

COPY

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Superior Court of California
County of Los Angeles

SEP 19 2016

Sherri R. Carter, Executive Officer/Clerk
By: Jan Josef Manrique, Deputy

1 Joseph Antonelli, Esq. (#137039)
Janelle Carney, Esq. (#201570)
2 LAW OFFICE OF JOSEPH ANTONELLI
14758 Pipeline Avenue, Suite E
3 Chino Hills, CA 91709-6025
Tel.: (909) 393-0223 / Fax: (909) 393-0471
4 Email: JAntonelli@antonellilaw.com
5 Attorneys for Plaintiffs Mays & Falk

6 Derek R. Havel, Esq. (Bar No. 193464)
Dhavel@smrh.com
7 Daniel J. McQueen, Esq. (Bar No. 217498)
dmcqueen@sheppardmullin.com
8 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 South Hope Street, 43rd Floor
9 Los Angeles, CA 90071-1448
Tel.: (213) 620-1780 / Fax: (213)620-1398

10 Linda Miller Savitt, Esq. (Bar No. 94164)
lsavitt@brgslaw.com
11 BALLARD ROSENBERG GOLPER & SAVITT LLP
500 N. Brand Blvd., 20th Floor
12 Glendale, CA 91203-9946
Tel.: (818) 508-3700/ Fax: (818) 506-4827
13 Attorneys for Defendant

14 ADDITIONAL COUNSEL ON FOLLOWING PAGES

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF LOS ANGELES

BY FAX

17 DENISE MAYS on behalf of herself and on
18 behalf of all others similarly situated,

19 Plaintiff,

20 vs.

21 CHILDREN'S HOSPITAL LOS ANGELES,
22 a California corporation, and DOES 1 through
23 100,

24 Defendant

) Case No.: BC477830
) Related to Case No.: BC496720, BC499818, and
) BC592560
) Hon. Ann I. Jones
) CLASS ACTION

**ORDER AND FINAL
JUDGMENT RE: PLAINTIFFS' MOTION
FOR ATTORNEYS' FEES AND COSTS
AND CLASS REPRESENTATIVE
ENHANCEMENT AND MOTION FOR
CONDITIONAL CERTIFICATION AND
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: September 19, 2016
Time: 9:00 a.m.
Dept: 308
Date Filed: January 27, 2012

) [CAPTION CONTINUED]

**PROPOSED ORDER AND FINAL JUDGMENT RE: PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES AND COSTS AND CLASS REPRESENTATIVE ENHANCEMENT
AND MOTION FOR CONDITIONAL CERTIFICATION AND FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

1 MICHELLE FALK on behalf of herself and on
2 behalf of all others similarly situated,

3 Plaintiff,

4 vs.

5 CHILDREN'S HOSPITAL LOS ANGELES, a
6 California corporation, and DOES 1 through
7 100,

8 Defendant

Case No.: BC496720
Related to Case No.: BC477830, BC499818,
and BC592560

Hon. Ann I. Jones

CLASS ACTION

Date Filed: December 3, 2012

11 JOSEPH SCHMIDT,

12 Plaintiff,

13 vs.

14 CHILDREN'S HOSPITAL LOS ANGELES, a
15 California corporation, and DOES 1 through
16 100,

17 Defendant

Case No.: BC499818
Related to Case No.: BC477830, BC496720,
and BC592560

Hon. Ann I. Jones

CLASS ACTION

Date Filed: January 24, 2013

20 ERIC COOPER and ELISABETH MCGEE
21 individually and on behalf of themselves and
22 on behalf of all other similarly situated current
and former employees of Defendant,

23 Plaintiff,

24 vs.

25 CHILDREN'S HOSPITAL LOS ANGELES, a
26 California corporation, and DOES 1 through
27 100,

28 Defendant.

Case No.: BC592560
Related to Case No.: BC477830, BC499818,
and BC496720

Hon. Ann I. Jones

CLASS ACTION

Date Filed: August 25, 2015

ORDER AND FINAL JUDGMENT RE: PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS AND CLASS REPRESENTATIVE ENHANCEMENT AND MOTION FOR CONDITIONAL CERTIFICATION AND FINAL APPROVAL OF CLASS ACTION SETTLEMENT

1 Kevin Mahoney, Esq. (Bar No. 235367)
2 **MAHONEY LAW GROUP, APC**
3 249 Ocean Boulevard, Suite 814
4 Long Beach, CA 90802
5 Tel.: (562) 590-5550 / Fax No.: (562) 590-8400

6 Attorneys for Plaintiff Denise Mays

7 Steven Gold, Esq. (SBN: 137910)
8 **THE GOLD FIRM™**
9 Symphony Towers
10 750 "B" Street, Suite 3300
11 San Diego, CA 92101
12 Tel.: (619) 358-9344

13 Attorney for Plaintiff, Michelle Falk

14 Allen Graves, Esq. (SBN: 204580)
15 **THE GRAVES FIRM, APC**
16 122 North Baldwin Avenue,
17 Main Floor
18 Sierra Madre, CA 91024
19 Tel.: (626) 240-0575; Fax: (626) 737-7013

20 Attorney for Plaintiff, Joseph Schmidt

21 Farzad Rastegar, Esq. (SBN: 155555)
22 Joshua Lange, Esq. (SBN: 269016)
23 **RASTEGAR LAW GROUP, APC**
24 1010 Crenshaw Blvd., Suite 100
25 Torrance, CA 90501
26 Tel.: (310) 961-9600; Fax: (310) 961-9094

27 Attorney for Plaintiffs, Erin Cooper and Elisabeth McGee
28

PROPOSED ORDER AND FINAL JUDGMENT RE: PLAINTIFFS' MOTION FOR
ATTORNEYS' FEES AND COSTS AND CLASS REPRESENTATIVE ENHANCEMENT
AND MOTION FOR CONDITIONAL CERTIFICATION AND FINAL APPROVAL OF
CLASS ACTION SETTLEMENT

