC653858, Los Angeles Superior Court**

**Caskey & Holzman**

Marshall Caskey, Esq. ([mcaskey@caskeyholzman.com](mailto:mcaskey@caskeyholzman.com))  
Daniel Holzman, Esq. ([dholzman@caskeyholzman.com](mailto:dholzman@caskeyholzman.com))  
24025 Park Sorrento, Suite 400  
Calabasas, CA 91302  
Phone: (818) 657-1070  
Fax: (818) 297-1775

Representing: David Kuenstle

**Gartenberg Gelfand Hayton LLP**

Aaron Gundzik, Esq. ([agundzik@gghslaw.com](mailto:agundzik@gghslaw.com))  
Rebecca Gundzik, Esq. ([rgundzik@gghslaw.com](mailto:rgundzik@gghslaw.com))  
15260 Ventura Boulevard, Suite 1920  
Sherman Oaks, CA 91403  
Phone: (213) 542-2100  
Fax: (213) 542-2101

Representing: David Kuenstle

**Littler Mendelson, P.C.**

J. Kevin Lilly, Esq. ([jlilly@littler.com](mailto:jlilly@littler.com))  
2049 Century Park East, Fifth Floor  
Los Angeles, CA 90067  
Phone: (310) 553-0308  
Fax: (310) 553-5583

Representing: Children's Hospital Los Angeles Medical Group, Inc.

**Littler Mendelson, P.C.**

Penny Chen, Esq. ([pchen@littler.com](mailto:pchen@littler.com))  
Netta Rotstein, Esq. ([nrotstein@littler.com](mailto:nrotstein@littler.com))  
Elizabeth Staggs Wilson, Esq. ([estaggs-wilson@littler.com](mailto:estaggs-wilson@littler.com))  
633 West Fifth Street, 63rd Floor  
Los Angeles, CA 90071  
Phone: (213) 443-4300  
Fax: (213) 443-4299

Representing: Children's Hospital Los Angeles Medical Group, Inc.

**Seyfarth Shaw LLP**

Jeff Berman, Esq. ([jberman@seyfarth.com](mailto:jberman@seyfarth.com))  
Daniel Whang, Esq. ([dwhang@seyfarth.com](mailto:dwhang@seyfarth.com))  
One Century Plaza  
2029 Century Park East, Suite 3500  
Los Angeles, CA 90067  
Phone: (310) 277-7200  
Fax: (310) 201-5219

Representing: Children's Hospital Los Angeles Medical Group