

FILED
LOS ANGELES SUPERIOR COURT

SEP 23 2008

JOHN A. CLARKE, CLERK

Shenika White
BY SHENIKA WHITE, DEPUTY

1 I. Benjamin Blady, Esq. - State Bar No. 162470
2 *bblady@abmlawyers.com*
3 APPLETON, BLADY & MAGNANIMO, LLP
4 12301 Wilshire Boulevard, Suite 202
5 Los Angeles, California 90025
6 Telephone: (310) 474-7022
7 Facsimile: (310) 474-7023

8 Attorneys for Plaintiff
9 Eileen Cavanaugh, et al.

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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**
13 **CENTRAL CIVIL WEST**

14 EILEEN CAVANAUGH, on behalf of herself,
15 others similarly situated, and the general
16 public,

17 Plaintiff,

18 vs.

19 SOUTHERN CALIFORNIA PERMANENTE
20 MEDICAL GROUP, INC., a partnership;
21 JEFFREY A. WEISZ, M.D., et al.; JAMES
22 HUBER, an individual; BRIAN
23 HERZBERGER, an individual; FATIMA
24 FARAHAN, an individual; MARK
25 MONTIJO, an individual; DR. SINA
26 RADPARVAR, an individual; KAISER
27 PERMANENTE NURSE ANESTHETIST
28 ASSOCIATION, a group; KAISER
FOUNDATION HOSPITAL (formerly DOE
1), and DOES 2 through 500, inclusive,

Defendants.

CASE NO.: BC354246

CASE FILED: June 21, 2006

**ORDER GRANTING (1) FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, (2) INCENTIVE
AWARD, AND (3) ATTORNEYS' FEES
AND COSTS**

[Notice of and Supplemental Brief for Final
Approval; Declaration of I. Benjamin Blady in
Support of Final Approval and Incentive
Award; Declaration of I. Benjamin Blady in
Support of Request for Attorneys' Fees;
Declaration of Eileen Cavanaugh; and
Declaration of Troy Hoffman filed
concurrently herewith]

DATE: September 22, 2008
TIME: 9:30 a.m.
DEPT.: 322

ASSIGNED FOR ALL PURPOSES TO
JUDGE PETER D. LICHTMAN, DEPT. 322

DISCOVERY CUT-OFF: NONE
MSJ HEARING CUT-OFF: NONE
TRIAL DATE: NONE

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1 Plaintiff/Class Representative Eileen Cavanaugh's Final Fairness Hearing re: Final
2 Approval of Class Action Settlement with Defendants Southern California Permanente Medical
3 Group ("SCPMG") and Kaiser Foundation Hospitals ("KFH") (collectively referred to as
4 "Defendants") came on hearing in Department 323 of the above-entitled Court on September 22,
5 2008, the Honorable Peter D. Lichtman, Judge presiding.

6 I. Benjamin Blady of Appleton, Blady and Magnanimo, LLP appeared on behalf of
7 Plaintiff/Class Representative Eileen Cavanaugh.

8 Thomas Kaufman appeared on behalf of Defendants Southern California Permanente
9 Medical Group and Kaiser Foundation Hospitals .

10 Having read and considered the motion and points and authorities filed by the parties, and
11 having heard argument of counsel,

12 IT IS ORDERED AND DETERMINED THAT:

13 1. Pursuant to this Court's Preliminary Approval of Class Action Settlement, the
14 Notice of Proposed Class Action Settlement, Preliminary Approval and Final Hearing on Proposed
15 Settlement ("Notice"); the Claim Form ("Claim Form"); and the Request for Exclusion from Class
16 Action Settlement ("Opt-Out Form") were sent to each Class Member by First Class Mail. The
17 Notice informed Class Members of the terms of the Settlement, the process available to obtain
18 monetary relief, the right to opt out and pursue their own remedies, the opportunity to file written
19 objections, and the right to appear in person or by counsel at the fairness hearing and be heard
20 regarding the approval of the Settlement. Adequate periods of time were provided by each of
21 these procedures. Only 2 Class Members opted-out and no Class Member objected;

22 2. The Court finds and determines that these procedures afforded adequate protections
23 to Class Members and provided the basis for the Court to make an informed decision regarding
24 approval of the Settlement based on the Class Members' responses thereto. The Court finds and
25 determines that the notice provided in this case was the best notice practicable, which satisfied the
26 requirements of California Civil Code section 1781(e), California Rules of Court, Rule 3.769, and
27 due process;