1 The Plaintiffs' class, as defined below, and the settling Defendant, Children's Hospital
2 Los Angeles (hereinafter referred to as "Defendant" or "CHLA") entered into an agreement to
3 settle the above-captioned class action, subject to the Court's approval. The agreement is
4 captioned Revised Stipulation and Settlement of Class Action Claims and includes the
5 "Amendment to Revised Stipulation and Settlement of Class Action Claims" (hereinafter
6 collectively referred to as "Settlement Agreement"). The Settlement Agreement approved by the
7 court is attached as Exhibits 1 and 2 to the Preliminary Approval Order entered May 17, 2016.
8 The Settlement Agreement provides for the payment of compensation to each Class Member
9 according to a formula which uses each employee's Individual Gross Earnings to determine what
10 percent of the Total Gross Earnings was earned by each Class Member during the applicable
11 Earnings Period, pursuant to the Preliminary Approval Order entered on May 17, 2016. The
12 Preliminary Approval Order also approved the proposed forms of notice and related documents.
13 The court entered the Preliminary Approval Order after review and consideration of all of the
14 pleadings filed in connection herewith, and the oral presentations made by counsel at the hearing.

15 In compliance with the Preliminary Approval Order entered May 17, 2016, the Court
16 approved notice was sent to the Class Members via first class mail by the court approved
17 settlement administrator, Rust Consulting, Inc., on June 20, 2016.

18 This matter is now before the Court on Plaintiffs' Motions for Final Approval of the
19 Class Action Settlement, Attorneys' Fees and Costs, and Class Representative Enhancements.
20 The Court has read, heard, and considered all of the pleadings and documents submitted, and the
21 presentations made in connection with the Motions which came on for hearing on September 19,
22 2016.

23 This Court finds that the proposed settlement is 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 finds that the settlement was entered into in good faith
26 pursuant to California Code of Civil Procedure §877.6. The Court further finds that the
27 settlement is fair, reasonable and adequate and that Plaintiffs, Denise Mays, Michelle Falk,
28

1 Joseph Schmidt, Erin Cooper, and Elisabeth McGee, have satisfied the standards for final
2 approval of a class action settlement under California law.

3 The hearing was attended by class counsel, Joseph Antonelli Esq. of the Law Office of
4 Joseph Antonelli, Kevin Mahoney of Mahoney Law Group, APC, Allen Graves of The Graves
5 Firm, APC, Steven Gold of The Gold Firm, and Joshua Lange of Rastegar Law Group. The
6 Defendant was represented by Derek R. Havel of Sheppard, Mullin, Richter & Hampton, LLP,
7 and Linda Miller Savitt of Ballard Rosenberg Golper & Savitt, LLP.

8 Based on the foregoing, IT IS HEREBY ORDERED THAT:

9 1. The Court has jurisdiction over the claims of the Settlement Class Members
10 asserted in this proceeding and over all parties to the related actions;

11 2. For the reasons set forth in the Preliminary Approval Order of May 17, 2016,
12 which is adopted and incorporated herein by reference, this Court finds that the applicable
13 requirements of the California Code of Civil Procedure §382 have been satisfied with respect to
14 the Settlement Classes and the proposed settlement. The Court hereby makes final its earlier
15 provisional certification of the Plaintiff Classes, as set forth in the Preliminary Approval Order.
16 The Court finds the following class has been certified and is subject to the Settlement as "Class
17 Members":

18 "All hourly non-exempt employees of CHLA who worked during the Class Period
19 (April 23, 2004 to May 17, 2016), except that the Class shall not include any individuals
20 who have already released all wage and hour claims, through a general release as part of a
21 severance or settlement agreement or otherwise."

22 3. The notice given to the Class Members fully and accurately informed the Class
23 Members of all material elements of the proposed Settlement including the fact that Class
24 Member shares were based on estimates that may change before the final distribution amount is
25 paid to the Class Members. The notice accurately informed the Class Members of their
26 opportunity to object or comment thereon; was the best notice practicable under the
27 circumstances; was valid, due and sufficient notice to all Class Members; and complied fully

1 with the laws of the State of California, due process, and other applicable law. The notice fairly
2 and adequately described the Settlement and provided Class Members adequate instructions and
3 a variety of means to obtain additional information. A full opportunity has been afforded to the
4 Class Members to participate in this hearing, and all Class Members and other persons wishing
5 to be heard have been heard. Accordingly, the Court determines that all Class Members who did
6 not timely and properly execute a Request for Exclusion are bound by this Final Judgment and
7 order. The Court finds that the Notice period expired on August 5, 2016 and that are twenty-two
8 (22) Class Members who submitted a valid request for exclusion. (A true and correct copy of all
9 persons who have properly been excluded from this class action, is attached as **Exhibit 1**,
10 hereto.) Any Requests for Exclusion sent to the Settlement Administrator on or after August 5,
11 2016 shall be deemed late and are therefore invalid. Accordingly, all Class Members who did
12 not timely exclude themselves are therefore bound by this Final Judgment and order.

13 4. Pursuant to California law and Code of Civil Procedure § 382 et seq., the Court
14 hereby grants final approval to the Settlement and finds that it is fair, reasonable and adequate,
15 and in the best interests of the Settlement Class as a whole. The Court approves the settlement
16 amount of \$27,000,000.00 as fair, reasonable and adequate. The settlement contemplated the
17 Court's authority to reduce the attorneys' fees requested and Class Representative enhancements
18 to amounts below the amounts requested by Plaintiffs for those elements of the settlement.
19 Accordingly, the Court hereby directs that the Settlement be effected in accordance with the
20 terms of the Revised Stipulation and Settlement of Class Action Claims
21 ("Revised Settlement Agreement") and the Amendment to the Revised Stipulation and
22 Settlement of Class Action Claims, attached as **Exhibits 1 and 2**, respectively, to the Preliminary
23 Approval order, entered on May 17, 2016. Defendant is to pay the full twenty-seven million
24 dollars (\$27,000,000) to the Settlement Administrator within ten (10) days after the Effective
25 Date of the Settlement pursuant to Paragraph 11 (a) of the Settlement Agreement. The
26 Settlement Administrator shall mail the Individual Settlement payments to the Participating
27 Class Members within fifteen (15) business days of the Effective Date of the Settlement pursuant

1 to Paragraph 16 (b) of the Settlement Agreement. The Court reaffirms that the Effective Date as
2 set forth in the Settlement Agreement under Section I, "Defined Terms" at page 3 is as follows:

3 "Effective Date" means the date by which the Settlement is finally approved and the
4 Superior Court's Final Judgment ("Final Judgment" or "Judgment") becomes final. For
5 purposes of this paragraph, the Superior Court's Final Judgment "becomes final" upon the
6 latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing
7 of any appeal from the Superior Court's Judgment; (ii) the date affirmance of an appeal of
8 the Judgment becomes final under the California Rules of Court; or (iii) the date of final
9 dismissal of any appeal from the Judgment or the final dismissal of any proceeding on
10 review of any court of appeal decision relating to the Judgment.

