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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 ROBERT SHAW, et al., individually and on
18 behalf of all others similarly situated, and as a
19 proxy of the State of California on behalf of
20 aggrieved employees

21 Plaintiffs,

22 vs.

23 AMN SERVICES, LLC, KAISER
24 FOUNDATION HOSPITALS, SOUTHERN
25 CALIFORNIA PERMANENTE MEDICAL
26 GROUP, INC., and THE PERMANENTE
27 MEDICAL GROUP, INC

Defendants.

Case No. 3:16-cv-02816 JCS

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
REASONABLE ATTORNEYS' FEES AND
COSTS**

Date: May 31, 2019

Time: 9:30 a.m.

Courtroom: G, 15th Floor

Judge: Hon. Joseph C. Spero

1 This matter came on for hearing before this Court on Plaintiffs' Counsel's Motion for
2 Reasonable Attorneys' Fees and Cost pursuant to the Court's Order Re: Preliminary Approval of
3 Class Action Settlement (Docket No. 159) on May 31, 2019.

4 Having considered the documents filed by the Parties in connection with the motion and
5 the oral arguments of counsel, the Court finds as follows:

6 1. Notice to the Class, including information regarding the requested award of
7 attorneys' fees and costs, was directed to Class Members in a reasonable manner, and complied
8 with Rule 23(h)(1) of the Federal Rules of Civil Procedure.

9 2. Class Members have been given the opportunity to object in compliance with Fed.
10 R. Civ. P. 23(h)(2).

11 3. [No Class Member has objected to the requested fees and expenses.] OR [____
12 Class Members have submitted timely objections. The overrules the objections for following
13 reasons:]

14 4. The settlement agreement provides that class counsel may seek up to
15 \$6,666,666.67 in attorneys' fees, plus their reasonably incurred litigation expenses. Plaintiffs'
16 Counsel seeks \$6,666,666.67 in attorneys' fees, plus their reasonably incurred litigation
17 expenses, as provided in the settlement agreement. Defendants do not object to these amounts.

18 5. Class counsel have substantiated their fee request with declarations describing
19 their billing practices, billing rates, hours worked, work tasks performed and corresponding
20 lodestar for the time invested into this case. The declarations demonstrate a combined lodestar
21 of approximately \$2,770,526.50, as of February 24, 2019. Counsel note that this does not
22 include work performed on the motion for final approval, communicating with class members
23 and the settlement administrator after February 24, 2019, preparing the case for final approval,
24 and overseeing implementation of the settlement after final approval.

25 6. Based on a fee request of \$6,666,666.67, the declarations of class counsel
26 documenting their lodestar shows that a fee award of this amount would result in a multiplier of
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1 approximately 2.4 or less. Class Counsel also seek reimbursement of actual out-of-pocket costs
2 of \$185,850.01, which are documented in the declarations of class counsel as well.

3 7. The declarations submitted in support of the motion demonstrate that the
4 attorneys representing the class have the experience and qualifications necessary to represent the
5 Class.

6 8. A reasonable hourly rate is the prevailing rate charged by attorneys of similar skill
7 and experience in the relevant community. *Chalmers v. City of Los Angeles*, 796 F.2d 1205, 1210
8 (9th Cir. 1986). The Court finds that the hourly rates charged by Plaintiffs' Counsel are within
9 the prevailing range of hourly rates charged by attorneys providing similar services in class
10 action, wage-and-hour cases in California, as shown by the Declarations of Joshua Konecky and
11 Richard Pearl. The hourly rates of Class Counsel Schneider Wallace Cottrell Konecky Wotkyns
12 LLP also have consistently and recently been approved as reasonable by the courts. *See, e.g.*,
13 *Knapp v. Art.com, Inc.*, No. 3:16-cv-00768-WHO (N.D. Cal. October 24, 2018); *Janssen v.*
14 *Square, Inc.*, Case No. CGC-16-549980, Superior Court of California, County of San Francisco,
15 Order dated September 26, 2018; *Villalpando v. Exel Direct Inc.*, 2016 WL 7740854, at *1 (N.D.
16 Cal. Dec. 12, 2016); *Winans v. Emeritus Corp.*, 2016 WL 107574, at *8 (N.D. Cal. Jan. 11,
17 2016); *Carnes v. Atria Senior Living Inc.*, Case No. 14-cv-02727-VC, Dkt. No. 115, at 4-5 (N.D.
18 Cal. July 12, 2016); *Meza v. S.S. Skikos, Inc.*, Case No. 3:15-cv-01889-TEH, Dkt. No. 58, at 4
19 (N.D. Cal. May 25, 2016).