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1 3. The Court finds and determines that the terms of the Stipulation of Settlement are
 2 fair, reasonable, and adequate to the Class and to each Class Member; that the Class Members who
 3 have not opted out shall be bound by the Stipulation of Settlement; that the Stipulation of
 4 Settlement is ordered and finally approved; and that all terms of the Stipulation of Settlement
 5 should be and hereby are ordered to be consummated;

6 4. The Court finds and determines that payments to be made to the Class Members, as
 7 provided for in the Stipulation of Settlement, are fair and reasonable, and gives final approval and
 8 orders those payments to be made in accordance with the terms of the Stipulation of Settlement;

9 5. The Court finds that given the absence of objections, and objections being a
 10 prerequisite to appeal, that the Court's order of final approval shall be considered final and the
 11 settlement is effective as of the date of notice of entry;

12 6. The Court orders that within 5 business days from the date of entry of this Order
 13 and a determination of the pro-rata share of the Settlement to which each class claimant is entitled,
 14 Defendants shall deposit the money into an interest-bearing account, through the Claims
 15 Administrator, in an amount equal to the amount owed to pay (1) qualified class claimants per the
 16 terms of the Stipulation of Settlement, and (2) court-approved attorneys' fees and costs, including
 17 administration costs, PAGA payment, and incentive award;

18 7. The Court orders that within 15 business days from the date of entry of this Order,
 19 the Claims Administrator shall prepare settlement checks for each class claimant in the amounts
 20 set-forth on claimant's Claim Form, less any required deductions, and the Administrator shall mail
 21 the checks to each eligible Class Member;

22 8. The Court orders and determines that the requested \$60,000 incentive award to
 23 Plaintiff/Class Representative Eileen Cavanaugh is an appropriate incentive and awards \$60,000.
 24 The Court finds that this incentive award will be paid from fees awarded to Class Counsel, finds
 25 that this award to Plaintiff is fair and reasonable, and gives final approval and orders that the
 26 payment shall be made to Plaintiff by the Administrator within 15 business days from the date of
 27 entry of this Order;

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1 9. The Court orders and determines that \$2,000,000 in attorneys' fees and costs is fair
 2 and reasonable, but orders in accordance with Class Counsel's request that the award shall be
 3 reduced by (1) administration costs, (2) PAGA payment to the state of California, and (3) incentive
 4 award to Plaintiff, awards a total of \$ 1,845,000 [\$2,000,000 - \$50,000 administration costs -
 5 \$45,000 PAGA payment - \$60,000 incentive award] to Class Counsel for all work done and to be
 6 done until the completion of this matter, and gives final approval to the Administrator for payment
 7 of said amount be made to Class Counsel within 15 business days from the date of entry of this
 8 Order. As provided in the Stipulation of Settlement, the reduced attorneys' fees in the amount of
 9 \$155,000 [\$50,000 administration costs + \$45,000 PAGA payment + \$60,000 incentive award]
 10 shall be distributed to class claimants on a pro-rata basis proportional to the size of their claims;

11 10. The Court orders that within 15 business days from the date of entry of this Order,
 12 the Claims Administrator shall issue a check for \$45,000 to the California Labor and Workforce
 13 Development Agency for PAGA payment;

14 11. The Court retains jurisdiction of all matters relating to the interpretation,
 15 administration, implementation and effectuation of this Order and the Stipulation of Settlement;

16 12. Upon satisfaction of all payment and obligations under the Stipulation of
 17 Settlement and under this Order, all settlement Class Members who did not opt out are
 18 permanently barred from prosecuting against Defendants or their present or former officers,
 19 directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors,
 20 consultants, insurers, and their respective successors and predecessors in interest, subsidiaries,
 21 affiliates, parents and attorneys, any individual or class claims released in the Stipulation of
 22 Settlement.

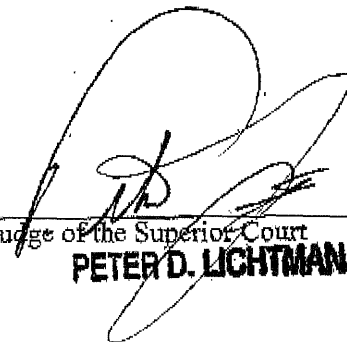
23 13. This Action is hereby dismissed with prejudice as to all Class Members who did
 24 not opt out.

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1 14. The Court orders that within 120 days from the date of entry of this Order,
 2 Defendants file a status report as to whether the Settlement payments ordered hereunder were
 3 made.

4 IT IS SO ORDERED.

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 6 Dated: 9/23/08



7 Judge of the Superior Court
 8 **PETER D. LICHTMAN**

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