11 5. The Class Members shall fully and finally release and discharge CHLA and its
12 former and present parents, subsidiaries and affiliated corporations and their officers, directors,
13 employees, partners, shareholders and agents, attorneys, insurers and risk sharing pools including
14 BETA Healthcare Group, and any other successors, assigns or legal representatives ("Released
15 Parties"), from April 23, 2004 to May 17, 2016, of all California wage and hour claims, rights,
16 demands, liabilities and causes of action of every nature and description, whether known or
17 unknown, arising from or related to the claims brought or that could have been brought in the
18 Action (as defined in the Settlement Agreement) against CHLA, including but not limited to
19 statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs,
20 penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs,
21 restitution, equitable relief, or other relief under California Business & Professions Code §
22 17200, et seq., based on the following categories of allegations including but not limited to: (a)
23 all claims for unpaid wages and overtime; (b) all claims for the failure to provide meal or rest
24 periods; (c) all claims for the failure to promptly pay all wages due and owing at the time of an
25 employee's termination or discharge; (d) all claims for the failure to issue properly itemized
26 wage statements and record keeping violations; (e) all claims for failure to reimburse business
27 expenses, (f) all claims for unlawful deductions from wages, and (g) any and all civil and

1 statutory penalties, including those pursuant to the Private Attorney's General Act ("PAGA") of
2 2004, arising out of the aforementioned claims. Participating Class Members shall also waive
3 any Fair Labor Standards Act ("FLSA") claims whether known or unknown, arising during the
4 class period for the Class Members based on the claims reasonably related to those alleged or
5 those that could have been alleged in the Action.

6 A Class Member's cashing of the settlement check will be considered a consent and opt-
7 in to become a party to the settlement of all related federal wage hour claims under the Fair
8 Labor Standards Act ("FLSA"), and each class member who cashes their settlement check will
9 waive his or her rights to bring related claims under the FLSA for the Class Period. Class
10 Members who do not cash their settlement check will retain their rights and claims under the
11 FLSA. However, the Settlement will still discharge and extinguish the aforementioned claims
12 under California law, including those for Class Members who do not cash their settlement check
13 or opt out of the Settlement.

14 6. There were no valid and timely objections made to the settlement, or to any form
15 of the settlement, including the Class Representative enhancements, attorneys' fees, or costs.
16 Pursuant to Paragraph 11 of the Preliminary Approval Order, if Final Judgment is entered, any
17 Class Member who fails to object in the manner prescribed herein shall be deemed to have
18 waived his or her objections and shall be forever barred from making any such objections in the
19 Action or in any other proceeding or from challenging or opposing, or seeking to reverse, vacate,
20 or modify any approval of the Revised Settlement Agreement, the Cost Request, Attorneys' Fee
21 Request, and the Service Awards requests for each of the Class Representatives. Failure to abide
22 by this order is an express waiver of any Class Members and person from pursuing an appeal in
23 this matter.

24 It is hereby ordered that the requested Class Representative Enhancements are fair and
25 reasonable, and are awarded as follows: \$25,000.00 for Denise Mays, \$10,000.00 for Michelle
26 Falk, \$12,500.00 for Joseph Schmidt, and \$10,000.00 each for Erin Cooper and Elisabeth
27 McGee. This finding is made after reading all papers including the declarations and
28

1 supplemental declarations. The payments will be made to the Class Representatives within
2 fifteen (15) days of the Effective Date pursuant to Paragraph 4 of the Settlement Agreement.

3 7. The Court approves attorneys' fees of \$9,000,000.00. Therefore, of the total
4 \$27,000,000.00 settlement, the fee of \$9,000,000.00, or 33.33% of the total settlement, is
5 approved as fees. The fee amount is hereby granted pursuant to California law, inter alia,
6 because it falls within the range of reasonableness and the result achieved justifies the award, as
7 set forth in paragraph 8, below. As to attorneys' and Administration costs, the Court approves
8 the payment of attorneys' costs up to the amount of \$250,000.00 and Rust Consulting, Inc.'s
9 administration costs of \$60,000.00. Any amounts not claimed as allocated costs shall be
10 distributed to the class on a pro rata basis. Said costs amounts shall be paid out of the total
11 settlement amount as set forth in the Settlement Agreement and is hereby granted pursuant to
12 California law. Pursuant to the Settlement Agreement, the settlement administrator is to be paid
13 from the settlement funds. Pursuant to paragraph eight (8) of the Settlement Agreement the
14 Settlement Administrator shall transfer to each class counsel the fees and costs awarded to each
15 Counsel by this Order within 15 days after the Effective Date.

16 The Court approves that \$100,000.00 of the gross settlement amount be allocated to
17 resolve PAGA claims, and that under California Labor Code § 2699(i), \$75,000.00 (75%) will be
18 paid to the California Labor and Welfare Development Agency.

19 8. The Court approves the attorneys' fees request. The Court finds the hourly rates
20 sought by the attorneys are reasonable and fair. Furthermore, the Court finds the percentage of
21 the fund recovery in the amount of 33.33% is appropriate. As a cross check, the lodestar
22 method, produces a reasonable multiplier and is additional grounds to approve the requested fee
23 award. The Court finds that the fee share, as agreed to by Class Counsel and consented to by the
24 Class Representatives is fair and reasonable.

25 The fees and costs awarded in this Final Order are for (a) all work performed and costs
26 incurred related to the Actions; (b) all work performed and costs incurred in connection with
27 approval by the Court of the Class Settlement; and (c) all work and costs incurred in connection

1 with administering the Class Settlement through final distribution of the settlement funds and
2 Final Judgment.