20 9. The Court further finds that the hourly rates of Class Counsel's co-counsel,
21 Berger Montague PC, also are within the prevailing range of hourly rates charged by attorneys
22 providing similar services in class action, wage-and-hour cases in California, as shown by the
23 Declaration of Shanon Carson.

24 10. Generally, hours are reasonable if they were "reasonably expended in pursuit of
25 the ultimate result achieved in the same manner that an attorney traditionally is compensated by
26 a fee-paying client." *Hensley v. Eckerhart*, 461 U.S. 424, 431 (1983). The Court finds that the
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1 total hours worked by class counsel are reasonable, given the nature of the case and the defenses
2 presented, the work Plaintiffs' Counsel had to undertake, the manner in which Plaintiffs'
3 Counsel allocated their work, and the results achieved.

4 11. Counsel also are entitled to a multiplier of their total lodestar. *See Ketchum v.*
5 *Moses*, 24 Cal.4th 1122, 1133-1132, 1138 (2001) (reasoning that contingency fees should be
6 higher than fees for the same legal services paid concurrently with the provision of the services).
7 The Court finds that the multiplier sought of 2.4 (as of the time of the filing of the motion) is
8 reasonable and appropriate, given the documented lodestar, contingent risk, complexity,
9 protracted nature of the case, the preclusion of counsel from other employment, and the
10 favorable results achieved for class members.

11 12. A common cross-check regarding the reasonableness of a fee award is its
12 percentage of the total value of the benefits conferred on the class. *Boeing Co. v. Van Gemert*,
13 444 U.S. 472, 478-81 (1980). Plaintiffs' fee request of \$6,666,666.67 represents one-third (1/3)
14 of the Gross Settlement Amount, which is reasonable under both applicable law, and in light of
15 the contingent risk, Counsel's documented lodestar, the complex and protracted nature of the
16 case, and strong result for the Class. *See id.* For example, the average net recovery in this case,
17 even after awarding the full attorneys' fees and costs sought, is still approximately four times the
18 per-workweek recovery (and approximately three times the per-person recovery) obtained in a
19 previous class action settlement in this Court, involving a similar class and similar claims,
20 against one of the same Defendants named in this litigation. *See O'Sullivan v. AMN Services,*
21 *LLC*, 2014 WL 11514268 (N.D.Cal. 2014).


22 13. Plaintiffs' Counsel are entitled to recover the out-of-pocket costs and litigation
23 expenses they reasonably incurred in investigating, prosecuting, and settling this case. *In re*
24 *Media Vision Tech. Sec. Litig.*, 913 F.Supp. 1362, 1366 (N.D. Cal. 1996). The Court finds that
25 Plaintiffs' Counsel's out-of-pocket costs and expenses of \$185,850.01 are documented, and
26 reasonable and necessary to the prosecution of this action, in light of the protracted nature of the
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1 case, the vigorousness of Defendants' legal defense, the motion practice, amount of documentary
2 evidence, witnesses and depositions, and the four mediations necessary to achieve the settlement.

3 14. The Court therefore awards Plaintiffs' Counsel \$6,666,666.67 in attorneys' fees
4 and \$185,850.01 in litigation expenses to be paid from the settlement fund pursuant to the terms
5 and timeframe set forth in the settlement agreement.

6 IT IS SO ORDERED.

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8 Dated: May 31, 2019

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10 _____
11 HON. JOSEPH C. SPERO
12 CHIEF MAGISTRATE JUDGE
13 UNITED STATES DISTRICT COURT
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