

Electronically Received 10/24/2022 08:31 AM

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FILED
Superior Court of California
County of Los Angeles
10/25/2022
Sherri R. Carter, Executive Officer / Clerk of Court
By: A. He Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CHRISTINE RUSSELL, an individual, on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

HEALTH NET OF CALIFORNIA, INC., a
California Corporation, and Does 1 through
60, inclusive,

Defendants.

CASE NO.: **20STCV35466**

~~REVISED PROPOSED~~ **FINAL
APPROVAL ORDER AND JUDGMENT**

Hearing Date: October 25, 2022
Hearing Time: 10:30 a.m.

Judge: Hon. Stuart M. Rice
Dept.: SS-1

Complaint Filed: February 26, 2020
Trial date: None Set

1 The unopposed motion of Plaintiff Christine Russell (“Plaintiff”) for an order finally
2 approving the First Amended Class Action Settlement Agreement (“Agreement” or “Settlement”)
3 with Defendant Health Net of California, Inc. (“Defendant”), attorneys’ fees and costs, service
4 payment, and the expenses of the Settlement Administrator duly came on for hearing on October
5 25, 2022 before the Honorable Stuart M. Rice.

6
7 **I.**
8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

- 11 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 12 2. This Court has jurisdiction over the subject matter of this litigation pending before
13 the Superior Court for the State of California, in and for the County of Los Angeles, and over all
14 Parties to this litigation, including the Settlement Class.
- 15 3. Based on a review of the papers submitted by Plaintiffs and a review of the
16 applicable law, the Court finds that the Gross Settlement Amount and the terms set forth in the
17 Agreement are fair, reasonable, and adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length
19 negotiations conducted after Settlement Class Counsel had adequately investigated the claims and
20 became familiar with the strengths and weaknesses of those claims. In particular, the amount of
21 the Settlement, the significant risks relating to certification, liability, and damages issues, and the
22 assistance of an experienced mediator in the settlement process, among other factors, support the
23 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

25 5. On June 8, 2022, the Court granted preliminary approval of the Settlement. At this
26 same time, the Court approved conditional certification of the Settlement Class for settlement
27 purposes only.

1 **Notice to the Class**

2 6. In compliance with the Preliminary Approval Order, the Court-approved Class
3 Notice was mailed by first class mail to members of the Settlement Class at their last-known
4 addresses on or about July 11, 2022. Mailing of the Class Notice to their last-known addresses
5 was the best notice practicable under the circumstances and was reasonably calculated to
6 communicate actual notice of the litigation and the proposed settlement to the Settlement Class.
7 The Class Notice given to the Settlement Class Members fully and accurately informed the
8 Settlement Class Members of all material elements of the proposed Settlement and of their
9 opportunity to object to or comment thereon or to seek exclusion from the Settlement; was valid,
10 due, and sufficient notice to all Settlement Class Members; and complied fully with the laws of the
11 State of California, the United States Constitution, due process and other applicable law. The
12 Class Notice fairly and adequately described the Settlement and provided Settlement Class
13 Members adequate instructions and a variety of means to obtain additional information.

14 7. The deadline for opting out or submitting written objections to the Settlement was
15 August 25, 2022, which for re-mailings was extended by 15 days. There was an adequate interval
16 between notice and the deadline to permit Settlement Class Members to choose what to do and to
17 act on their decision. A full and fair opportunity has been afforded to the Settlement Class
18 Members to participate in this hearing, and all Settlement Class Members and other persons
19 wishing to be heard have had a full and fair opportunity to be heard. Settlement Class Members
20 also have had a full and fair opportunity to exclude themselves from the proposed Settlement and
21 Settlement Class. Accordingly, the Court determines that all Settlement Class Members who did
22 not timely and properly submit a request for exclusion are bound by the Settlement and this Final
23 Approval Order and Judgment.

24 **Fairness of the Settlement**

25 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
26 48 Cal.App.4th 1794, 1801 (1996).

27 a. The settlement was reached through arm's-length bargaining between the
28

1 Parties during an all-day mediation before Tripper Ortman, Esq., an experienced mediator of wage
2 and hour class actions. There has been no collusion between the Parties in reaching the
3 Settlement.

4 b. Plaintiff's and their counsel's investigation and discovery have been
5 sufficient to allow the Court and counsel to act intelligently.

6 c. Counsel for all Parties are experienced in similar employment class action
7 litigation. Plaintiff's counsel recommended approval of the Agreement.

8 d. The percentage of objectors and requests for exclusion is small. No
9 objections were received. No requests for exclusion were received.

10 e. The participation rate was high. 69 Settlement Class Members will be
11 mailed a settlement payment, representing 100% of the overall Settlement Class.

12 9. The consideration to be given to the Settlement Class Members under the terms of
13 the Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the
14 claims asserted in this action and is fair, reasonable and adequate compensation for the release of
15 Settlement Class Members' claims, given the uncertainties and significant risks of the litigation
16 and the delays which would ensue from continued prosecution of the action.

