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By: T. Abas

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Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Alma Rhodes, Deputy Clerk

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

CATHRYN-LUCY PRICE and MICHELLE
PONO, on behalf of herself and all others
similarly situated,

Plaintiffs,

vs.

AMN HEALTHCARE, INC.; AMN
SERVICES, LLC, and DOES 1-100,
inclusive,

Defendants.

Case No. 37-2018-00017996-CU-OE-CTL

CLASS and REPRESENTATIVE ACTION

**[PROPOSED] ORDER RE PRELIMINARY
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT AND PROVISIONAL
CLASS CERTIFICATION ORDER**

[Assigned To Hon. Gregory W. Pollack
Dept. C-71]

DATE: MARCH 24, 2023

TIME: 9:30 A.M.

LOCATION: DEPT. C-71 (HON. GREGORY W.
POLLACK)

On March 24, 2023 at 9:30 a.m., this Court heard Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and provisional class certification under California Rule of Court 3.769, as filed by Plaintiffs Cathryn-Lucy Price and Michelle Pono ("Plaintiffs"). This Court reviewed the motion, including the Stipulation of Settlement and Release (the "Agreement," "Settlement," or "Settlement Agreement"). Based on this review, the hearing, and the findings below, the Court finds good cause to GRANT the motion.

1 **FINDINGS:**

2 1. Unless otherwise specified, defined terms in this Preliminary Approval of Class
3 and Representative Action Settlement and Provisional Class Certification Order (the
4 “Preliminary Approval Order”) have the same definition as the defined terms in the Agreement.

5 2. The Court determines there is sufficient evidence to suggest that the Agreement
6 (including the Class Representative Enhancement Payment, Class Counsel’s fees and costs, the
7 Settlement Administration Costs, and the allocation of payments to Settlement Class Members
8 and PAGA Group Members) falls within the range of possible approval that could ultimately be
9 given final approval by this Court as fair, reasonable, and adequate, and that the final
10 determination of these issues will be made at the Final Approval Hearing (referred to in the
11 Agreement as the “Fairness Hearing”). More specifically, the Court finds on a preliminary basis
12 that:

13 (a) The Settlement provides for a **Gross Settlement Amount of \$600,000**
14 that Defendants AMN Healthcare, Inc. and AMN Services, LLC (collectively, “Defendants”)
15 will pay into the settlement fund pursuant to the terms and timing specified in the Agreement.
16 The Settlement further provides that the Net Settlement Fund shall be calculated by subtracting
17 the following amounts from the total of the Gross Settlement Amount:

- 18 (1) the Class Counsel Award (estimated at **\$200,000 in attorneys’ fees** [1/3 of
19 \$600,000 Gross Settlement Amount] and **\$40,000 in attorney costs**);
20 (2) all Settlement Administration Costs (estimated not to exceed **\$9,750**);
21 (3) the Class Representative Enhancement Payment (estimated at **\$10,000 each** for a
22 total of **\$20,000**); and
23 (4) the amount allocated for PAGA Penalties (**\$60,000**) of which 75% (**\$45,000**) is
24 allocated to the California Labor Workforce and Development Agency
25 (“LWDA Payment”) and 25% (**\$15,000**) to the PAGA Group (“PAGA Group
26 Payment) under the Private Attorneys General Act of 2004 (“PAGA”)

27 The **Net Settlement Fund**, to be disbursed to Settlement Class Members (estimated at
28 **525 individual class members**) who have not excluded themselves from the Settlement, is

1 presently anticipated to be **approximately \$ 270,250**. If the Settlement is approved, the full
2 amount of the Net Settlement Fund will be paid out to Settlement Class Members who do not
3 exclude themselves from the Settlement in accordance with the terms of the Agreement. The
4 PAGA Group Amount (\$15,000), if approved by the Court, will be disbursed to PAGA Group
5 Members whether or not the exclude themselves from the Class Settlement.

6 (b) The Agreement is fair, adequate and reasonable as to all Class and PAGA
7 Members when balanced against the probable outcome of further litigation relating to liability
8 and damages issues.

9 (c) Settlement at this time will avoid substantial additional costs by all parties,
10 as well as avoid the delay and risks that would be presented by the further prosecution of this
11 class action.

12 (d) The Settlement does not improperly grant preferential treatment to class
13 representatives or segments of the class, supporting a presumption of fairness.

