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1 Justin F. Marquez, Esq. (SBN 262417)
2 justin@wilshirelawfirm.com
3 Benjamin H. Haber, Esq. (SBN 315664)
4 benjamin@wilshirelawfirm.com
5 Daniel J. Kramer, Esq. (SBN 314625)
6 dkramer@wilshirelawfirm.com
7 **WILSHIRE LAW FIRM**
8 3055 Wilshire Blvd., 12th Floor
9 Los Angeles, California 90010
10 Telephone: (213) 381-9988
11 Facsimile: (213) 381-9989

12 Attorneys for Plaintiff

FILED
Superior Court of California
County of Los Angeles
10/30/2023

David W. Slayton, Executive Officer / Clerk of Court
By: L. MGreené Deputy

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

15 LAUREN FLETCHER HERNANDEZ,
16 individually, and on behalf of all others
17 similarly situated,

18 *Plaintiff,*

19 v.

20 FACEY MEDICAL FOUNDATION, a
21 corporation; FACEY MEDICAL GROUP, a
22 corporation; and DOES 1 through 10, inclusive,

23 *Defendants.*

Case No.: 20STCV41624

CLASS ACTION

[Assigned to: Hon. Carolyn B. Kuhl, Dept. 12]

**~~PROPOSED~~ ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

[Filed concurrently with: Plaintiff's Notice of Motion and Motion for Preliminary Approval of Class Action Settlement, Memorandum of Points and Authorities; Declaration of Justin F. Marquez; Declaration of Lauren Fletcher Hernandez; Declaration of Amanda Rivera; and Declaration of Ilbret Pourmanafy]

PRELIMINARY APPROVAL HEARING

Date: September 27, 2023

Time: 11:00 a.m.

Dept: 12

1 The Court has before it Plaintiffs Lauren Fletcher Hernandez, Amanda Rivera, and Ilbret
2 Pourmanafy's (collectively, "Plaintiffs") Motion for Preliminary Approval of Class Action
3 Settlement. Having reviewed the Motion for Preliminary Approval of Class Action Settlement,
4 the Declaration of Justin F. Marquez, the Stipulation and Settlement of Class Action and Private
5 Attorneys General Act Representative Claims (which is referred to here as the "Settlement" or
6 "Settlement Agreement"), and good cause appearing, the Court hereby finds and orders as
7 follows:

8 1. The Court finds on a preliminary basis that the Settlement Agreement appears to
9 be fair, adequate, and reasonable and therefore meets the requirements for preliminary approval.
10 The Court grants preliminary approval of the Settlement and the Settlement Class based upon
11 the terms set forth in the Settlement Agreement between Plaintiffs and Defendant Facey Medical
12 Foundation ("Defendant"), attached to the Declaration of Justin F. Marquez in Support of
13 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement as Exhibit 2.

14 2. The Settlement falls within the range of reasonableness of a settlement which
15 could ultimately be given final approval by this Court, and appears to be presumptively valid,
16 subject only to any objections that may be raised at the Final Approval Hearing and final
17 approval by this Court. The Court notes that Defendant has agreed to create a common fund of
18 \$750,000.00 to cover (a) settlement payments to class members who do not validly opt out; (b)
19 a \$25,000.00 payment for the settlement of claims for penalties under the Private Attorneys
20 General Act ("PAGA") of, with 75% of which (\$18,750.00) being paid to the to the State of
21 California, Labor & Workforce Development Agency ("LWDA") for its share and 25%
22 (\$6,250.00) being paid to the Aggrieved Employees; (c) Class Representative service payment
23 of up to \$12,500.00 for Plaintiff Hernandez (d) Class Representative service payment of up to
24 \$5,000 for Plaintiff Rivera; (e) Class Representative service payment of up to \$5,000 for
25 Plaintiff Pourmanafy; (f) Class Counsel's attorneys' fees, not to exceed 33 1/3% of the Gross
26 Settlement Amount (\$250,000.00), and up to \$50,000.00 in costs for actual litigation expenses
27 incurred by Class Counsel; and (e) Settlement Administration Costs of up to \$20,000.00.

28 3. The Court preliminarily finds that the terms of the Settlement appear to be within

1 the range of possible approval, pursuant to California Code of Civil Procedure § 382 and
2 applicable law. The Court finds on a preliminary basis that: (1) the settlement amount is fair
3 and reasonable to the class members when balanced against the probable outcome of further
4 litigation relating to class certification, liability and damages issues, and potential appeals; (2)
5 significant informal discovery, investigation, research, and litigation have been conducted such
6 that counsel for the Parties at this time are able to reasonably evaluate their respective positions;
7 (3) settlement at this time will avoid substantial costs, delay, and risks that would be presented
8 by the further prosecution of the litigation; and (4) the proposed settlement has been reached as
9 the result of intensive, serious, and non-collusive negotiations between the Parties with the
10 assistance of a well-respected class action mediator. Accordingly, the Court preliminarily finds
11 that the Settlement Agreement was entered into in good faith.

