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

EMILY HUNT, on behalf of herself, all
others similarly situated, and on behalf of
the general public,

Plaintiff,

v.

VEP HEALTHCARE, INC., a corporation;
and DOES 1 through 100, inclusive,

Defendants.

Case No. 3:16-CV-04790-VC

~~SECOND REVISED [PROPOSED] ORDER
GRANTING PLAINTIFF EMILY HUNT'S
UNOPPOSED MOTION FOR FINAL
APPROVAL OF CLASS/COLLECTIVE
ACTION SETTLEMENT; AWARD OF
ATTORNEYS' FEES, COSTS,
CLASS/COLLECTIVE REPRESENTATIVE
ENHANCEMENT/GENERAL RELEASE
PAYMENT, CLAIMS ADMINISTRATION
EXPENSES; AND ENTERING JUDGMENT~~

AS MODIFIED

Date: March 15, 2018
Time: 10:00 a.m.
Judge: Hon. Vince Chhabria
Dept.: 4

Action Filed: April 6, 2015
Trial Date: None Set

1 This matter came on for hearing on March 15, 2018 at 10:00 a.m., in Courtroom 4 of the above-
2 captioned Court on Plaintiff's Motion for Final Approval of Class/Collective Action Settlement;
3 Award of Attorneys' Fees, Costs, Class/Collective Service Award Payment, Claims Administration
4 Expenses; and Entering Judgment (Dkt. No. 59).

5 Having received and considered Plaintiff's motion and supplemental briefs, the Joint
6 Stipulation and Settlement Agreement (hereinafter referred to as the "Settlement Agreement"), the
7 supporting papers filed by the Parties, and the evidence and argument received by the Court in
8 conjunction with the Motion for Final Approval of Class and Collective Action Settlement, the Court
9 grants final approval of the Settlement and **HEREBY ORDERS AND MAKES THE FOLLOWING**
10 **DETERMINATIONS:**

11 1. Pursuant to the Court's Order as Modified Granting Renewed Motion for Preliminary
12 Approval of Class and Collective Action Settlement (Dkt. No. 55) (hereinafter referred to as the "Order
13 Granting Preliminary Approval"), a Notice of Collective and Class Action Settlement (hereinafter
14 referred to the "Notice") was mailed to all members of the California Class and FLSA Collective by
15 first-class U.S. Mail on January 3, 2018. A Notice was also emailed to all members of the California
16 Class and FLSA Collective between January 4, 2018, and January 8, 2018. The Court finds that
17 distribution of the Notice in the manner set forth in the Court's Order Granting Preliminary Approval
18 and the Settlement Agreement constituted the best notice practicable under the circumstances, and
19 constituted valid, due and sufficient notice to all members of the California Class and FLSA
20 Collective. The Court finds that such notice complies fully with the requirements of Rule 23 of the
21 Federal Rules of Civil Procedure, the Constitution of the United States, and any other applicable laws.
22 The Notice set forth herein and in the Settlement Agreement provides a means of notice reasonably
23 calculated to apprise the California Class and FLSA Collective Members of the pendency of the action
24 and the proposed settlement, and thereby meets the requirements of Rule 23(c)(2) of the Federal Rules
25 of Civil Procedure, as well as due process under the United States Constitution and any other
26 applicable law, and shall constitute due and sufficient notice to all California Class and FLSA

1 Collective Members entitled thereto. The Notice informed the California Class and FLSA Collective
2 of: (1) the terms of the Settlement; (2) their right to submit objections, if any, and to appear in person
3 or by counsel at the final approval hearing and to be heard regarding approval of the Settlement; (3)
4 California Class Members' right to request exclusion from the Class and the Settlement; (4) FLSA
5 Collective Members' right to opt-in to the Collective and the Settlement; and (5) the date set for the
6 final approval hearing. Adequate periods of time were provided by each of these procedures. No
7 member of the California Class or FLSA Collective filed a written objection to the proposed
8 Settlement as part of this notice process or stated an intention to appear at the final approval hearing.

9 2. One (1) member of the California Class has requested to be excluded from the Class
10 and the Settlement. This individual is excluded from the Settlement and is not bound by this Judgment
11 or the terms of the Settlement Agreement. The name of this individual is attached hereto as Exhibit A.
12 Plaintiff and all California Class Members other than the individual who requested to be excluded
13 from the settlement are adjudged to be Participating California Class Members and are bound by this
14 Final Judgment and by the Settlement Agreement, including the releases provided for in the Settlement
15 Agreement.

