

1 **JCL LAW FIRM, APC**

2 Jean-Claude Lapuyade (State Bar #248676)
3 Sydney Castillo-Johnson (State Bar #343881)
4 Monnett De La Torre (State Bar #272884)
5 5440 Morehouse Drive, Suite 3600
6 San Diego, CA 92121
7 Telephone: (619) 599-8292
8 Facsimile: (619) 599-8291
9 jlapuyade@jcl-lawfirm.com
10 scastillo@jcl-lawfirm.com
11 mdelatorre@jcl-lawfirm.com

12 **ZAKAY LAW GROUP, APLC**

13 Shani O. Zakay (State Bar #277924)
14 5440 Morehouse Drive, Suite 3600
15 San Diego, CA 92121
16 Telephone: (619)255-9047
17 Facsimile: (858) 404-9203
18 shani@zakaylaw.com

19 Attorneys for Plaintiff

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

21 **IN AND FOR THE COUNTY OF SAN DIEGO**

22 KAREEM COLES, an individual, on behalf of
23 himself, and on behalf of all persons similarly
24 situated,

25 Plaintiffs,

26 v.

27 CAREFUSION RESOURCES, LLC, a
28 Delaware Limited Liability Company;
BECTON DICKINSON AND COMPANY, a
New Jersey Corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No: 37-2022-00048696-CU-OE-CTL

**~~PROPOSED~~ ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

Date: October 20, 2023

Time: 10:30 a.m.

Judge: Hon. Loren Freestone

Dept.: C-64

FILED
Clerk of the Superior Court

OCT 20 2023

By: J. Virissimo, Deputy

1 This matter having come before the Honorable Judge Loren Freestone of the Superior Court of
2 the State of California, in and for the County of San Diego, at 10:30 a.m. on October 20, 2023, with
3 Jean-Claude Lapuyade, Esq., of the JCL Law Firm, APC, and Shani O. Zakay, Esq. of the Zakay Law
4 Group, APLC, as counsel for Plaintiff Kareem Coles (“Plaintiff”), and Marlene M. Moffitt, Esq. of
5 Ogletree, Deakins, Nash, Smoak & Stewart, P.C., appearing for Defendants CareFusion Resources,
6 LLC and Becton, Dickinson and Company (hereinafter “Defendants”). The Court, having carefully
7 considered the briefs, argument of counsel and all the matters presented to the Court, and good cause
8 appearing, hereby GRANTS Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

9 **IT IS HEREBY ORDERED:**

10 1. The Court preliminarily approves the Stipulation of Settlement of Class and PAGA
11 Action Claims and Release of Claims (“Settlement Agreement” or “Agreement”), a true and correct
12 copy of which is attached hereto as **Exhibit “1”**. This is based on the Court’s determination that the
13 Settlement Agreement is within the range of possible final approval, pursuant to the provisions of
14 Section 382 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

15 2. This Order incorporates by reference the definitions in the Agreement, and all terms
16 defined therein shall have the same meaning in this Order as set forth in the Agreement.

17 3. Subject to the terms of the Settlement Agreement, the Total Settlement Amount that
18 Defendants shall pay is One Million, Nine Hundred Fifty Thousand Dollars and Zero Cents
19 (\$1,950,000.00). It appears to the Court on a preliminary basis that the settlement amount and terms
20 are fair, adequate, and reasonable as to all Class Members when balanced against the probable outcome
21 of further litigation relating to certification, liability, and damages issues. It further appears that
22 investigation and research have been conducted such that counsel for the Parties are able to reasonably
23 evaluate their respective positions. It further appears to the Court that settlement at this time will avoid
24 substantial additional costs by all Parties, as well as avoid the delay and risks that would be presented
25 by the further prosecution of the litigation. It further appears that the Settlement has been reached as
26 the result of intensive, serious, and non-collusive arms-length negotiations.

27 4. The Court preliminarily finds that the Settlement appears to be within the range of
28 reasonableness of a settlement that could ultimately be given final approval by this Court. The Court

1 has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily
2 finds that the monetary settlement awards made available to the Class Members are fair, adequate, and
3 reasonable when balanced against the probable outcome of further litigation relating to certification,
4 liability, and damages issues.

5 5. Plaintiff seeks a Class Counsel Award in the amount of up to Six Hundred Seventy-Five
6 Thousand Dollars and Zero Cents (\$675,000.00), comprised of up to one-third of the Gross Settlement
7 Amount for attorney's fees, or \$650,000.00, *and* litigation expenses of up to \$25,000.00, to be paid to
8 Class Counsel, as well as a proposed Service Award to the Class Representative, Kareem Coles, in an
9 amount of not more than Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00). While
10 these awards appear to be within the range of reasonableness, the Court will not approve the Class
11 Counsel Award or Service Award until the Final Approval Hearing.

12 6. The Court recognizes that Plaintiff and Defendants stipulate and agree to certification of
13 a class for settlement purposes only. This stipulation will not be deemed admissible in this, or any other
14 proceeding should this Settlement not become final. For settlement purposes only, the Court
15 conditionally certifies the following Class:

16 "All non-exempt employees who worked for CareFusion in California
17 and/or all non-exempt employees employed by BD who worked for
18 CareFusion in California ("Class") during the period beginning October 2,
19 2020, through October 20, 2023 ("Class Period").