12 4. A final fairness hearing on the question of whether the proposed settlement,
13 attorneys' fees and costs to Class Counsel, payment to the LWDA for its share of the settlement
14 of claims for penalties under the PAGA, and the class representatives' enhancement awards
15 should be finally approved as fair, reasonable and adequate as to the members of the class is
16 hereby set in accordance with the Implementation Schedule set forth below.

17 5. The Court provisionally certifies for settlement purposes only the following class
18 (the "Settlement Class"): all individuals employed by Facey Medical Foundation in California
19 and classified as an hourly-paid or non-exempt employee during the Class Period.

20 6. "Class Period" means the period from "January 16, 2019 to end on the date of
21 Preliminary Approval, or April 10, 2023, whichever occurs first."

22 7. "PAGA Period" means the period from "October 30, 2019 to Preliminary
23 Approval, or April 10, 2023, whichever occurs first."

24 8. The Court finds, for settlement purposes only, that the Settlement Class meets the
25 requirements for certification under California Code of Civil Procedure § 382 in that: (1) the
26 Settlement Class Members are so numerous that joinder is impractical; (2) there are questions
27 of law and fact that are common, or of general interest, to all Settlement Class Members, which
28 predominate over individual issues; (3) Plaintiffs' claims are typical of the claims of the

1 Settlement Class Members; (4) Plaintiffs and Class Counsel will fairly and adequately protect
2 the interests of the Settlement Class Members; and (5) a class action is superior to other
3 available methods for the fair and efficient adjudication of the controversy.

4 9. The Court appoints as Class Representatives, for settlement purposes only,
5 Plaintiffs Lauren Fletcher Hernandez, Amanda Rivera, and Ilbret Pourmanafy. The Court
6 further preliminarily approves Plaintiff Hernandez's ability to request an incentive award up to
7 \$12,500.00. The Court also preliminarily approves Plaintiff Rivera and Plaintiff Pourmanafy's
8 ability to request incentive awards up to \$5,000 each.

9 10. The Court appoints, for settlement purposes only, Justin F. Marquez, Benjamin
10 H. Haber, Daniel J. Kramer, and Arrash T. Fattahi of Wilshire Law Firm, PLC as Class Counsel.
11 The Court further preliminarily approves Class Counsel's ability to request attorneys' fees of
12 up to one-third of the Total Settlement Amount (\$250,000.00), and costs not to exceed
13 \$50,000.00.

14 11. The Court appoints Apex Class Action as the Settlement Administrator with
15 reasonable administration costs estimated not to exceed \$20,000.00.

16 12. The Court approves, as to form and content, the Class Notice, attached to the
17 Settlement Agreement. The Court finds on a preliminary basis that plan for distribution of the
18 Notice to Settlement Class Members satisfies due process, provides the best notice practicable
19 under the circumstances, and shall constitute due and sufficient notice to all persons entitled
20 thereto.

21 13. The Parties are ordered to carry out the Settlement according to the terms of the
22 Settlement Agreement.

23 14. Any class member who does not timely and validly request exclusion from the
24 settlement may object to the Settlement Agreement.

25 15. The Court orders the following Implementation Schedule:

26 Defendant to provide Class List to the 27 Settlement Administrator	15 Days after Court grants Preliminary Approval
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1 Settlement Administrator to mail the Notice 2 Packets	14 Days after Receipt of Class Data
3 Response Deadline	45 Days after mailing notice
4 5 6 Deadline for Administrator to Submit Report	7 days before Plaintiffs' Deadline to file Motion for Final Approval, Request for Attorneys' Fees and Costs, and Service Award to Plaintiff
8 9 Deadline to file Motion for Final Approval	16 court days before hearing on Motion for Final Approval
10 11 12 Final Approval Hearing	OF 10/13/23 10/13/23 at 10/13/23 a.m./p.m., or first available date thereafter, in Department 12

13 16. The Court further ORDERS that, pending further order of this Court, all proceedings
14 in this lawsuit, except those contemplated herein and in the settlement, are stayed.

15 **IT IS SO ORDERED.**

16
17
18 DATE: 10/30/2023



Carolyn B. Kuhl

19 Carolyn B. Kuhl / Judge
20 Hon. Carolyn B. Kuhl
21 Los Angeles County Superior Court

PROOF OF SERVICE

Hernandez v. Facey Medical Foundation, et al.
20STCV41624

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Ashley Narinyans, am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to this action. My business address is 3055 Wilshire Blvd., 12th Fl., Los Angeles, California 90010. My electronic service address is anarinyans@wilshirelawfirm.com.

On August 4, 2023, I served the foregoing **[PROPOSED] ORDER GRANTING PLAINTIFFS’ MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

Derek R. Havel
dhavel@sheppardmullin.com
Matthew A. Tobias
mtobias@sheppardmullin.com
Tyler J. Johnson
tjjohnson@sheppardmullin.com
**SHEPPARD, MULLIN, RICHTER
& HAMPTON LLP**
333 South Hope Street, 43rd Floor
Los Angeles, California 90071-1422
Telephone: 213.620.1780
Facsimile: 213.620.1398


Attorneys for Defendant
Facey Medical Foundation

BY UPLOAD: I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via third-party cloud service **CASEANYWHERE**.

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

Executed this **August 4, 2023**, at Los Angeles, California.



Ashley Narinyans