16 3. Two hundred and ten (210) FLSA Collective Members submitted FLSA Claim Forms
17 and thereby opted-in to Collective and the Settlement. All FLSA Collective Members who did not
18 submit FLSA Claim Forms are excluded from the settlement and are not bound by this Judgment or
19 the terms of the Settlement Agreement. These individuals are excluded from the Settlement and are
20 not bound by this Judgment or the terms of the Settlement Agreement. The names of the individuals
21 who submitted FLSA Claim Forms are attached hereto as Exhibit B. Plaintiff and all FLSA Collective
22 Members who submitted FLSA Claim Forms are adjudged to be Participating FLSA Collective
23 Members and are bound by this Final Judgment and by the Settlement Agreement, including the
24 releases provided for in the Settlement Agreement.

25 4. The Court finds and determines that this notice procedure afforded adequate protections
26 to California Class and FLSA Collective Members and provides the basis for the Court to make an

1 informed decision regarding approval of the Settlement based on the responses of California Class and
2 FLSA Collective Members. The Court finds and determines that the Notice was the best notice
3 practicable, which satisfied the requirements of law and due process.

4 5. Solely for the purpose of settlement, in accordance with the Settlement Agreement, the
5 Court finds that the requirements of Rule 23 of the Federal Rules of Civil Procedure and other laws
6 and rules applicable to settlement approval of class actions have been satisfied, and the Court hereby
7 certifies a California Class of all individuals employed by VEP Healthcare, Inc. as Physician's
8 Assistants in the state of California who were eligible to receive productivity pay from April 6, 2011
9 to May 15, 2017.

10 6. Solely for the purpose of settlement in accordance with the Settlement Agreement, the
11 Court finds that the requirements of 29 U.S.C. § 216(b) have been satisfied and other laws and rules
12 applicable to settlement approval of collective actions have been satisfied, and the Court hereby
13 certifies an FLSA Collective of all individuals employed by VEP Healthcare, Inc. as Physician's
14 Assistants in the state of California who were eligible to receive productivity pay from April 6, 2011
15 to May 15, 2017.

16 7. Pursuant to the Settlement Agreement, and for settlement purposes only, the Court
17 further finds as to the California Class that:

- 18 a. The Class is so numerous that joinder of all members is impracticable;
- 19 b. There are questions of law or fact common to the Class which predominate over
20 the questions affecting only individual members;
- 21 c. The claims of the Class Representative, Emily Hunt, are typical of the claims
22 of the Class that the Class Representative seeks to certify;
- 23 d. The Class Representative, Emily Hunt, will fairly and adequately protect the
24 interests of the Class and is, therefore, appointed as the representative of the
25 Class;

- 1 e. Class Counsel, The Turley & Mara Law Firm, APLC, will fairly and adequately
- 2 protect the interests of the Class and are qualified to represent the Class and are,
- 3 therefore, appointed as attorneys for the Class for purposes of settlement; and
- 4 f. Certification of the Class is superior to other available methods for fair and
- 5 efficient adjudication of the controversy.

6 8. Pursuant to the Settlement Agreement, and for settlement purposes only, the Court
7 further finds as to the FLSA Collective that:

- 8 a. The Collective Representative, Emily Hunt, is similarly situated to the
- 9 Collective Members;
- 10 b. A bona fide dispute exists between the Parties over violations of the FLSA
- 11 provisions; and
- 12 c. Collective Counsel, The Turley & Mara Law Firm, APLC, will fairly and
- 13 adequately protect the interests of the Collective and are qualified to represent
- 14 the Collective and are, therefore, appointed as attorneys for the Collective for
- 15 purposes of settlement.

16 9. The Court finds that the Settlement is fair when compared to the strength of Plaintiff's
17 case, Defendant's defenses and financial condition, the risks involved in further litigation and
18 maintaining class and/or collective status throughout the litigation, and the amount offered in
19 settlement.

20 10. The Court finds that the Parties conducted extensive investigation and research, and
21 that their attorneys were able to reasonably evaluate their respective positions.

22 11. The Court finds that Class/Collective Counsel has extensive experience acting as
23 counsel in complex class/collective action cases and their view on the reasonableness of the settlement
24 was therefore given its due weight.