3 The Court finds that there has been no objection to the attorney fee share arrangement as
4 documented by Class Counsel and the plaintiffs and orders fees to be paid pursuant to the
5 arrangement as follows:

	FIRM	PERCENTAGE	DOLLARS	
6				
7	1.	Law Office of Joseph Antonelli	52.4%	\$4,725,000
8	2.	Mahoney Law Group, APC	38.5%	\$3,465,000
9	3.	The Graves Firm	7.5%	\$675,000
10	4.	Rastegar Law Group, APC (RLG)	1.0%	\$85,000
11	5.	The Gold Firm™	.006%	\$50,000
12		Total:	100%	\$9,000,000

13
14 The Court awards costs amongst class counsel, as follows:

	FIRM	COSTS	
15			
16	1.	Law Office of Joseph Antonelli	\$153,176.46
17	2.	Mahoney Law Group	\$78,053.84
18	3.	The Graves Firm	\$13,415.48
19	4.	The Gold Firm	\$2,061.15
20	5.	Rastegar Law Group	\$3,293.07
21		Total:	\$250,000.00

22
23
24
25 9. It is hereby ordered that a Final Judgment be entered which will bar any future
26 actions by Class Members against the Released Parties (as defined in the Settlement Agreement)
27 for any Released Claims (as defined in the Settlement Agreement) from the period of April 23,
28

1 2004 to May 17, 2016. To the extent any Participating Class Members fail to cash settlement
2 checks within 180 days of issuance, the uncashed checks shall be donated to St. Baldrick's
3 Foundation, pursuant to CCP Section 384. Such charitable donation shall be made within 15 days
4 after the 180 days have expired from the issuance of the checks.

5 10. Without affecting the finality of this matter, this Court shall retain exclusive and
6 continuing jurisdiction over this Action and the parties, including all Settlement Class Members,
7 for purposes of supervising, administering, implementing, enforcing, and interpreting the
8 Settlement, and the distribution process thereunder.

9 11. Pursuant to CRC 3.771(b), Plaintiffs' counsel is ordered to post this Final
10 Judgment on counsel's web page for a period of sixty (60) days.

11 12. There being no just reason to delay, the Clerk is directed to enter this Final
12 Judgment forthwith.

13 APPROVED AS TO FORM AND CONTENT:

14
15 Dated: August 31, 2016

LAW OFFICE OF JOSEPH ANTONELLI

16
17 By: 

18 Joseph Antonelli,
19 Attorney for Plaintiff and the Class

20
21 Dated: August 31, 2016

SHEPPARD, MULLIN, RICHTER & HAMPTON,
22 LLP

23 By: 

24 Derek R. Havel
25 Attorney for Children's Hospital Los Angeles

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IT IS SO ORDERED AND FINAL JUDGMENT IS HEREBY ENTERED.

Dated: 9/19/14

15/ **ANN I. JONES**
Hon. Ann I. Jones,
Judge of the Superior Court

Exhibit 1

Mays v. CHLA
Los Angeles Superior Court Case No. BC496720
List of Class Member Opt-Outs

OPNumber	FirstName	LastName
OP000001	JANET	GLUCKSMAN
OP000002	KATHERINE D	REGER
OP000003	NATALIE ANN	DYER
OP000004	ALICE	LOO
OP000005	WAYNE C	MELANSON
OP000006	BARBARA A	HALL
OP000007	CRYSTAL	SCOTT
OP000008	KRISTINE KIKUYE	TANITA
OP000009	JENNIFER LYNN	CASSAR
OP000010	RITA	SARALO
OP000011	NANCY	FERNANDEZ
OP000012	PETER ANTHONY	DEAN
OP000013	MICHELLE	MC DOWELL
OP000014	SAUL ADOLFO	SALCEDO
OP000015	JUSTINA M	LEGARRETA
OP000016	TSION	HERRON
OP000017	TIMOTHY	JONG
OP000018	LYNDA	VALENZUELA
OP000019	HALEY	LEWIS
OP000020	LETICIA	CAMPOS
OP000021	VICTORIA	PETERSON
OP000022	CIANA	RESCHMAN

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO

I am employed in the County of San Bernardino, State of California. I am over the age of eighteen (18) and not a party to the within action; my business address is 14758 Pipeline Ave., Suite E, 2nd Floor, Chino Hills, CA 91709.

On September 1, 2016, I served the foregoing document(s) described as:

[PROPOSED] ORDER AND FINAL JUDGMENT RE: PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS AND CLASS REPRESENTATIVE ENHANCEMENT AND MOTION FOR CONDITIONAL CERTIFICATION AND FINAL APPROVAL OF CLASS ACTION SETTLEMENT

On INTERESTED PARTIES in this action via File & Serve Xpress as listed below:

Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC
249 E. Ocean Boulevard, Ste. 814
Long Beach, CA 90802
kmahoney@mahoney-law.net

Steven Gold, Esq.
THE GOLD FIRM™
Symphony Towers
750 "B" Street, Suite 3300
San Diego, CA 92101
SGold@TheGoldFirm.com

Allen Graves, Esq.
THE GRAVES FIRM
122 N. Baldwin Ave., Main Floor
Sierra Madre, CA 91024
allen@gravesfirm.com

Linda Miller Savitt, Esq.
**BALLARD ROSENBERG GOLPER
& SAVITT, LLP**
500 N. Brand Blvd., 20th Floor
Glendale, CA 91203-9946
lsavitt@brgslaw.com

Derek R. Havel, Esq.
Daniel J. McQueen, Esq.
**SHEPPARD, MULLIN, RICHTER
& HAMPTON, LLP**
333 S. Hope Street, 43rd Floor
Los Angeles, CA 90071-1448
Dhavel@sheppardmullin.com
Dmcqueen@sheppardmullin.com

Farzad Rastegar, Esq.
RASTERGAR LAW GROUP, APC
22760 Hawthorne Blvd., Suite 200
Torrance, CA 90505
farzad@rastegarlawgroup.com

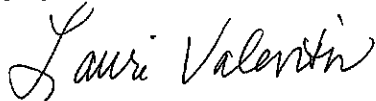
XX FILE & SERVE XPRESS: A true and correct copy of the above document was electronically served on counsel of record by transmission to the File & Serve Xpress System.