17 10. The Agreement is approved as fair, adequate and reasonable and in the best
18 interests of the Settlement Class Members.

19 **Attorneys' Fees and Costs**

20 11. An award of \$183,333 for attorneys' fees and \$13,612.46 for litigation costs and
21 expenses, is reasonable, in light of the contingent nature of Settlement Class Counsel's fee, the
22 hours worked by Settlement Class Counsel, and the results achieved by Settlement Class Counsel.
23 The requested award has been supported by Settlement Class Counsel's lodestar and billing
24 statement.

25 **Class Representative Service Payment**

26 12. The Agreement provides for a Class Representative Service Payment of not more
27 than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that a Class
28

1 Representative Service Payment in the reduced amount of \$7,500 to the Plaintiff is reasonable in
2 light of the risks and burdens undertaken by the Plaintiff in this litigation, for her time and effort in
3 bringing and prosecuting this matter on behalf of the Settlement Class, and for her execution of a
4 general release.

5 **Settlement Administration Expenses**

6 13. The Settlement Administrator shall calculate and administer the payment to be
7 made to the Settlement Class Members, transmit payment for attorneys' fees and costs to
8 Settlement Class Counsel, transmit the Class Representative Service Payment to the Plaintiff,
9 distribute the PAGA Payment, issue all required tax reporting forms, calculate and remit
10 withholdings to the appropriate tax authorities, and perform the other remaining duties set forth in
11 the Agreement. The Settlement Administrator has documented \$8,990 in fees and expenses, and
12 this amount is reasonable in light of the work performed by the Settlement Administrator.

13 **PAGA Payment**

14 14. The Agreement provides for a PAGA Payment out of the Gross Settlement
15 Amount of \$25,000, which shall be allocated \$18,750 to the Labor & Workforce Development
16 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this
17 Agreement pursuant to the PAGA and \$6,250 to be distributed to the Aggrieved Employees based
18 on their respective pay periods worked during the PAGA Period, which is February 26, 2019
19 through December 4, 2021. "Aggrieved Employees" are all individuals who are or previously
20 were employed by Defendant in California who were classified as employees exempt from
21 overtime and held the positions of Marketing Specialist, Senior Marketing Specialist, Product
22 Marketing & Communications Specialist, Senior Product Marketing & Communication Specialist,
23 Marketing & Communications Specialist, and Senior Marketing & Communication Specialist at
24 any time during the PAGA Period. Pursuant to Labor Code section 2699, subdivision (1)(2), the
25 LWDA was provided notice of the Agreement and these settlement terms and has not indicated
26 any objection thereto. The Court finds this PAGA Payment to be reasonable.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.
ORDERS

Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

1. The Settlement Class is certified for the purposes of settlement only. The Settlement Class is hereby defined as follows:

All individuals who are or previously were employed by Defendant in California who were classified as employees exempt from overtime and held the positions of Marketing Specialist, Senior Marketing Specialist, Product Marketing & Communications Specialist, Senior Product Marketing & Communication Specialist, Marketing & Communications Specialist, and Senior Marketing & Communication Specialist at any time during the Settlement Class Period.

The “Settlement Class Period” is February 26, 2016 through December 4, 2021.

2. All persons who meet the foregoing definition are members of the Settlement Class, except for those individuals who filed a valid request for exclusion (“opt out”) from the Settlement Class. There were no individuals who requested exclusion.

3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the best interest of the Settlement Class.

4. Settlement Class Counsel are awarded attorneys’ fees in the amount of \$183,333 and costs in the amount of \$13,613.46. Settlement Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant, Plaintiff or members of the Settlement Class.

5. The payment of Class Representative Service Payment in the reduced amount of \$7,500 to the Plaintiff is approved.

6. The payment of \$8,990 to the Settlement Administrator for their fees and expenses is approved.

7. The PAGA Payment of \$25,000 is approved to be distributed in accordance with the Agreement.

1 8. Pursuant to Labor Code section 2699, subdivision (1)(3), Settlement Class Counsel
2 shall submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after
3 its entry.

4 9. Neither the Agreement nor this Settlement is an admission by Defendant or the
5 Released Parties, nor is this Final Approval Order and Judgment a finding, of the validity of any
6 claims in the Action or of any wrongdoing by Defendant or the Released Parties or that this Action
7 is appropriate for class or representative treatment (other than for settlement purposes). Neither
8 this Final Approval Order and Judgment, the Agreement, nor any document referred to herein, nor
9 any action taken to carry out the Agreement is, may be construed as, or may be used as an
10 admission by or against Defendant or the Released Parties of any fault, wrongdoing or liability
11 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
12 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
13 admission or concession with regard to the denials or defenses by Defendant. Notwithstanding
14 these restrictions, Defendant may file in the Action or in any other proceeding this Final Approval
15 Order and Judgment, the Agreement, or any other papers and records on file in the Action as
16 evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or other
17 theory of claim or issue preclusion or similar defense as to the Released Class Claims and/or the
18 Released PAGA Claims.