25 12. The Court further finds that the California Class' and FLSA Collective's reaction to
26 the settlement – with no objections – weighs in favor of granting Final Approval of the Settlement.

1 The Court further finds that the California Class’ reaction to the settlement – with one (1) request for
2 exclusion – weighs in favor of granting Final Approval of the Settlement. Further, the FLSA
3 Collective’s reaction – with two hundred and ten (210) FLSA Claim Forms submitted – weighs in
4 favor of granting Final Approval of the Settlement.

5 13. The Settlement Agreement is not an admission by Defendant, nor is this Order a finding
6 of the validity of any allegations or of any wrongdoing by Defendant. Neither this Order, the
7 Settlement, nor any document referred to herein, nor any action taken to carry out the Settlement, shall
8 be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part
9 of Defendant.

10 14. The Court finds and determines that the Individual Settlement Payments to be paid to
11 each Participating California Class Member and each Participating FLSA Collective Member as
12 provided for by the Settlement are fair and reasonable. The Court hereby gives final approval to and
13 orders the payment of those amounts be made to the Participating California Class and FLSA
14 Collective Members in accordance with the terms of the Settlement Agreement.

15 ~~15. Class/Collective Counsel have conferred a benefit on the California Class and FLSA~~
16 ~~Collective Members and having expended efforts to secure a benefit to the Class and Collective is~~
17 ~~entitled to a fee and, accordingly, the Court approves the application of Class/Collective Counsel for~~
18 ~~\$500,000 for their attorneys’ fees and \$40,000 for their litigation costs and expenses. The Court does~~
19 ~~not find that the attorney fee award of \$500,000 and costs of \$40,000 is a disproportionate distribution~~
20 ~~of the Settlement under *In Re Bluetooth Product Liability Case (“Bluetooth”)* 654 F.3d 935 (9th Cir.~~
21 ~~2011). The Court also finds the attorney fee award here is not unreasonable under *Bluetooth*, because~~
22 ~~the Parties did not arrange for fees to revert to Defendant in the event the Court awarded less than~~
23 ~~requested.~~ The Court will issue a separate order governing attorneys' fees and class/collective
counsel's remaining duties following final approval.

24 16. The Class/Collective Representative Enhancement/General Release Payment to
25 Plaintiff, Emily Hunt, in the amount of \$10,000 is approved and ordered paid in accordance with the
26 terms of the Settlement Agreement.

1 17. The Settlement Administration costs in the amount of \$34,000 are approved and
2 ordered paid to CPT Group, Inc. in accordance with the terms of the Settlement Agreement.

3 18. Defendant shall have no further liability for costs, expenses, interest, attorneys' fees,
4 or for any other charge, expense, or liability, except as provided for in the Settlement Agreement.

5 19. Without affecting the finality of this Order in any way, the Court retains jurisdiction of
6 all matters relating to the interpretation, administration, implementation, effectuation and enforcement
7 of this order and the Settlement.

8 20. Nothing in this Order shall preclude any action to enforce the Parties' obligations
9 pursuant to the Settlement Agreement or pursuant to this Order, including the requirement that
10 Defendant makes payments to Participating California Class and FLSA Collective Members in
11 accordance with the Settlement.

12 21. The Court hereby enters final judgment in this case in accordance with the terms of the
13 Settlement Agreement, Order Granting Preliminary Approval, and this Order.

14 22. This Order shall constitute a final judgment.

15 23. The Parties shall bear their own costs and attorneys' fees except as otherwise provided
16 by the Settlement Agreement and this Order.

17 **IT IS SO ORDERED.**

18 Date: April 3, 2018

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20 _____
21 Honorable Vince Chhabria
22 United States District Court Judge
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Exhibit A