////

////

Executed on September 1, 2016 at Chino Hills, California.

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

A handwritten signature in cursive script that reads "Lauri Valentin". The signature is written in black ink and is positioned above a horizontal line.

Lauri Valentin

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/19/16

DEPT. 308

HONORABLE ANN I. JONES

JUDGE J. MANRIQUE

DEPUTY CLERK

HONORABLE #2

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. CONCEPCION, C.A.

Deputy Sheriff

NONE

Reporter

9:00 am	BC477830	Plaintiff	JOSEPH ANTONELLI	(X)
		Counsel	KEVIN MAHONEY	(X)
	DENISE MAYS	*	TREANA ALLEN	(X)
	VS	Defendant	ALLEN GRAVES	(X)
	CHILDREN'S HOSPITAL LOS ANGELES	Counsel	STEVEN GOLD	(X)
	170.6-Elizabeth Allen White-plt Un-Related to BC370354		DEREK HAVEL	(X)

NATURE OF PROCEEDINGS:

MOTION OF PLAINTIFFS DENISE MAYS ON BEHALF OF HERSELF AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED FOR ATTORNEYS' FEES AND COSTS, AND CLASS REPRESENTATIVE ENHANCEMENTS;

MOTION OF PLAINTIFFS DENISE MAYS ON BEHALF OF HERSELF AND ON BEHALF OF ALL OTHER SIMILARLY SITUATED FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;

The Court issues its tentative ruling.

The matters are called for hearing.

All parties submit on the Court's tentative ruling.

The Court adopts its tentative ruling as the final order of the court as modified as follows:

- (1) The Court certifies the class for purposes of settlement;
- (2) The Court finds that the settlement is fair, adequate, and reasonable;
- (3) Class counsel are awarded \$9,000,000 in attorney fees and \$250,000 in costs;
- (4) The class representatives are awarded enhancements of \$25,000 (Mays), \$10,000 (Falk),

MINUTES ENTERED 09/19/16 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/19/16

DEPT. 308

HONORABLE ANN I. JONES

JUDGE

J. MANRIQUE

DEPUTY CLERK

HONORABLE
#2

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. CONCEPCION, C.A.

Deputy Sheriff

NONE

Reporter

9:00 am	BC477830	Plaintiff	JOSEPH ANTONELLI	(X)
		Counsel	KEVIN MAHONEY	(X)
	DENISE MAYS	*	TREANA ALLEN	(X)
	VS	Defendant	ALLEN GRAVES	(X)
	CHILDREN'S HOSPITAL LOS ANGELES	Counsel	STEVEN GOLD	(X)
	170.6-Elizabeth Allen White-plt Un-Related to BC370354		DEREK HAVEL	(X)

NATURE OF PROCEEDINGS:

\$12,500 (Schmidt), \$10,000 (Cooper) and \$10,000 (McGee);

(5) The Claims administrator is awarded \$60,000 in costs; and

(6) The proposed Order and Judgment containing the class description, the release language, and a list of all class members who opted out, will be signed this date.

Further findings of the Court are more fully reflected in the Court's Ruling re Motion for Final Approval of Class Action Settlement filed this date and incorporated herein by reference to the court file.

The Order and Final Judgment Re: Plaintiffs' Motion for Attorneys' Fees and Costs and Class Representative Enhancement and Motion for Conditional Certification and Final Approval of Class Action Settlement is signed and filed this date.

Class counsel shall prepare and submit a Final Distribution Report for the Court by February 21, 2017.

The Court sets a Non Appearance Case Review re Submission of a Final Distribution Report on February 21, 2017, at 8:30 a.m. in Department 308.

<p align="center">MINUTES ENTERED 09/19/16 COUNTY CLERK</p>

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/19/16

DEPT. 308

HONORABLE ANN I. JONES

JUDGE J. MANRIQUE

DEPUTY CLERK

HONORABLE #2

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. CONCEPCION, C.A.

Deputy Sheriff

NONE

Reporter

9:00 am

BC477830

Plaintiff

JOSEPH ANTONELLI

(X)

Counsel

KEVIN MAHONEY

(X)

DENISE MAYS

*

TREANA ALLEN

(X)

VS

Defendant

ALLEN GRAVES

(X)

CHILDREN'S HOSPITAL LOS ANGELES

Counsel

STEVEN GOLD

(X)

170.6-Elizabeth Allen White-plt
Un-Related to BC370354

DEREK HAVEL

(X)

NATURE OF PROCEEDINGS:

Counsel for Plaintiffs', listed below, shall give notice to all interested parties.

NOTICE OF ENTRY OF JUDGMENT

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the 09/19/16 Minute Order and Order and Final Judgment Re: Plaintiffs' Motion for Attorneys' Fees and Costs and Class Representative Enhancement and Motion for Conditional Certification and Final Approval of Class Action Settlement upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: September 19, 2016

Sherri R. Carter, Executive Officer/Clerk

<p align="center">MINUTES ENTERED 09/19/16 COUNTY CLERK</p>

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 09/19/16

DEPT. 308

HONORABLE ANN I. JONES

JUDGE

J. MANRIQUE

DEPUTY CLERK

HONORABLE
#2

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C. CONCEPCION, C.A.

Deputy Sheriff

NONE

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(X)

NATURE OF PROCEEDINGS:

By: / / JAN JOSEF MANRIQUE
J. Manrique, Judicial Assistant

Joseph Antonelli
LAW OFFICE OF JOSEPH ANTONELLI
14758 Pipeline Avenue, Ste. E
Chino Hills, CA 91709-6025

MINUTES ENTERED 09/19/16 COUNTY CLERK

SEP 19 2016

Mays v. Children's Hospital Los Angeles

MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT

Sherri R. Carter, Executive Officer/Clerk
By: Jan Josef Manrique, Deputy

Date of Hearing: September 19, 2016

Department: 308

Case No.: BC477830, r/t BC496720, BC499818, and BC592560

Plaintiffs seek final approval of the settlement of this wage and hour class action. The tentative ruling is as follows:

- (1) The Court certifies the class for purposes of settlement;
- (2) The Court finds that the settlement is fair, adequate, and reasonable;
- (3) Class counsel are awarded \$9,000,000 in attorney fees and \$250,000 in costs.
- (4) The class representatives are awarded enhancements of \$25,000 (Mays), \$10,000 (Falk), \$12,500 (Schmidt), \$10,000 (Cooper) and \$10,000 (McGee)
- (5) The claims administrator is awarded \$60,000 in costs; and
- (6) The proposed Order and proposed Judgment containing the class description, the release language, and a list of all class members who opted out, will be signed this date.

