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COPY
ORIGINAL FILED
MAY 28, 2008
LOS ANGELES
SUPERIOR COURT

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**
10 **CENTRAL CIVIL WEST**

11 EILEEN CAVANAUGH, on behalf of herself,
others similarly situated, and the general
12 public,

13 Plaintiff,

14 vs.

15 SOUTHERN CALIFORNIA PERMANENTE
MEDICAL GROUP, INC., a partnership;
16 JEFFREY A. WEISZ, M.D., et al.; JAMES
HUBER, an individual; BRIAN
17 HERZBERGER, an individual; FATIMA
FARAHAN, an individual; MARK
18 MONTIJO, an individual; DR. SINA
RADPARVAR, an individual; KAISER
19 PERMANENTE NURSE ANESTHETIST
ASSOCIATION, a group; KAISER
20 FOUNDATION HOSPITAL (formerly DOE
1), and DOES 2 through 500, inclusive,

21 Defendants.
22

CASE NO.: BC354246
CASE FILED: June 21, 2006
**AMENDED [~~PROPOSED~~] ORDER
PRELIMINARILY APPROVING CLASS
ACTION SETTLEMENT**
[Notice of Motion and Motion for Order and
[Declaration of I. Benjamin Blady filed
concurrently herewith]
DATE: May 20, 2008
TIME: 9:30 a.m.
DEPT.: 322
ASSIGNED FOR ALL PURPOSES TO
JUDGE PETER D. LICHTMAN, DEPT. 322
DISCOVERY CUT-OFF: NONE
MSJ HEARING CUT-OFF: NONE
TRIAL DATE: NONE

23 Plaintiff/Class Representative Eileen Cavanaugh's Motion for Order Preliminarily
24 Approving Class Action Settlement came on hearing in Department 322 of the above-entitled
25 Court on May 20, 2008, the Honorable Peter D. Lichtman, Judge presiding.

26 I. Benjamin Blady of Appleton, Blady and Magnanimo appeared on behalf of
27 Plaintiff/Class Representative Eileen Cavanaugh.

28 Thomas Kaufman of Seyfarth Shaw appeared on behalf of Defendants Southern California

1 Permanente Medical Group and Kaiser Foundation Hospitals.

2 Having fully read and considered the Motion for Order Preliminarily Approving Class
3 Action Settlement, the supporting Points and Authorities, the Declaration of I. Benjamin Blady
4 filed in support thereof, and having heard argument of counsel, IT IS HEREBY ORDERED
5 THAT:

6 1. The Court grants preliminary approval of the Settlement and the Settlement Class,
7 except as to the amount of requested incentive payment for Plaintiff, based upon the terms set
8 forth in the Stipulation of Settlement and Release Between Plaintiff and Defendants ("Stipulation
9 of Settlement") filed herewith. The Settlement appears to be fair, adequate and reasonable. The
10 Settlement falls within the range of reasonableness and appears to be presumptively valid, subject
11 only to any objections that may be raised at the final hearing and final approval by this Court;

12 2. As to the motion for preliminary approval of the requested incentive payment to
13 Plaintiff of \$60,000, the Court denies the request in the amount sought without prejudice;
14 however, notice to the class shall be provided that her request was denied without prejudice, and
15 that she may seek an incentive payment up to the amount initially requested at the final approval
16 hearing, as set forth in the revised Notice attached as Exhibit A hereto;

17 3. The Court set a Fairness Hearing on the question of whether the proposed
18 Settlement should receive final approval as fair, reasonable and adequate is scheduled for
19 9/22, 2008 at 9:30 a.m. All briefs and materials in support of final approval
20 shall be filed with this Court on or before 9/12, 2008;

21 4. The Court approves and certifies the "Settlement Class" as: "All persons who, at
22 any time between June 21, 2002 and preliminary approval of the settlement, worked for Southern
23 California Permanente Medical Group in a position of Certified Registered Nurse Anesthetist,
24 which was classified as an overtime exempt position during that period;"

25 5. The Court confirms I. Benjamin Blady, Esq. of Appleton, Blady & Magnanimo as
26 Class Counsel of the Settlement Class;

27 6. The Court confirms Eileen Cavanaugh as the Class Representative of the
28 Settlement Class;

1 7. The Court approves, as to form and content, the proposed NOTICE OF
2 PROPOSED CLASS ACTION SETTLEMENT, PRELIMINARY APPROVAL AND FINAL
3 HEARING ON PROPOSED SETTLEMENT, ("Notice") in substantially the form attached to the
4 Stipulation of Settlement as Exhibit A; the CLAIM FORM ("Claim Form") in substantially the
5 form attached to the Stipulation of Settlement as Exhibit B; and the REQUEST FOR
6 EXCLUSION FROM CLASS ACTION SETTLEMENT ("Opt-Out Form") in substantially the
7 form attached to the Stipulation of Settlement as Exhibit C;

8 8. The Court directs the mailing of the Notice by First-Class Mail to the Class
9 Members in accordance with the terms of the Stipulation of Settlement. The Court finds that such
10 mailing meets the requirements of due process and provides the best notice practicable under the
11 circumstances and shall constitute due and sufficient notice to all persons entitled thereto;

12 9. The Court sets the following schedule of dates for further proceedings:

- | | | |
|----|--|---|
| 13 | (a) First mailing to the Class: | Within 20 business days after the order preliminarily approving class action settlement. |
| 14 | | |
| 15 | (b) Follow-up mailing to Class (when mail is returned and a new address is found): | Immediately upon receipt of returned mail. |
| 16 | | |
| 17 | (c) Follow-up reminder post-card mailing to Class (when neither a Claim Form nor a Request for Exclusion Form is submitted): | Within 20 days before the expiration of the Claim Period. |
| 18 | | |
| 19 | (d) Deadline for Submission of Claim Form: | Claim Forms must be postmarked or, if delivered to the Administrator by means other than United States First Class Mail, received by the Administrator within 60 days from the date of mailing of the Notice. |
| 20 | | |
| 21 | | |
| 22 | (e) Deadline for Submission of Opt-Out Form: | Opt-out Forms must be postmarked or, if delivered to the Administrator by means other than United States First Class Mail, received by the Administrator within 60 days from the date of mailing of the Notice. |
| 23 | | |
| 24 | | |
| 25 | (f) Deadline for Submission of Objections: | Objections must be received by the Administrator within 60 days from the date of mailing of the Notice. |
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(g) Filing date for Supplemental Briefs:

_____, 2008.

(h) Fairness Hearing and Final Certification

9/22, 2008 at 9:30 a.m.

Dated:

5/28/08

PETER D. LICHTMAN

Judge of the Superior Court