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Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KERN

CINDY CARDONA, individually and on
behalf of all others similarly situated,

Plaintiff,


vs.

HEART HOSPITAL OF BK, LLC., a
Limited Liability Company; and DOES 1
through 50, inclusive,

Defendants.

Case No. BCV-19-102449-TSC

*Assigned for All Purposes to Honorable Thomas S.
Clark in Department 17*


**[AMENDED PROPOSED] ORDER
GRANTING FINAL APPROVAL OF
SETTLEMENT AND JUDGMENT**

Date: March 26, 2021
Time: 8:30 a.m.
Dept.: 17

1 Plaintiff and Class Representative CINDY CARDONA ("Plaintiff" or "Class
2 Representative"), and Defendant HEART HOSPITAL OF BK, LLC. ("Defendant") (Plaintiff
3 and Defendant are collectively referred to as "Parties") have entered into the Class Action
4 Settlement and Release ("Settlement Agreement") to settle the above-captioned class action
5 subject to the Court's approval (the "Settlement").

6 This matter is now before the Court on Plaintiff's Motion for Final Approval of the Class
7 Action Settlement, including approval of a Service Award for the Class Representative and Class
8 Counsel's Application for the attorney's fees and costs. The Court has read, heard, and
9 considered all the pleadings and documents submitted, and the presentations made in connection
10 with the Motion which came on for hearing on March 26, 2021.

11 **I. BACKGROUND**

12 **A. Class Members**

13 The "Class" or "Class Members" are defined as "all non-exempt employees who worked
14 for Defendant from August 29, 2015 to October 4, 2020."

15 **B. Operation of the Settlement.**

16 Pursuant to the Preliminary Approval Order dated October 8, 2020, this Court
17 conditionally certified the Class and granted preliminary approval to the Settlement. The
18 Preliminary Approval Order also approved of the proposed class notice. The Court entered the
19 Preliminary Approval Order after review and consideration of all of the pleadings filed in
20 connection herewith.

21 In compliance with the Preliminary Approval Order, the Class Notice was sent to all
22 Class Members via first class mail. The notice process was timely completed.

23 This Court finds that the Settlement appears to be the product of serious, informed, non-
24 collusive negotiations, has no obvious deficiencies, and does not improperly grant preferential
25 treatment to any individuals. The Court further finds that the Settlement is fair, reasonable and
26 adequate, that due and adequate notice was provided to Class Members, and that Plaintiff has
27 satisfied the standards for final approval of a class action settlement under California law. Under
28 the provisions of California *Code of Civil Procedure* section 382 as set forth in *Vasquez v.*

1 *Superior Court*, 4 Cal.3d 800, 821 (1971), the trial court has discretion to certify a class where:

2 [Q]uestions of law or fact common to the members of the class
3 predominate over any questions affecting only individual
4 members, and that a class action is superior to the available
5 methods for the fair and efficient adjudication of the controversy
6 ... Fed. R. Civ. Proc. 23.

7 Certification of a settlement class is the appropriate judicial device under these circumstances.

8 Based on the foregoing, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS
9 FOLLOWS:

10 1. The Court, for purposes of this Order, adopts all defined terms as set forth in the
11 Settlement Agreement filed in this case.

12 2. The Court has jurisdiction over the subject matter of the Litigation, the Class
13 Representative, the Class, and Defendant.

14 3. The motion seeking final approval of the settlement is granted. Final Judgement
15 shall be entered pursuant to the Settlement Agreement.

16 4. Solely for purposes of effectuating the Settlement this Court has certified the
17 Class as "all non-exempt employees who worked for Defendant from August 29, 2015 to the
18 date of preliminary approval, or October 4, 2020". 1,040 Class Members were provided notice
19 of the Settlement. One (1) class member has opted out and five (5) notices were undeliverable.
20 Therefore the number of Class Members subject to this settlement is comprised of 1,034 unique
21 individuals ("Settlement Class Members"). The Court deems this definition sufficient for
22 purposes of California Rules of Court 3.765(a) and 3.771.

23 5. The Settlement is not an admission by Defendant, nor is this Judgment a finding
24 of the validity or of any wrongdoing by Defendant. Neither this Judgement, nor the Settlement,
25 nor any document referred to herein, nor any action taken to carry out the Settlement, shall be
26 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
27 of the Defendant.

28 6. The Court finds that the dissemination of the Class Notice constituted the best
notice practicable under the circumstances to all Persons within the definition of the Class, and

1 fully met the requirements of California law and due process under the United States
2 Constitution.