FINAL APPROVAL OF CLASS ACTION SETTLEMENT

California Rules of Court, rule 3.769(g), provides for an inquiry into the fairness of the proposed settlement prior to the final approval hearing. After this, the court must make and enter judgment, including a provision for the retention of the court's jurisdiction over the parties to enforce the terms of the judgment. See California Rules of Court, rule 3.769(h). The class action may not be dismissed once judgment is entered. See California Rules of Court, rule 3.770. All class settlements are subject to a settlement hearing and court approval before entry of judgment or final order.

The trial court has broad powers to determine whether a proposed settlement is fair. Mallick v. Superior Court (1979) 89 Cal. App. 3d 434, 438. The California standard for approval of class settlements is similar to the federal requirement that the settlement be fair, reasonable, and adequate for class members overall. Dunk v. Ford Motor Co. (1996) 48 Cal. App. 4th 1794, 1801.

CLASS NOTICE AND CLASS RESPONSE

1. How was notice given? Rust Consulting, Inc. is the settlement administrator, and it filed evidence concerning the notice procedure. On June 8, 2016, Rust received the class information from defense counsel; the class list contained data for 9,546 class members. (Declaration of Amanda Myette, ¶7.) Rust mailed notice to all 9,546 class members on June 20, 2016. (Id. at ¶9.) Of the 907 notices that were returned, Rust was able to obtain updated addresses for 787, and promptly re-mailed those. (Id. at ¶10.)

2. How many opted-out? Rust received 22 timely requests for exclusion and 2 untimely requests. (Id. at ¶11, and Exhibits B and C thereto.) The opt-out rate is .002%.
3. How many objected? Zero. (Id. at ¶13.)
4. How many submitted a claim form? n/a
5. Estimate of recovery to each class member? \$1,838.69. (Id. at ¶12.)

EVALUATION OF THE SETTLEMENT

The Court must determine if the settlement is fair, adequate, and reasonable. The settlement is entitled to a presumption of fairness where: “ (1) the settlement is reached through arm’s-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” (*Dunk v. Ford Motor Company* (1996) 48 Cal.App.4th 1794, 1802 (“*Dunk*”).) As *Wershba v. Apple Computer* (2001) 91 Cal.App.4th 224, 250, further notes:

A settlement need not obtain 100 percent of the damages sought in order to be fair and reasonable. (See *Rebney v. Wells Fargo Bank*, supra, 220 Cal. App. 3d at p. 1139 [settlements found to be fair and reasonable even though monetary relief provided was “relatively paltry”]; *City of Detroit v. Grinnell Corp.*, supra, 495 F.2d at p. 455 [settlement amounted to only “a fraction of the potential recovery”].) Compromise is inherent and necessary in the settlement process. Thus, even if “the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated,” this is no bar to a class settlement because “the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation.” (*Air Line Stewards, etc., Loc. 550 v. American Airlines, Inc.* (7th Cir. 1972) 455 F.2d 101, 109.)

The Court finds that the settlement is fair, adequate, and reasonable based on the following:

- Settlement was reached through arms’-length bargaining. The parties reached agreement on principal terms during mediation with Hon. Carl J. West (Ret.), and continued negotiating thereafter until terms were finalized. (Declaration of Joseph Antonelli, ¶18.)
- Investigation and discovery were sufficient to allow counsel and the court to act intelligently. Class Counsel conducted informal investigation and evaluated Defendant’s policies and procedures, job descriptions, deposition testimony, expert damage analysis and statistical models, and research on the applicability of wage and hour laws to the health care industry. (Id. at ¶19.) The settlement was only reached after substantial discovery, including analysis of actual payroll records, time records, and personnel records for the putative class and Plaintiffs’ damage analysis. (Supplemental Declaration of Joseph Antonelli, ¶17.) These cases also included over 20 depositions. (Ibid.)

- Class counsel are experienced in similar litigation. (Antonelli Declaration at ¶¶20-29; Declaration of Steven Gold, ¶¶10-17; Declaration of Farzad Rastegar, ¶¶8-14; Declaration of Kevin Mahoney, ¶¶4, 5; Declaration of Allen Graves, ¶¶3-6.)
- The percentage of objectors is small. None of the class members objected. (Myette Declaration, ¶13.)

As noted in *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal.App.4th 399, 408:

...a trial court's approval of a class action settlement will be vacated if the court "is not provided with basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise." (Kullar, supra, 168 Cal.App.4th at pp. 130, 133, 85 Cal.Rptr.3d 20.) In short, the trial court may not determine the adequacy of a class action settlement "without independently satisfying itself that the consideration being received for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." (Id. at p. 129, 85 Cal.Rptr.3d 20.)

At the time of preliminary approval, Class Counsel presented evidence regarding the strength of the claims. The maximum reasonable exposure on the wages claim based on dual rate and regular rate was calculated at approximately \$29,250,000. Defendant contended that a meal break class could not be certified based on *Brinker Restaurant Corp v. Superior Court* (2012) 53 Cal.4th 1004. Defendant's timecards during the class period included 2 time-keeping systems, which made it difficult to determine if meal breaks were actually provided. The meal break liability exposure was estimated at \$3,290,000 but was reduced to \$2,300,000 for settlement purposes. (Ibid.) For the rest break claim, the estimated maximum exposure was estimated at \$1,382,000, adjusted down to \$970,000. Defendant's liability for paystub penalties was estimated at approximately \$1,050,000 due to the risks of certification, while waiting time penalties were valued at \$652,500. PAGA penalties, which are subject to the Court's discretion, were assessed an approximate worth of \$336,000. (Antonelli Declaration re: Preliminary Approval, ¶10.) All together, these amount to approximately \$34,558,500. The \$27,000,000 settlement constitutes approximately 78% of this damage estimate and is thus well within the ballpark of what is reasonable. After taking the requested deductions, \$17,547,500 remains and will be automatically distributed to all class members who did not opt out. According to Class Counsel member of the 12-Hour Class will receive average payments of \$2,955.88, members of the 10-Hour Class will receive average payments of \$1,334.75, and members of the 8-Hour Class will receive average payments of \$907.43. (Supplemental Antonelli Declaration, ¶15.)

