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

ROBERTO HERRERA, on behalf of himself
and other current and former employees,

Plaintiff,

vs.

SCRIPPS HEALTH; and DOES 1 through 50

Defendants.

Case No.: 37-2020-00017515-CU-OE-CTL

Judge: Hon. Keri Katz
Department: C-74

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Judge: Hon. Keri Katz
Date: August 12, 2022
Time: 8:30 a.m.
Dept.: C-74

ORDER GRANTING PRELIMINARY APPROVAL

This matter came for hearing on **August 12, 2022 at 8:30 a.m.** in Department C-74 of the above-captioned court on the Unopposed Motion for Preliminary Approval of Class Settlement, upon the terms and conditions set forth in the Class Action Settlement Agreement between Plaintiff **ROBERTO HERRERA (“Plaintiff”)** and Defendant **SCRIPPS HEALTH**.

The Court, having fully reviewed the unopposed motion for preliminary approval of class action settlement; the memorandum of points and authorities and declarations filed in support thereof; the Settlement Agreement and all exhibits thereto, including the Notice of Class Action Settlement (“Notice”); and in recognition of the Court's duty to make a preliminary determination as to the reasonableness of any proposed class action settlement, and if preliminarily determined to be reasonable, to ensure proper notice is provided to settlement class members in accordance with due process requirements, and to set a final fairness hearing regarding the proposed settlement, and having heard the argument of Counsel for the respective parties;

THE COURT MAKES THE FOLLOWING DETERMINATIONS AND ORDER:

It appears to the Court on a preliminary basis that the settlement amount is fair and reasonable to the Class when balanced against the probable outcome of further litigation relating to class certification, liability and damages issues and potential appeals; it further appears that significant investigation, research, and litigation has been conducted such that counsel for the Parties at this time are able to reasonably evaluate their respective positions; it further appears that settlement at this time will avoid substantial costs, delay and risks that would be presented by the further prosecution of the litigation; it further appears that the proposed Settlement has been reached as the result of intensive, serious and non-collusive negotiations between the Parties.

Accordingly, good cause appearing, the Unopposed Motion for Preliminary Approval of the Class Action Settlement is hereby **GRANTED**, and as a part of said preliminary approval, the Court hereby orders that the class be conditionally certified for settlement purposes only, and that Alex Asil Mashiri, Esq. and Tamim Jami, Esq. be conditionally and preliminarily appointed Class Counsel. Except as expressly noted, any capitalized terms used in this Order have the meaning assigned to them in the Parties' Settlement Agreement.

1 **THE COURT FURTHER FINDS AS FOLLOWS:**

2 1. The Court finds on a preliminary basis that the Settlement Agreement, incorporated by
3 this reference and made a part of this order granting preliminary approval, is within the range of
4 reasonableness of a settlement that could ultimately be given final approval by this court.

5 2. The Court preliminarily finds that the terms of the settlement are fair, reasonable, and
6 adequate, pursuant to California Code of Civil Procedure section 382.

7 3. The Court finds that the elements of numerosity, commonality, typicality, and
8 adequacy have been established to support conditional certification of the class for settlement
9 purposes, with Plaintiff acting as class representative.

10 4. The Court hereby appoints, for settlement purposes, Plaintiff as class representative.
11 The court further finds that Alex Asil Mashiri of the Mashiri Law Firm, APC and Tamim Jami of The
12 Jami Law Firm P.C. have established adequacy to be appointed as class counsel.

13 5. The Class provisionally certified by this order for settlement purposes includes all
14 persons who worked for Defendant as a non-exempt, hourly employee in California and utilized paid
15 time off pursuant to Defendant's "Paid Time Off" or "Sick Pay for Employees Not Eligible for PTO"
16 policies at any time between **May 26, 2016 and the date of Preliminary Approval.**

17 6. The Court approves Phoenix Class Action Administration Solutions ("Settlement
18 Administrator") to serve as the claims administrator in this case.

19 7. The Court approves the proposed "Notice Packet," which is attached as **Exhibit A** to
20 the Settlement Agreement as well as this Order, and orders them to be mailed to the Class Members
21 in accordance with the terms of the Settlement Agreement.