14 (e) Adequate inquiry, investigation and discovery have been conducted so
15 that counsels for the Parties are able to reasonably evaluate their respective positions, supporting
16 a presumption of fairness.

17 (f) The Agreement has been reached as a result of intensive, serious and non-
18 collusive, arms-length negotiations, supporting a presumption of fairness.

19 3. The Court finds that distribution of the Notice of Class Action Settlement,
20 substantially in the form attached hereto as "**Exhibit A - Class Notice**" (also attached to
21 Declaration of Matthew S. Da Vega ISO of Motion as Exhibit A - Class Notice), via first class
22 U.S. postal mail to Class Members (a) constitutes the best notice practicable under the
23 circumstances, (b) constitutes valid, due, and sufficient notice to all members of the Class, and
24 (c) complies fully with the requirements of California Code of Civil Procedure section 382,
25 California Rules of Court 3.766 and 3.769, the California and United States Constitutions, and
26 other applicable law.
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1 4. For settlement purposes only, the Court finds the Class is so numerous that
2 joinder of all Class Members is impracticable, Plaintiffs' claims are typical of the Class's claims,
3 there are questions of law and fact common to the Class, which predominate over any questions
4 affecting only individual Class Members, the Plaintiff is an adequate representative of the Class,
5 and class certification is superior to other available methods for the fair and efficient
6 adjudication of the controversy. Should for whatever reason the Settlement not become final, the
7 fact that the parties were willing to stipulate to certification of the claims on behalf of Class
8 Members as part of the Settlement shall have no bearing on, nor be admissible in connection
9 with, the issue of whether a class should be certified in a non-settlement context in this action or
10 in any other lawsuit.

11 5. Pursuant to Labor Code section 2699, subdivision (I)(2), the Court notes that
12 Plaintiff provided a copy of the Agreement to the LWDA at the same time that Plaintiff provided
13 it to the Court in compliance with California Labor Code section 2699(I), and the Court has
14 reviewed the Settlement's provisions relating to settlement of claims under PAGA. The Court
15 tentatively finds that the **payment of \$60,000 for settlement of any and all claims for which**
16 **civil penalties under PAGA** may be sought or are otherwise available (the "PAGA Penalties"),
17 is fair and adequate. Further, the Court tentatively finds that the PAGA Penalties satisfies the
18 requirements of California Labor Code section 2699, subdivision (i), because **\$45,000 (75%) of**
19 **the PAGA Penalty Amount is allocated to the LWDA** for the enforcement of labor laws and
20 education of employers, and **\$15,000 (25%) is allocated for distribution to the PAGA Group,**
21 **i.e., the allegedly "aggrieved employees."**

22 **IT IS ORDERED THAT:**

23 1. **Settlement Preliminary Approval.** The Settlement Agreement and the Notice of
24 Class Action Settlement are preliminarily approved. The Court further preliminarily approves
25 the formulas provided in the Settlement for calculating Individual Settlement Payments to the
26 Settlement Class Members and PAGA payments to the PAGA Group Members using a work
27 week calculation methodology.
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1 **1.1 Provisional Certification.** The Settlement Class is provisionally certified for
2 settlement purposes only as a class of: "All current and former California based non-exempt
3 employees who worked for AMN as Credentialing Analysts from April 11, 2014 through the
4 date that the Court issues its order granting preliminary approval of the settlement. ("Approval
5 Date") and/or Customer Account Managers ("CAMs") from January 8, 2015 through the
6 Approval Date (the "Class"). Excluded from the Settlement Class are putative Class Members
7 who submit a timely and valid Request for Exclusion (as defined by the Settlement
8 Agreement).

9 **2. Appointment of Class Representative and Class Counsel.** Plaintiffs' counsel is
10 conditionally appointed as the Class Representative to implement the Parties' Settlement in
11 accordance with the Agreement. Matthew S. Da Vega and Matthew Fisher of Da Vega Fisher
12 Mechtenberg LLP are conditionally appointed as Class Counsel. Class Counsel is conditionally
13 authorized to act on behalf of the Class with respect to all acts or consents required by, or which
14 may be given, pursuant to the Settlement, and such other acts necessary to finalize the Settlement
15 Agreement and its terms. Any Class Member may enter an appearance through his or her own
16 counsel at such Class Member's own expense. Any Class Member who does not enter an
17 appearance or appear on his or her own behalf will be represented by Class Counsel for
18 settlement purposes only. Plaintiff and Class Counsel must fairly and adequately protect the
19 Class's interests.