The moving papers, declarations and exhibits attached thereto, have provided this Court with "basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise" such that this Court is satisfied "that the consideration being received

for the release of the class members' claims is reasonable in light of the strengths and weaknesses of the claims and the risks of the particular litigation." *Dunk* at 1802: "So long as the record is adequate to reach 'an intelligent and objective opinion of the probabilities of success should the claim be litigated' and 'form' an educated estimate of the complexity, expense and likely duration of such litigation...it is sufficient."

COSTS AND FEES

1. What is the lodestar calculation? The lodestar is the primary method of establishing the amount of reasonable attorney fees in California. (*Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 556.) In common fund cases the percentage of the benefit method may be used, supplemented by information gleaned from lodestar analysis. (*Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.4th 480, 573.

Here, the attorneys representing plaintiffs are requesting a \$9,000,000 fee award. The attorneys have a fee-splitting agreement and have presented evidence of each client's written consent thereto: 52.4% to the Law Offices of Joseph Antonelli, 38.5% to the Mahoney Law Group; 7.5% to The Graves Firm; \$85,000 to Rastegar Law Group; and \$50,000 to The Gold Firm.

<u>Timekeeper</u>	<u>Hours</u>	<u>Average Hourly Rate</u>	<u>Total Lodestar</u>	<u>Requested Payment</u>	<u>Multiplier</u>
Law Office of Joseph Antonelli	3,275	\$694.37	\$2,274,060	\$4,725,000	2.08
Mahoney Law Group, APC	2,032	\$552.08	\$1,120,728	\$3,465,000	3.09
The Graves Firm	976.40	\$524.63	\$512,251	\$675,000	1.32
Rastegar Law Group	71.30	\$499.58	\$35,620	\$85,000	2.39
The Gold Firm	101.30	\$500	\$50,650	\$50,000	.98
TOTAL	6,456	\$618.54	\$3,993,309	\$9,000,000	2.25

This lodestar analysis is contained in the Supplemental Antonelli Declaration, ¶19, and the declarations and supplemental declarations of each attorney. The hourly rates charged by the attorneys are reasonable for attorneys with their respective years of experience, and the total number of hours devoted to these cases is also reasonable. Thus, \$3,993,309 constitutes the lodestar.

2. Is a multiplier sought? "After making the lodestar calculation, the court may augment or diminish that amount based on a number of factors specific to the case before it, including the novelty and difficulty of the case, the attorneys' skill in presenting the issues, the amount involved and degree of success achieved, the extent to which the case precluded the attorneys from accepting other work and the contingent nature of the work." (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1320-1321.) The multiplier sought by each attorney is listed in the far right column, above.

Based upon the difficulty of this case, the skill demonstrated by all counsel, the contingent nature of the representation, and the success achieved, the Court finds that the requested multipliers are warranted.

Applying the cross-check, the fee request represents 1/3 of the gross settlement amount, which is average for this kind of litigation. (*In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 558, FN 13: "Empirical studies show that, regardless of whether the percentage method or the lodestar method is used, fee award in class actions average around one-third of the recovery.") Additionally, because this is a common fund case, application of the percentage of the benefit method is appropriate. For all of these reasons, the fee award is granted in the amount requested.

3. What are the costs claimed? The attorneys request costs in the amount of \$250,000, which is the cap provided for in the settlement agreement. The Law Offices of Joseph Antonelli has costs of \$151,081.54. [\$148,343.26 (Antonelli Declaration, ¶133 and Exhibit 1 thereto) plus \$2,738.28 (Supplemental Antonelli Declaration, ¶18 and Exhibit 1 thereto.)] These costs include expert fees, outside consultant, depositions, data processing, Rust, messenger fees, photocopies, outside contractor, mediation, legal research, filing fees, investigation fees, meetings, parking and mileage, travel, FedEx and UPS costs, and other miscellaneous costs; some of these costs were reimbursed by Mahoney Law Group. (Ibid.) Counsel provides an adequate explanation of the "outside contractor" and "outside consultant" and other costs. (Ibid.) Mahoney Law Group has costs of \$77,850.33. (Mahoney Declaration, ¶18 and Exhibit 2 thereto.) These costs include certain payments to Antonelli, parking and mileage, File& ServeXpress costs, mediation, Court Call, and other costs, all of which appear to be reasonable. The Graves Firm has costs of \$13,473.94. [\$13,272 (Graves Declaration, ¶122 and Exhibit 5 thereto) plus \$201.24 (Supplemental Graves Declaration, ¶128 and Exhibit 2 thereto.)] These costs include photocopies, courier service, File& ServeXpress costs, FedEx, mailing, parking, and other miscellaneous costs, which all appear to be reasonable. The Rastegar Law Firm claims costs in the amount of \$3,223.18, including filing fees, travel expenses, mileage and parking, postage, photocopies, paralegal fees, and research fees. (Rastegar Declaration, ¶120, and Exhibit 2 thereto.) Finally, the Gold Firm claims costs of \$2,065. (Gold Declaration, ¶19 and Exhibit 2 thereto.) These costs, which include investigation services, photocopies, filing fees, scanning, CourtCall and File & ServeXpress, all appear to be reasonable. $\$151,081.54 + \$77,850.33 + \$13,473.94 + \$3,223.18 + \$2,065 = \$247,693.99$. Counsel anticipates that an additional \$1,500 in future costs will be required. (Supplemental Antonelli Declaration, ¶18.) This would bring the total to \$249,193.99. Because the costs all appear to be reasonable and given that the class was provided with notice that \$250,000 may be requested for costs, the Court award the requested amount of \$250,000.
4. Incentive payment to class representative? An incentive fee award to a named class representative must be supported by evidence that quantifies time and effort expended by the individual and a reasoned explanation of financial or other risks undertaken by the class representative. (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 806-807.; *Cellphone Termination Cases* (2010) 186 Cal.App.4th 1380, 1394-1395: "[C]riteria courts may consider in determining whether to make an

incentive award include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or lack thereof) enjoyed by the class representative as a result of the litigation. [Citations.]’,” citing *Van Vranken v. Atlantic Richfield Co.* (N.D.Cal. 195) 901 F.Supp. 294, 299.