22 8. The Court finds that the Notice constitutes the best notice practicable under the
23 circumstances and is in full compliance with the laws of the State of California and, to the extent
24 applicable, the United States Constitution and the requirements of due process. The Court further finds
25 that the Notice fully and accurately informs the Class Members of all material elements of the
26 proposed class action settlement, of each Class Member's right to be excluded from the class, and
27 each Class Member's right and opportunity to object to the proposed class action settlement. The
28 Notice adequately advises the class about:

- 1 A. The class action;
- 2 B. The settlement terms and the benefits available to each Class Member;
- 3 C. Each Class Member's right to object and/or "opt out," and the timing and
4 procedures for doing so;
- 5 D. The conditional certification of the class for settlement purposes only;
- 6 E. Preliminary court approval of the proposed settlement;
- 7 F. Timing and procedures for distributing the settlement funds; and
- 8 G. The date of the final fairness hearing, as well as the rights of members to submit
9 objections and appear in connection with said hearing.

10 Accordingly, the Court hereby approves the Notice to the Class Members and finds that
11 mailing to the last known address of members of the class, as specifically described within the
12 Settlement Agreement, constitutes an effective method of notifying the Class of their rights with
13 respect to the class action and proposed settlement.

14 **THE COURT FURTHER ORDERS AS FOLLOWS:**

15 9. Within thirty (30) calendar days of preliminary approval, Defendant shall provide the
16 Settlement Administrator with the following data for each Class Member: First and last name, last
17 known mailing address, last known telephone number, Social Security number, and the number of
18 pay periods in which each Class Member utilized paid time off during the Class Period ("Class Data").

19 10. Within ten (10) calendar days from receipt of the Class Data, the Settlement
20 Administrator shall (i) run the names of all Class members through the National Change of Address
21 ("NCOA") database to determine any updated addresses for Class members; (ii) update the addresses
22 of any Class member for whom an updated address was found through the NCOA search; (iii)
23 calculate the estimated Individual Settlement Payment for each Class member; and (iv) mail, via U.S.
24 Mail, a Notice Packet to each Class member at his or her last known address or at the updated address
25 found through the NCOA search, and retain proof of mailing.

26 11. The deadline to object or to request exclusion from the class settlement shall be thirty
27 (30) calendar days from the initial mailing of the Notice Packet by the Settlement Administrator.
28 (This deadline is referred to as the "Response Deadline").

1 12. Any Notice Packets returned to the Settlement Administrator as non-deliverable on or
2 before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding
3 address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on
4 the Notice Packet. If no forwarding address is provided, the Settlement Administrator will promptly
5 attempt to determine the correct address using a skip-trace, or other search using the name, address
6 and/or Social Security number of the Class Member involved, and will then perform a single re-
7 mailing. Those Class Members who receive a re-mailed Notice Packet, whether by skip-trace or by
8 request, will have either (i) an additional fifteen (15) calendar days or (ii) until the Response Deadline,
9 whichever is later, to submit a Request for Exclusion or an objection to the Settlement.

10 13. The Notice Packet should include the following: (i) information regarding the nature
11 of the Action; (ii) a summary of the Settlement's principal terms; (iii) the Settlement Class definition;
12 (iv) the total number of Pay Periods in which each respective Class Member utilized Paid Time Off
13 during the Class Period; (v) each Class Member's estimated Individual Settlement Payment and the
14 formula for calculating Individual Settlement Payments; (vi) the dates which comprise the Class
15 Period; (vii) instructions on how to submit Requests for Exclusion or Notices of Objection; (viii) the
16 deadlines by which the Class Member must postmark or fax Request for Exclusions, or postmark
17 Notices of Objection to the Settlement; and (ix) the claims to be released.

18 14. Class Members will have an opportunity to dispute the information provided in their
19 Notice Packets. To the extent Class Members dispute their employment dates or the number of Pay
20 Periods on record, Class Members may produce evidence to the Settlement Administrator showing
21 that such information is inaccurate. The Settlement Administrator will decide the dispute. Defendant's
22 ~~records will be presumed correct, but the Settlement Administrator will evaluate the evidence~~
23 submitted by the Class Member and will make the final decision as to the merits of the dispute. All
24 disputes will be decided within ten (10) business days of the Response Deadline.

25 15. Any Class Member wishing to opt-out from the Settlement Agreement must sign and
26 fax or postmark a written Request for Exclusion to the Settlement Administrator within the Response
27 Deadline. In the case of Requests for Exclusion that are mailed to the Settlement Administrator, the
28 postmark date will be the exclusive means to determine whether a Request for Exclusion has been

1 timely submitted. A Request for Exclusion that is not received by the Settlement Administrator will
2 be deemed ineffective unless the Class Member submits documentary evidence conclusively
3 demonstrating that they took all necessary steps to comply with the opt-out procedures herein and that
4 the Settlement Administrator's failure to receive their Request for Exclusion was due to forces outside
5 of their control.