3 7. The Court approves the Settlement of the above-captioned action, as set forth in
4 the Settlement Agreement, and the releases and other terms set forth therein, as fair, just,
5 reasonable, and adequate. The Parties are directed to perform in accordance with the terms set
6 forth in the Settlement Agreement.

7 8. With respect to the Class and for purposes of approving the Settlement only and
8 for no other purpose, this Court finds and concludes that: (a) the members of the Class are
9 ascertainable and so numerous that joinder of all members is impracticable; (b) there are
10 questions of law or fact common to the Class, and there is a well-defined community of interest
11 among Class Members with respect to the subject matter of the claims in the litigation; (c) the
12 claims of Class Representative are typical of the claims of the members of the Class; (d) the
13 Class Representative has fairly and adequately protected the interests of the members of the
14 Class; (e) a class action is superior to other available methods for an efficient adjudication of this
15 controversy; and (f) the counsel of record for the Class Representative, i.e., Class Counsel, are
16 qualified to serve as counsel for the Plaintiff in his individual and representative capacities and
17 for the Class.

18 9. Upon the Effective Date, the Class Representative shall have, by operation of this
19 Judgment, fully, finally and forever generally released, relinquished, and discharged Defendant
20 and the Released Parties as set forth in the Settlement Agreement.

21 10. Upon the Effective Date, the Settlement Class Members shall have, by operation
22 of this Judgment, fully, finally and forever released, relinquished, and discharged Defendant and
23 the Released Parties from all of the Released Claims as defined in the Settlement Agreement.
24 Upon the Effective Date, the Settlement Class Members, and any person acting on behalf of any
25 of them, shall be and are hereby permanently barred and enjoined from filing, commencing,
26 prosecuting, intervening in, participating in (as class members or otherwise), or receiving any
27 benefits or other relief from, any other lawsuit, in any state or federal court, arbitration, or
28 administrative, regulatory or other proceeding or order in any jurisdiction based on any the

1 Released Claims against any of the Released Parties; and from organizing any such Settlement
2 Class Members into a separate class for purposes of pursuing as a purported class action
3 (including by seeking to amend a pending complaint to include class allegations, or by seeking
4 class certification in a pending action) in any lawsuit or proceeding based on or relating to the
5 Released Claims against any of the Released Parties.

6 11. Except as otherwise provided in the Settlement Agreement and approved by this
7 Court, the Parties are to bear their own costs and attorneys' fees.

8 12. The Court approves the Individual Settlement Payment amounts to Settlement
9 Class Members, which shall be distributed pursuant to the terms of the Settlement Agreement.

10 13. To the extent it has not already done so, Defendant shall fund the Gross
11 Settlement Amount of \$2,000,000.00 by payment to a Qualified Settlement Fund, which includes
12 (a) all Individuals Settlement Payments; (b) the Class Counsel Award of fees in the amount of
13 \$700,000.00 and reimbursement of costs in the amount of \$13,870.95; (b) the Service Award to
14 the Class Representative in the amount \$10,000.00; (c) the sum of \$37,500.00 to be paid to the
15 LWDA for PAGA Penalties (which represents the LWDA's 75% share of the \$50,000.00 in
16 PAGA Penalties paid); and (d) \$11,500.00 to the Settlement Administrator, Phoenix Settlement
17 Administrators, for Administrative Costs. The Court finds that these amounts are fair and
18 reasonable. To the extent it has not already done so, Defendant is directed to pay the Gross
19 Settlement Amount in accordance with the terms of the Settlement Agreement, and the
20 Settlement Administrator is directed to distribute the funds in accordance with the Settlement
21 Agreement.


22 14. Accordingly, the Court hereby enters Final Judgment in this case in accordance
23 with the terms of the Settlement, Preliminary Approval Order, and this Order. Without affecting
24 the finality of the Settlement or Judgment entered thereon, this Court shall have and retain
25 exclusive and continuing jurisdiction over the action and the Parties, including all Class
26 Members, solely for purposes of (i) the interpretation and enforcement of the terms of this Order
27 and the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters
28 as may be appropriate under court rules or as set forth in the Settlement Agreement.

1 15. Pursuant to Civil Code section 3.771, the Court orders that notice of the judgment
2 will be given to class members by publishing this Order and Judgment on the Settlement
3 Administrator's website for sixty (60) days.
4

5 IT IS SO ORDERED AND ADJUDGED.

6
7 DATED: _____

3-26-21


Honorable Thomas S. Clark
Judge of the Superior Court