Plaintiffs Denise Mays, Michelle Falk, Joseph Schmidt, Erin Cooper, and Elisabeth McGee each seek incentive awards of varying amounts: Denise Mays (\$15,000 for the general release and \$10,000 as an enhancement); Michelle Falk (\$5,000 for the general release and \$5,000 for an enhancement); Joseph Schmidt (\$7,500 for the general release and \$5,000 for an enhancement); Erin Cooper and Elisabeth McGee (\$5,000 each for general releases and \$5,000 each for enhancements). Each plaintiff submitted a declaration at the time of preliminary approval and a second declaration with the final approval documents.

The court grants these awards for the reasons set forth below.

Denise Mays was employed by Defendant from September, 2008, to May 31, 2012. She first contacted attorney Kevin Mahoney in the fall of 2011 (when she was out on medical leave), because she believed she was not being properly compensated; Mahoney referred her to attorney Joseph Antonelli. After agreeing to file this lawsuit, Mays did talk to other class members who stated that they were happy about this class action, and who expressed that they would have feared retaliation if they had filed suit. After being terminated by Defendant, Mays has not been able to find other work, although she is still paying \$500 per month on the student loans she obtained in order to earn her Registered Nurse degree. Mays spent over 175 hours on this litigation, provided relevant documents, attended all meetings, attended a full day of mediation, and communicated with her attorneys via multiple phone calls and emails. (Mays Declaration re: Preliminary Approval, ¶¶ 2-5.) Mays has spoken with class members who have thanked her for bringing this lawsuit and who informed her about improvements at her former workplace, including a change in the pay policy. (Id. at ¶16.) Mays took her role as class representative seriously, and accepted the associated risks, including the risks to her future employment and the risk of being liable for costs. (Supplemental Mays Declaration, ¶18.) Since her termination, Mays has applied for other nursing jobs but has not been hired. (Id. at ¶17.) Based on all of the above, and based upon the length of time this litigation has been pending (4 ½ years) the Court finds that \$25,000 (\$15,000 for the general release and a \$10,000 enhancement) is a reasonable award for Mays.

Michelle Falk was employed from March to August, 2006. After her employment ended she felt she had not been paid fairly and sought legal counsel, hiring attorney Steven Gold. Falk spent over 75 hours on this litigation, doing such things as meeting with her lawyers to educate them about Defendant’s policies. (Falk Declaration re: Preliminary

Approval, ¶¶2-4.) The class members whom Falk has spoken with are happy about this settlement and approved of her requested enhancement. (Supplemental Falk Declaration, ¶5.) Falk has dedicated herself to this case and has stayed in contact with her attorneys. (Id. at ¶6.) Based on this information and upon her assumption of the risks associated with acting as a class representative, the Court finds that \$10,000 is a reasonable award.

Joseph Schmidt worked for Defendant from August to December, 2011, and during that time observed the violations alleged in this lawsuit. Schmidt complained about the meal break issue and was fired. (Schmidt Declaration re: Preliminary Approval, ¶¶2-6.) Schmidt took his role as class representative seriously and accepted the potential risks. (Id. at ¶¶7, 10.) Schmidt placed the interests of the class ahead of his own, accepted the risks associated with acting as a class representative, and believes that the settlement is fair and reasonable. (Supplemental Schmidt Declaration, ¶7.) The Court finds that \$12,500 is a reasonable incentive for Schmidt's participation in this litigation.

Erin Cooper is a current employee, the only class representative who is still employed by Defendant. Cooper works four 10-hour shifts per week, designated as an Alternate Workweek Schedule, and as such gave up her right to receive overtime after 8 hours. (Cooper Declaration at 3-7.) Cooper agreed to act as a class representative after learning about the obligations of serving as such, agreeing not only to pursue her own claims but those of all similarly situated employees. (Id. at ¶¶ 10, 11.) Though her case was filed relatively recently (August, 2015), Cooper devoted many hours to this litigation, which is not easy given her work and home life obligations. (Id. at ¶13.) Cooper estimates that she has spent 45-50 hours on this litigation, speaking with other nurses about the rules for overtime, researching the rules, discussing with nurses in other departments, researching California websites concerning labor laws to find out if Defendant properly registered all departments at the hospital that implement AWS, and conferencing with her attorneys to discuss the case. (Supplemental Cooper Declaration, ¶12.)

Elisabeth McGee worked for Defendant from May, 2013 to August, 2015, also working four 10-hour days per week. McGee was made aware of the obligations of serving as a class representative and agreed to undertake them. (McGee Declaration re: Preliminary Approval, ¶¶3-7.) McGee made the decision to leave a stable job working for Defendant during the time the lawyers were handling her case based on what she perceived as dishonesty from upper management. (Id. at ¶14.) Based upon her own calculations, McGee believes she may be owed earnings of \$20,000. (Ibid.) McGee estimates that she spent approximately 50 hours on this litigation, speaking with other nurses, in private meetings with human resources regarding the AWS classification, researching rules, drafting and mailing a letter to the California labor board, and regularly conferencing with her attorneys. (Supplemental McGee Declaration, ¶12.)

The Court finds that \$10,000 are reasonable awards for Cooper and McGee.

5. Claims Administration Costs? The claims administrator requests \$60,000. (Myette Declaration, ¶14.) For a class of this size and considering the work performed and yet to be performed, this appears to be reasonable.

FINAL REPORT:

The Court orders class counsel to file a final report summarizing all distributions made pursuant to the approved settlement, supported by declaration.

The Court sets a non-appearance date for submission of a final report on February 21, 2017 at 8:30 a.m. in Department 308.