20 **3. Appointment of Settlement Administrator.** Phoenix Settlement Administrators
21 is hereby appointed as the Settlement Administrator for this case.

22 **4. Release of Class Claims.** The Court understands that the settlement includes a
23 release of class claims. The Settlement Agreement provides that Plaintiffs – on behalf of
24 themselves, the State of California and PAGA Group Members – and each of the Class Members
25 who do not file a valid request for exclusion ("Settlement Class Members") will fully and
26 irrevocably release the Released Parties from any and all of the Released Claims, as defined in
27 the Settlement Agreement. Settlement Class Members will release such Released Claims arising
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1 during the period (1) for the Credentialing Analysts from April 11, 2014 through the date on
2 which the Court grants preliminary approval of the Settlement and (2) for the CAMs from
3 January 8, 2015 through the date on which the Court grants preliminary approval of the
4 Settlement (collectively, "Class Members' Released Period"). Per the Settlement Agreement,
5 Settlement Class Members may discover facts in addition to or different from those they now
6 know or believe to be true with respect to the subject matter of the Released Class Claims, but
7 upon the Effective Date, shall be deemed to have, and by operation of the Final Approval Order
8 shall have, fully, finally, and forever settled and released any and all of the Released Class
9 Claims. In light of consideration provided under the Settlement, the Court makes a preliminary
10 finding that the Settlement Class Members' Released Claims is fair, adequate and reasonable.

11 **5. Provision of Class Notice.** Within thirty (30) calendar days after entry of this
12 Preliminary Approval Order, Defendants shall provide the Class List/Class Data to the
13 Settlement Administrator. Within twenty-one (21) calendar days from receipt of the Class Data,
14 the Settlement Administrator shall mail the Notice of Class Action Settlement (which shall be
15 substantially similar to the form attached hereto as **Exhibit A - Class Notice** to all Class and
16 PAGA Members via regular First-Class U.S. Mail in the manner specified under the Settlement
17 Agreement.

18 **6. Response Deadline.** The Response Deadline shall be **forty-five (45) calendar**
19 **days** from the initial mailing of the Class Notice to Class Members pursuant to Settlement
20 Agreement. Class Members to whom a Class Notice is re-sent after having been returned as
21 undeliverable to the Settlement Administrator, shall have ten (10) business days from the date
22 of re-mailing, or until the Response Deadline has expired, whichever is later to submit a
23 Request for Exclusion, Objection, and/or Work Weeks Dispute to the Settlement
24 Administrator.

25 **7. Objection to Settlement.** Settlement Class Members who have not submitted a
26 timely and valid Request for Exclusion pursuant to the Settlement Agreement and who want to
27 object to the Agreement must sign and submit by U.S. Mail or other delivery service a valid
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1 written Objection to the Settlement Administrator on or before the Response Deadline. The
2 Settlement Administrator will provide copies of all such Objections to Class Counsel and
3 Defendants' counsel weekly and will also provide a Final Report/Due Diligence Report within
4 five (5) business days of the Final Approval Hearing. For an Objection to be valid, it must:
5 (1) contain the case name and number of the Price Action; (2) contain the full name, address,
6 telephone number, and last four digits of the social security number of the Class Member; (3) be
7 signed by the Class Member; (4) contain an explanation of his or her objection(s) to the
8 Settlement; (5) indicate whether the Class Member is represented by counsel, and if represented
9 by counsel, provide the name and address of said counsel; (6) indicate whether Class Member
10 intends to appear at the Final Approval Hearing; and (7) be postmarked on or before the
11 Response Deadline and mailed to the Settlement Administrator at the address specified in the
12 Class Notice. Objections postmarked after the Response Deadline will be untimely and therefore
13 not considered. A Class Member may appear at the final approval/fairness hearing to state
14 his/her Objection even if they fail to make valid and timely written objection to the Settlement
15 Agreement. If a Class Member intends to speak at the Final Approval Hearing, he or she
16 should (although they are not required to) file a "notice of intention to appear" with the Court
17 and provide a copy of this notice and their Objection to counsel for both Parties. Any
18 Settlement Class Member will be permitted to appear and speak at the Final Approval Hearing
19 in order to have an Objection heard by the Court.

