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11 *Attorneys for Plaintiffs and Proposed Class*

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 IN AND FOR THE COUNTY OF ALAMEDA

14 HENRY POLICARPIO and DISNEY
15 CUELLAR, on behalf of themselves and
16 all others similarly situated,

17 Plaintiffs,

18 vs.

20 QUALITY MEDICAL IMAGING OF
21 CALIFORNIA, INC.,

23 Defendant.

Case No.: RG16835690

**[PROPOSED] ORDER OF FINAL
APPROVAL, APPROVING ATTORNEYS'
FEES AND COSTS, AND ENTRY OF
JUDGMENT**

Judge: Brad Seligman
Department: 23

**ENDORSED
FILED
ALAMEDA COUNTY**

DEC 10 2019

CLERK OF THE SUPERIOR COURT

By Jhalisa Castaneda
Deputy

1 **TO EACH PARTY AND THE COUNSEL OF RECORD FOR EACH PARTY:**

2 Before the Court are Plaintiffs' (1) Motion for Final Approval of Class Action
3 Settlement and (2) Motion for Attorneys' Fees and Costs ("Motions"). The Court granted
4 preliminary approval of the proposed settlement on August 14, 2019. Due and adequate notice
5 having been given to Defendant and the Class, and the Court having considered the Settlement
6 Agreement, the instant Motions, all papers filed, and proceedings herein, and having reviewed
7 the record in this litigation, and good cause appearing, the Court here by GRANTS final
8 approval of the Settlement and GRANTS Plaintiffs' motion for approval of fees and costs.

9 1. Except as otherwise specified herein, for the purposes of this Order and Judgment, the
10 Court adopts and incorporates by reference all defined terms set forth in the Settlement
11 Agreement and Motion for Preliminary Approval.

12 2. The Court finds that this Settlement satisfies the requirements for a class action
13 settlement under Code of Civil Procedure section 382 and further finds that the Settlement Class
14 has at all times been adequately represented by the two Named Plaintiffs and Class Counsel.

15 3. The Claims Administrator, JND Legal Administration ("JND"), provided notice
16 approved by the Court by First Class mail to the last-known address of each of the 87
17 individuals identified as Class Members, after first processing such addresses through the U.S.
18 Postal Service change-of-address database, as stated in the declaration of Jennifer M. Keough
19 for JND. In addition, follow up efforts were made to send the Notice to those individuals whose
20 original notices were returned as undeliverable. Efforts were also made to contact individuals
21 by email. The Notice adequately described all of the relevant and necessary parts of the
22 proposed Settlement Agreement, the request for enhancement payments to the Class
23 Representatives, and Class Counsel's request for an award of attorneys' fees and costs.

24 4. The Court finds that the Notice given to the Settlement Class fully met the
25 requirements of California law and due process under the United States Constitution. Based
26 on evidence and other material submitted in conjunction with the Motion for Final
27 Approval, the notice to the class was adequate.

28 5. The Court finds that the Settlement, as set forth in the Settlement Agreement executed
by the Parties, is fair, reasonable, and adequate. The Court finds that the uncertainty and delay

1 of further litigation support the reasonableness and adequacy of the \$2,000,000 Settlement Fund
2 established pursuant to the Settlement Agreement.

3 6. Out of the identified Settlement Class Members, none have objected to any aspect of
4 the proposed Settlement, and no Class Members have opted out of the proposed Settlement.
5 The reaction of the Settlement Class to the proposed settlement strongly supports the
6 conclusion that the proposed Settlement is fair, reasonable, and adequate.

7 7. The Settlement is HEREBY APPROVED in its entirety and the releases encompassed
8 herein are effectuated.

9 8. The Settlement Fund shall be disbursed in accordance with the Settlement Agreement
10 and as detailed in the Motion for Preliminary Approval of Class Action Settlement, granted on
11 August 14, 2019, the Unopposed Motion for Final Approval filed on November 14, 2019, and
12 the Unopposed Motion for Approval of Attorneys' Fees, Costs, and Enhancements to Class
13 Representatives filed on November 14, 2019.

14 9. Plaintiffs Henry Policarpio and Disney Cuellar are hereby awarded \$15,000 each, for
15 their time and effort in pursuing this litigation, their broader releases of claims, and the risk they
16 undertook in stepping forward to represent the class.

17 10. Plaintiffs' application for Attorneys' fees in the amount of \$666,666.67, litigation
18 costs in the amount of \$40,751.37, and \$5,500 for administration costs are hereby granted. I
19 find that Plaintiffs' counsel's claimed lodestar rates (\$725/hour for Bryan Schwartz and
20 various rates for others) and hours worked (over one thousand hours) are reasonable and that
21 they result in a number that approximates the one-third of the common fund sought and
22 awarded.

23 11. In accordance with Department 23's Procedural Guidelines for Final Approval of
24 Class Action Settlements, a portion of the attorneys' fees award shall be held in an interest-
25 bearing account, maintained either by the claims administrator or class counsel, pending the
26 submission and approval of a final compliance status report after completion of the distribution
27 process. The Court finds that an attorneys' fees holdback amount of \$66,666.67 (10% of the
28 attorneys' fees award) is appropriate in this case. The Court sets a final compliance hearing for
February 18, 2019, at 3:00 p.m. in Department 23.

1 12. The Court approves the *cy pres* recipient identified in the Settlement: Legal Aid at
2 Work, to receive the full amount of any remainder based upon uncashed settlement checks as
3 called for in the Settlement, because this recipient is useful in fulfilling the underlying purpose
4 of the lawsuit to vindicate low-wage workers' wage claims.

5 13. The Court finds and determines that payment to the California Labor and
6 Workforce Development Agency of \$300,000 as its share of the settlement of civil penalties
7 under the Private Attorneys General Act, Labor Code §2698, *et seq.*, in this case is fair,
8 reasonable, and appropriate. The Court hereby gives final approval to and orders that the
9 payment of that amount be paid out of the Settlement Fund.

10 14. JUDGMENT IS HEREBY ENTERED, approving the terms of the Settlement.

11 15. In accordance with the California Rule of Court 3.769(h), the Court retains
12 exclusive and continuing jurisdiction over the litigation, the Plaintiffs, the Class Members
13 and Defendant for the purposes of supervising the implementation, enforcement, construction,
14 administration and interpretation of the Settlement Agreement.

15 16. Pursuant to Code Civ. Proc. §384, no later than 2/11/20, the parties shall submit a
16 report to the court specifying the total amount paid to class members, and the residual of
17 unclaimed funds that will be paid to the entity(ies) identified as recipients of such funds in the
18 proposed settlement, along with a proposed amended judgment. No later than 5 days after
19 receipt of notice of the entry of the amended judgment, the parties shall submit the amended
20 judgment to the Judicial Council, pursuant to Code Civ. Proc. §384.5, and shall file a proof of
21 service with this court confirming this.

22 IT IS SO ORDERED.

23
24 Dated: 12/10/19

25 **BRAD SELIGMAN**
26 Honorable Brad Seligman
27 JUDGE OF THE SUPERIOR COURT
28