20 7. The Court concludes that, for settlement purposes only, the Class meets the requirements
21 for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is
22 ascertainable and so numerous that joinder of all members of the Class Members is impracticable; (b)
23 common questions of law and fact predominate, and there is a well-defined community of interest
24 amongst the Class Members with respect to the subject matter of the litigation; (c) the claims of the
25 Class Representative are typical of the claims of the Class Members; (d) the Class Representative will
26 fairly and adequately protect the interests of the Class Members; (e) a class action is superior to other
27 available methods for the efficient adjudication of this controversy; and (f) Class Counsel are qualified
28 to act as counsel for the Class Representative in his individual capacity and as the representative of the

1 Class Members.

2 8. The Court provisionally appoints Plaintiff Kareem Coles as the representatives of the
3 Class.

4 9. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of JCL Law Firm, APC,
5 and Shani O. Zakay, Esq. of Zakay Law Group, APLC, as Class Counsel for the Class Members.

6 10. The Court hereby approves, as to form and content, the Proposed Notice of Pendency of
7 Class and PAGA Representative Action Settlement and Final Hearing Date (“Notice Packet”) attached
8 to the Agreement as Exhibit “A”. The Court finds that the Notice Packet appears to fully and accurately
9 inform the Class Members and Aggrieved Employees of all material elements of the proposed
10 Settlement, including the right of any Class Member to be excluded from the Class by submitting a
11 written request for exclusion, and of each Class Member’s right and opportunity to object to the
12 Settlement. The Court further finds that the distribution of the Notice Packets substantially in the
13 manner and form set forth in the Agreement and this Order meets the requirements of due process, is
14 the most reasonable notice under the circumstances, and shall constitute due and sufficient notice to all
15 persons entitled thereto. The Court orders the mailing of the Notice Packets by first class mail, pursuant
16 to the terms set forth in the Agreement.

17 11. The Court hereby appoints Apex Class Action LLC, as Settlement Administrator. Within
18 ten (10) business days after the Preliminary Approval Date, Defendants shall provide the Settlement
19 Administrator with the Class Data, including information regarding Class Members that Defendants
20 will in good faith compile from its records, including each Class Member’s full name, last-known
21 address, employee ID number, Social Security number, and number of Class Period Workweeks and
22 PAGA Pay Periods. No later than fourteen (14) calendar days after receiving the Class Data from
23 Defendants, the Settlement Administrator shall mail and email copies of the Notice Packet to all Class
24 Members via first class U.S. Mail.

25 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the
26 Settlement. Any Class Member may individually choose to opt out of and be excluded from the
27 Settlement as provided in the Notice Packet by following the instructions for requesting exclusion from
28 the Settlement as set forth in the Notice Packet. All requests for exclusion must be postmarked or

1 received by the Response Deadline which is forty-five (45) calendar days after the Settlement
2 Administrator mails the Notice Packets to Class Members or, in the case of re-mailed Notice Packet,
3 not more than fourteen (14) days from the original Response Deadline. Any such person who chooses
4 to opt out of and be excluded from the Settlement will not be entitled to an Individual Class Payment
5 under the Settlement and will not be bound by the Settlement, or have any right to object, appeal or
6 comment thereon. Class Members who have not requested exclusion shall be bound by all
7 determinations of the Court, the Agreement, and Judgment.

8 13. Any Class Member who has not opted out may appear at the final approval hearing and
9 may object or express the Class Member's views regarding the Settlement and may present evidence
10 and file briefs or other papers that may be proper and relevant to the issues to be heard and determined
11 by the Court as provided in the Notice Packet. Class Members will have forty-five (45) calendar days
12 from the date the Settlement Administrator mails the Notice Packet to postmark their written objections
13 to the Settlement Administrator.

14 14. A final approval hearing shall be held before this Court on **March 22, 2024 at 10:30**
15 **a.m.** in Department C-64 of the San Diego County Superior Court to determine all necessary matters
16 concerning the Settlement, including: whether the proposed settlement of the Action on the terms and
17 conditions provided for in the Agreement is fair, adequate and reasonable and should be finally
18 approved by the Court; whether an Order Granting Final Approval should be entered herein; whether
19 the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable
20 to the Class; and to finally approve the Class Counsel Award, Service Award, and the Settlement
21 Administration Costs. All papers in support of the motion for final approval and the motion for Class
22 Counsel Award and Service Award shall be filed with the Court and served on all counsel within
23 twenty-eight (28) days following the expiration of the Response Deadline.


24 15. In the event the Settlement does not become effective in accordance with the terms of the
25 Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become
26 effective for any reason, this Settlement Agreement shall be rendered null and void and shall be vacated,
27 and the Parties shall revert to their respective positions as of before entering into the Agreement. In
28 such an event, the Court's orders regarding the Settlement, including this Preliminary Approval Order,

1 shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to
2 alter the terms of the Settlement Agreement with respect to the effect of the Settlement Agreement if it
3 is not approved.

4 16. The Court reserves the right to adjourn or continue the date of the final approval hearing
5 and all dates provided for in the Agreement without further notice to Class Members and retains
6 jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

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Dated: 10/20/23



JUDGE OF THE SUPERIOR COURT
LOREN G. FREESTONE