20 **8. Failure to Object to Settlement.** Class Members who fail to timely object to the
21 Settlement Agreement in the manner specified above will: (1) be deemed to have waived their
22 right to object to the Agreement; and (2) be foreclosed from objecting (whether by appeal or
23 otherwise) to the Agreement.

24 **9. Requesting Exclusion (Opt Out).** Any Class Member wishing to be excluded
25 (aka "opt-out") from the Class Settlement must sign and submit by U.S. Mail or other delivery
26 service a valid written Request for Exclusion to the Settlement Administrator on or before the
27 Response Deadline containing all the information required by the Agreement. To be valid, the
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1 Request for Exclusion must: (1) contain the case name and number of the *Price* Action; (2)
2 contain the full name, address, telephone number, and last four digits of the social security
3 number of the Class Member; (3) be signed by the Class Member; (4) contain a statement
4 clearly indicating that the Class Member wishes to be excluded from the Settlement; and (5) be
5 postmarked on or before the Response Deadline and mailed to the Settlement Administrator at
6 the address specified in the Class Notice. If the Request for Exclusion does not satisfy the
7 requirements listed in items (1)-(5), it will not be deemed complete or valid. The date of the
8 postmark on the Request for Exclusion shall be the exclusive means used to determine whether
9 a Request for Exclusion has been timely submitted. Any Class Member who submits a valid
10 and timely Request for Exclusion will not be a member of the Settlement Class, will not be
11 entitled to any recovery under this Settlement Agreement, and will not be bound by the terms
12 of the Settlement or have any right to object, appeal, or comment thereon. However, they will
13 still receive payment for his or her portion of the PAGA penalty award and be bound by the
14 Released Claims as they pertain to PAGA. If a Class Member submits both a Request for
15 Exclusion and an Objection, then, the Request for Exclusion will be processed, and the
16 Objection will be considered void.

17 **10. Work Weeks Disputes.** If a Settlement Class Member wishes to dispute the
18 number of Work Weeks with which he or she has been credited, the Settlement Class Member
19 must submit to the Settlement Administrator, by U.S. Mail or other delivery service, a
20 Workweek Dispute on or before the Response Deadline. The Work Weeks Dispute must: (1)
21 contain the case name and number of the *Price* Action; (2) contain the full name, address,
22 telephone number, and last four digits of the social security number of the Class Member; (3)
23 be signed by the Class Member; (4) contain a clear statement indicating that the Class Member
24 disputes the Work Weeks credited to him or her and provide the number of Work Weeks that
25 the Class Member contends should be credited to him or her; (5) attach documentation and/or
26 an explanation to show that the Work Weeks credited to him or her are incorrect; and (6) be
27 mailed to the Settlement Administrator at the address specified in the Class Notice and
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1 postmarked by the Response Deadline. If there is a dispute, Defendants' records will be
2 presumed to be correct, unless that presumption is rebutted by the Class Member's showing.

3 **11. Termination.** If the Agreement terminates, the following will occur: (a) the
4 Preliminary Approval Order, and/or Final Approval Order and Judgment, and all of its or their
5 provisions will be vacated by its or their own terms, including, but not limited to, vacating
6 conditional certification of the Class; (b) Plaintiff will stop functioning as the Class
7 Representative and Class Counsel will stop serving as counsel for the proposed class; and (c) the
8 Action will revert to its previous status in all respects as it existed immediately before the Parties
9 executed the Memorandum of Understanding. No term or draft of the Memorandum of
10 Understanding or the Settlement Agreement, or any part of the Parties' settlement discussions,
11 negotiations or documentation will have any effect or be admissible into evidence for any
12 purpose in the Action or any other proceeding. This Preliminary Approval Order will not waive
13 or otherwise impact the Parties' rights or arguments.

14 **12. No Admissions.** Nothing in this Preliminary Approval Order is, or may be
15 construed as, an admission or concession on any point of fact or law by or against any Party.

16 **13. Stay of Dates and Deadlines.** All discovery and pretrial proceedings and
17 deadlines in the Action are stayed and suspended until further notice from the Court (including
18 the time to bring the case to trial pursuant to CCP § 583.330 is further extended to April 11,
19 2024), except for such actions as are necessary to implement the Agreement and this Preliminary
20 Approval Order.