6 16. To object to the Settlement Agreement, a Class Member must postmark a valid Notice
7 of Objection to the Settlement Administrator on or before the Response Deadline. The Notice of
8 Objection must be signed by the Class Member and contain all information required by this Settlement
9 Agreement. The postmark will be deemed the exclusive means for determining that the Notice of
10 Objection is timely. Class Members who fail to both timely object in the manner specified above and
11 who fail to appear at the Final Approval Hearing so that their objections may be heard by the Court
12 will be deemed to have waived all objections to the Settlement and will be foreclosed from making
13 any objections, whether by appeal or otherwise, to the Settlement Agreement. At no time will any of
14 the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written
15 objections to the Settlement Agreement or appeal from the Order and Judgment. Class Counsel will
16 not represent any Class Members with respect to any such objections to this Settlement.

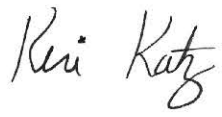
17 17. Within ten (10) calendar days after the Response Deadline, the Settlement
18 Administrator shall provide the Parties with a complete and accurate list of all Class Members who
19 have validly and timely requested exclusion from the Settlement.

20 18. The Court will hold a **final approval hearing at 8:30 a.m. on February 3, 2023, in**
21 **Department C-74 of the San Diego Superior Court, Hall of Justice, located at 330 West**
22 **Broadway, San Diego, California 92101**, to determine whether the Court should grant final approval
23 of the Settlement as fair, reasonable, and adequate. Plaintiff must file his motion for final approval
24 **sixteen (16) calendar days before the final approval hearing**. The Court will hear all evidence and
25 argument necessary to evaluate the Settlement, and will consider Plaintiff's request for the
26 Enhancement Award and Class Counsel's request for attorneys' fees and costs. The Court expressly
27 reserves the right to adjourn or continue the Final Fairness Hearing from time to time without further
28 notice to the Class.

1 19. The Court will hold a hearing for Class Counsel’s Motion for Attorney’s Fees and
2 Costs at 8:30 a.m. on February 3, 2023, in Department C-74 of the San Diego Superior Court,
3 Hall of Justice, located at 330 West Broadway, San Diego, California 92101. No later than twenty
4 (20) calendar days prior to February 3, 2023, the Settlement Administrator shall provide Class
5 Counsel with a Declaration of Compliance to be filed with the Court by Class Counsel. No later than
6 sixteen (16) calendar days before the Final Approval Hearing, or upon such other schedule as may be
7 directed by the Court, Plaintiff shall file a Motion for Final Approval and a Motion for Attorneys’
8 Fees and Costs. Prior to the Final Approval Hearing, Class Counsel shall present the proposed Final
9 Judgment and Order Approving Class Settlement (“Final Judgment”) to the Court for its approval and
10 entry. After entry of the Final Judgment, the Court retains continuing jurisdiction over the Litigation
11 under California Rule of Court 3.769(h) for purposes of (i) enforcing this Settlement Agreement, (ii)
12 addressing settlement administration matters, and (iii) addressing such post-Final Judgment matters
13 as may be appropriate under court rules or applicable law.

14 20. Pending further order of this court, all proceedings in this matter except those
15 contemplated herein and in the Settlement Agreement, are stayed.

16 **IT IS SO ORDERED.**



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18 Dated: 08/23/2022

19 Hon. Keri Katz
20 Judge of the Superior Court of California
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EXHIBIT A

Herrera v. Scripps Health, No. 37-2020-00017515-CU-OE-CTL
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN DIEGO
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

To: All persons who worked for Defendant Scripps Health (“Defendant” or “Scripps”) as a non-exempt, hourly employee in California and utilized paid time off pursuant to Scripps’ Paid Time Off or Sick Pay for Employees Not Eligible for PTO policies at any time between May 26, 2016 and [the date of Preliminary Approval].

On , the Honorable Keri G. Katz of the San Diego County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at :00 m. on , 2022 in Department C-74 of the San Diego County Superior Court located at 330 W Broadway, San Diego, California 92101. You are not required to attend the hearing, but you are welcome to do so.