19 10. Notice of entry of this Final Approval Order and Judgment shall be given to all
20 Parties by Settlement Class Counsel on behalf of Plaintiff and all Settlement Class Members. The
21 Final Approval Order and Judgment shall be posted on the Settlement Administrator's website as
22 set forth in the Class Notice to the Settlement Class. It shall not be necessary to send notice of
23 entry of this Final Approval Order and Judgment to individual Settlement Class Members.

24 11. If the Agreement does not become final and effective in accordance with the terms
25 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
26 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
27 revert to their respective positions as of before entering into the Agreement, and expressly reserve
28

1 their respective rights regarding the prosecution and defense of this Action, including all available
2 defenses and affirmative defenses, and arguments that any claim in the Action could not be
3 certified as a class action and/or managed as a representative action.

4
5 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

6 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
7 Plaintiff, and all members of the Settlement Class, shall take nothing in the Action.

8 2. The Parties are authorized, without further approval from the Court, to agree to and
9 to adopt such amendments, modifications and expansions of the Agreement and all exhibits
10 attached thereto which are consistent with this Final Approval Order and Judgment and do not
11 limit the rights of the Settlement Class Members.

12 3. All Parties shall bear their own attorneys' fees and costs, except as otherwise
13 provided in the Agreement and in this Final Approval Order and Judgment.

14 4. Upon entry of final judgment and payment tendered by Defendant of the Gross
15 Settlement Amount, all Participating Settlement Class Members shall release Defendant and the
16 Released Parties from all class claims pled or could have been pled based on the factual
17 allegations contained in the operative complaint which occurred during the Settlement Class
18 Period including any claims, demands, lawsuits, administrative actions, arbitrations, and
19 participation to any extent in any pending or future class, collective, or representative actions, or
20 other action of any kind based on the factual allegations contained in the operative complaint
21 which occurred during the Settlement Class Period ("Released Class Claims"). The Released Class
22 Claims expressly exclude claims for vested benefits, wrongful termination, unemployment
23 insurance, disability, social security, workers' compensation, class claims outside of the
24 Settlement Class Period and PAGA claims outside of the PAGA Period, and all other claims not
25 covered by the Released Class Claims. "Released Parties" are, collectively: Defendant, and any of
26 its former and present parents, subsidiaries, affiliates, insurers, insurance policies, and benefit
27 plans; each of the former and present officers, directors, employees, equity holders (partners,
28

1 shareholders, holders of membership interests, etc.), agents, representatives, administrators,
2 fiduciaries, and attorneys of the entities and plans described in this sentence; and any other
3 predecessors, successors, transferees, and assigns of each of the persons and entities described in
4 this sentence.

5 5. Upon entry of final judgment and payment tendered by Defendant of the Gross
6 Settlement Amount, Defendant and the Released Parties shall receive a release from the State of
7 California of all PAGA claims which were pled or could have been pled based on the factual
8 allegations contained in the operative complaint and/or the PAGA letters sent by Plaintiff that
9 occurred during the PAGA Period (“Released PAGA Claims”). The release of the Released
10 PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an
11 Aggrieved Employee submitted a request for an exclusion from the Settlement Class. The
12 Released PAGA Claims expressly exclude claims for vested benefits, wrongful termination,
13 unemployment insurance, disability, social security, workers’ compensation, and PAGA claims
14 outside of the PAGA Period, and all other claims not covered by the Released PAGA Claims.

15 6. Upon entry of final judgment and payment tendered by Defendant of the Gross
16 Settlement Amount, Plaintiff generally releases all claims as set forth in the Agreement.

17 7. Settlement Class Members who failed to present disputes or objections in the
18 manner provided in the Court’s order granting preliminary approval of the Settlement shall be
19 deemed to have waived any right to dispute their Settlement Share and/or object to or appeal the
20 Settlement, respectively.

21 8. If any Participating Settlement Class Member’s and/or Aggrieved Employee’s
22 check remains uncashed by the expiration date, the funds from such uncashed checks will be paid
23 to the California State Controller’s Unclaimed Property Fund in the name of the Participating
24 Settlement Class Member and/or Aggrieved Employee, and the Participating Settlement Class
25 Member and/or Aggrieved Employee will remain bound by the Settlement.

26 9. The Court hereby enters judgment in the entire Action as of the filing date of this
27 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the
28

1 finality of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction
2 over the interpretation, implementation, and enforcement of the Settlement and all orders entered
3 in connection therewith pursuant to California Code of Civil Procedure section 664.6.

4 10. Class Counsel shall file a final report summarizing all distributions made pursuant
5 to the approved settlement, supported by declaration. The Court sets a non-appearance date for
6 submission of a final report for September 29, 2023.

7
8 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

9
10 Dated: 10/25/2022



Handwritten signature of Stuart M. Rice in black ink.

11 Stuart M. Rice / Judge
12 HON. STUART M. RICE
13 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28