21 **14. Final Approval Hearing.** On October 6, 2023, at 9:30 am/pm,
22 this Court will hold a Final Approval Hearing to determine whether the Agreement should be
23 finally approved as fair, reasonable, and adequate. Plaintiffs' Motion for Final Approval of the
24 Settlement and ~~all papers supporting the Class Counsel Award and Class Representative~~
shall be timely filed in per Code.
25 ~~Enhancement Payment must be filed by~~ X 17
26 ~~Any additional papers supporting final approval, including the Settlement Administrator~~
27
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1 declaration and any response to Objections to the Agreement must be filed by no later than
2

3 **15.** The Court reserves the right to adjourn or continue the date of the Final Approval
4 Hearing and all dates provided for in the Agreement without further notice to the Class, and
5 retains jurisdiction to consider further applications concerning the Settlement.
6

7 **IT IS SO ORDERED.**

8
9 DATED: _____

 5/19/23

JUDGE OF THE SUPERIOR COURT
GREGORY W. POLLACK

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 195443 NAME: Matthew S. Da Vega FIRM NAME: Da Vega Fisher Mechtenberg LLP STREET ADDRESS: 232 E. Anapamu St. CITY: Santa Barbara STATE: CA ZIP CODE: 93101 TELEPHONE NO.: 805.232.4471 FAX NO.: 877.535.9368 E-MAIL ADDRESS: mdavega@mdmflaw.com ATTORNEY FOR (name): Plaintiffs Cathryn-Lucy Price and Michelle Pono		FOR COURT USE ONLY ELECTRONICALLY RECEIVED Superior Court of California, County of San Diego 03/02/2023 at 03:58:37 PM Clerk of the Superior Court By Alma Rhodes, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway, MAILING ADDRESS: same CITY AND ZIP CODE: San Diego 92101 BRANCH NAME: Central Branch		
PLAINTIFF/PETITIONER: Plaintiffs Cathryn-Lucy Price and Michelle Pono DEFENDANT/RESPONDENT: AMN Healthcare, Inc. and AMN Services, LLC OTHER:		CASE NUMBER: 37-2018-00017996-CU-DE-CTL
		JUDICIAL OFFICER: Hon. Gregory W. Pollack
PROPOSED ORDER (COVER SHEET)		DEPT: C-71

NOTE: This cover sheet is to be used to electronically file and submit to the court a proposed order. The proposed order sent electronically to the court must be in PDF format and must be attached to this cover sheet. In addition, a version of the proposed order in an editable word-processing format must be sent to the court at the same time as this cover sheet and the attached proposed order in PDF format are filed.

- Name of the party submitting the proposed order:
Plaintiff Cathryn-Lucy Price and Michelle Pono
- Title of the proposed order:
ORDER GRANTING PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS and PAGA SETTLEMENT
- The proceeding to which the proposed order relates is:
 - Description of proceeding: HEARING RE: PLAINTIFFS MOTION FOR PRELIMINARY APPROVAL OF CLASS and PAGA SETTLEMENT
 - Date and time: March 24, 2023 at 9:30 a.m.
 - Place: San Diego County Superior Court,
Central Branch (Dept C-71 - Hon. Gregory W. Pollack)
330 West Broadway, San Diego CA 92101
- The proposed order was served on the other parties in the case.

Matthew S. Da Vega
(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME: Price v. AMN	CASE NUMBER:
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**PROOF OF ELECTRONIC SERVICE
PROPOSED ORDER**

1. I am at least 18 years old and not a party to this action.

a. My residence or business address is (specify):

DA VEGA FISHER MECHTENBERG LLP, 232 E. Anapamu St., Santa Barbara, CA 93101

b. My electronic service address is (specify): mdavega@mdmflaw.com

2. I electronically served the *Proposed Order (Cover Sheet)* with a proposed order in PDF format attached, and a proposed order in an editable word-processing format as follows:

a. On (name of person served) (If the person served is an attorney, the party or parties represented should also be stated.):

Taylor Wemmer, DLA Piper, 4365 Executive Dr., Suite 1100, San Diego, CA 92121 (Counsel for Defendant AMN)

b. To (electronic service address of person served): Taylor.Wemmer@us.dlapiper.com

c. On (date): March 2, 2023

☐ Electronic service of the *Proposed Order (Cover Sheet)* with the attached proposed order in PDF format and service of the proposed order in an editable word-processing format on additional persons are described in an attachment.

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

Date: March 2, 2023

Matthew S. Da Vega

(TYPE OR PRINT NAME OF DECLARANT)

Matthew S. Da Vega

(SIGNATURE OF DECLARANT)