Summary of the Litigation

Plaintiff Roberto Herrera, on behalf of himself and other current and former non-exempt employees, alleges that Defendant violated California state labor laws as a result of its alleged failure to, among other things: (1) pay the appropriate rate of pay to employees for paid sick leave; (2) provide employees with accurate, itemized wage statements; and (3) timely pay all wages owed to employees during each pay period and upon termination of their employment.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On December 1, 2021, the parties participated in a mediation with Tripper Ortman, an experienced and well-respected class action mediator. With Mr. Ortman’s guidance, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Mashiri Law Firm, APC and The Jami Law Firm P.C. (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believes that the claims alleged in this lawsuit have merit, they also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

~~Scripps has also extensively investigated and researched the factual and legal issues raised in the case. Although Scripps believes it has meritorious defenses to the claims, Scripps has concluded that further defense of this case would be lengthy and expensive for all Parties. Scripps has, therefore, agreed to settle this matter in order to put to rest all claims that are or could have been asserted against it in the lawsuit. By agreeing to settle, Scripps does not admit liability on any of the factual allegations or claims in the case, or that the case can or should proceed as a class action.~~

Summary of The Proposed Settlement Terms

Plaintiffs and Defendant have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$1,500,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) the Class Representative Enhancement Payment of \$15,000 to Roberto Herrera for his services on behalf of the class; (3) \$500,000 in attorneys’ fees and up to \$30,000 in litigation costs and expenses; (4) a \$150,000 payment to the California

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Labor and Workforce Development Agency ("LWDA") in connection and accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), and (5) reasonable Settlement Administrator's fees and expenses currently estimated at \$94,750.00. After deducting the Class Representative Enhancement Payment, attorneys' fees and costs, the payment to the LWDA, and the Settlement Administrator's fees and expenses, a total of approximately \$710,250 will be allocated to Class Members who do not opt out of the settlement ("Net Settlement Amount"). Each Class Member's settlement payment will be based on the number of Pay Periods each Class Member worked in a non-exempt position during the period from May 26, 2016 to [redacted] [date of preliminary approval] ("Class Period"). The formula for calculating settlement payments is as follows:

- (a) The Settlement Administrator will calculate the aggregate total number of non-exempt Pay Periods in which Class Members utilized Paid Time Off during the applicable Class Period ("Total Pay Periods").
- (b) The value of each individual Pay Period shall then be determined by dividing the proceeds of the Net Settlement Amount by the Total Pay Periods, resulting in the "Pay Period Value".
- (c) An "Individual Settlement Payment" amount for each Class Member will then be determined by multiplying the individual Class Member's number of Pay Periods in which the Class Member utilized Paid Time Off by the Pay Period Value.
- (d) The entire Net Settlement Amount will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion.

According to Defendant's records, you utilized Paid Time Off during the Class Period in a non-exempt position for a total of ___ Pay Periods during the relevant time period. Accordingly, your estimated payment is approximately \$ [redacted]. If you believe the information provided above is incorrect, please contact the Settlement Administrator at [redacted]. If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 25% of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued, and 75% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the following claims ("Released Claims"): Any and all claims, rights, demands, liabilities, and causes of action under state and federal law for unpaid wages, overtime, damages, penalties, interest, and attorneys' fees arising from, or reasonably related to, the claims asserted in the Second Amended Complaint and previously filed Complaints in this Action, during the Class Period, including without limitation: (i) all claims for unpaid sick pay wages; (ii) all claims for wage statement violations; (iii) all claims for the failure to timely pay wages during employment; (iv) all claims for the failure to timely pay wages upon termination; and (v) related claims asserted under the California Business & Professions Code sections 17200, *et seq.*, and California Labor Code sections 2698, *et seq.*

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator
c/o

The written request to be excluded must be postmarked or faxed not later than [redacted], 2022. If you submit a request for exclusion which is not postmarked or faxed by [redacted], 2022, your request for exclusion will be rejected, and you will be included in the settlement class. If you choose **Option 2**, you will no longer be a Class Member, and you will (1) be barred from participating in the settlement, but you will not be deemed to have released any of the Released Claims, (2) be barred from filing an objection to the settlement, and (3) not receive a payment from the settlement.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you must submit an objection stating why you object to the settlement. Your objection must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at [redacted].

All objections must be received by the administrator by not later than [redacted] 2022. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described in Option 2. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for [redacted] at [redacted] a.m./p.m. in the Superior Court of the State of California, for the County of San Diego and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, and the Court overrules (e.g., rejects) your objections, you will still be entitled to the money from the settlement and you will be deemed to have released the Released Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel/Defense Counsel.

<p>CLASS COUNSEL Alex Asil Mashiri MASHIRI LAW FIRM, APC 11251 Rancho Carmel Drive #500694 San Diego, CA 92105 Phone: 858.348.4938</p>	<p>CLASS COUNSEL Tamim Jami THE JAMI LAW FIRM P.C. 3525 Del Mar Heights Rd #941 San Diego, CA 92130 Phone: 858.284.0248</p>	<p>DEFENSE COUNSEL Jeff Ames AMES KARANJIA LLP 2535 Truxtun Road, Suite 206 San Diego, CA 92106 Phone: 619.374.0205</p>
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PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-***-***-****