ID	ClaimNo	EmployeeName	OptOut
114	163	DAY, REBECCA	TRUE

Exhibit B

ClaimNo	ID	EmployeeName
1	178	DAVE, DEVAL
2	182	KIM, DAVID
3	189	KING, KEVIN
4	188	GOMORY, STELLA
5	36	BROWN, STANTON
6	105	LIEBERG, JON S
7	76	ZARTMAN, JASON
9	100	ENGELBERG, STEVEN
10	123	RUCKELSHAUS, JENNIFER L
11	135	SUN, HUNG-WEN
12	257	Pena, Carlos
13	264	Mock, Tiffany
14	144	PURSELL, BONNIE
15	26	DAVIS, PAULA E
16	153	DURAN, GRETCHEN
17	42	FRENCH, LUCAS
18	148	BELABIN, JEFFREY
19	133	KING, KATIE
20	231	CRAIG, CHARLES
21	234	PRIES, PATRICIA
22	211	FIKES, JASON
23	77	DUNCAN, ELRI
24	59	GREENING, JENNIFER
25	84	FENSKE, GINA
26	277	Morris, Lindsey
27	179	FIZZARD, QUILA
28	175	VENNIK, ANTHONY
29	125	WONG, MICHELLE ANN
30	80	CAMPBELL, TERESA
31	184	WESTBROOK-MAY, NANCY
33	70	SICAT, MICHAEL
34	46	MUZZIN, MONICA
35	242	CARMANY, EMILY
36	17	SHIBATA, JEANETTE WONG
37	127	CHANCELLOR, MELISSA
38	88	HOUSER, MELANIE
39	213	HENGER, LUCAS
41	147	AMORDE, CONNIE
42	161	REED, DANAE
43	192	MA, PEIJING
44	155	GRUBERT, AMY
45	16	SAHATRUNGSINEE, PENSIRI
46	137	HADFIELD, GREG
47	274	Lai, Nina
48	205	WORLEY, CHARLES
49	198	SCHERR, NATALIE

50	43	HOUDE, MARCELLINE
51	66	FRASHER, SUSANA
52	71	VERA, JOSHUA ALLAN
53	29	ELLIOTT DEMARS, HEATHER M
54	162	RENE, PATERSON
55	139	KIRK, RICHARD
56	5	GALICIA, CHRISTIAN
57	267	Monsen, Melvin
58	37	CODY, MARTHA
59	250	Meyer, Lindsey
61	108	MIRKIN, ABIGAIL
62	138	KANE, MARK
63	244	MENCEL, MARK
64	151	CRAWFORD, THOMAS
65	49	ROJAS, DAVID
66	56	DEVELLE, ROBERT
67	201	TAPIA, CARLA
68	32	PATLOVE, SILAS
69	8	GORSUCH, KIMBERLY
70	200	SUZUKI, STACY
71	95	VENTURA, IVAN L
72	89	JANG, CECILIA
73	60	GREGORY, ASHLEY
74	47	PIMENTEL, JERRY W
75	130	GEE, TODD
76	120	WINTER III, WILLIAM
77	260	Carter, Anthony
78	27	DAVISIO, PHILIP M
79	186	DRUM-LAL, PATRICIA
80	61	MCDONALD, JULIE
81	12	MACALALAD, JOSEPH
82	219	STEPHENS, DANIELLE
83	152	DEMANN, AKOSUA
84	227	PATTON, COLLEEN
85	64	BENDER, JOSEPH
86	169	GRANT, JED DONALD
87	251	Sousa, Kyndra
88	158	MACQUEEN, MARJORIE
89	209	DENT, MISHA SHAWN
90	99	ABT, FRANK
91	206	BARTHOLOMEW, VANESSA
92	141	STRATTON, SARA
93	256	Combs, Autumn
94	7	GILBERT, BENJAMIN T
95	193	OH HO SEUNG, TRAVIS
96	93	RENTERIA, DIANE
97	204	WOO, STEPHEN

98	106	MCBIRNEY, RYAN
99	239	FLEMING, CHRISTOPHER
100	82	ECHEVARRIA, KATHERINE
101	222	JUSTUS, MATTHEW
102	183	SIMM, KENDELL
103	69	MA, STANLEY
104	40	DOSANJH, KULJINDER
105	113	SMITH, SHANNON
106	74	MCCAFFREY, KEVIN
107	156	HUNTER, LAMONT
108	259	Hanna, Peter
109	15	RAY, JOHN
110	253	Thompson, Katherine
112	212	HALE, KRISTA
113	172	SHERARD, KERRI L
114	78	SAKAGUCHI, GAYLE
115	195	RAMOS, MARK
116	226	NORRIS, CASEY
117	224	MCGHEE, CHRISTY
118	51	WILLIAMSON, JAMES
119	63	SONG, GRACE
120	230	WISE, KELSEY
121	4	ELIZONDO, ARACELI
122	165	SPURLOCK, JULIA K
123	284	Blatt, Marisa
124	199	SHEPS, MARYANN
125	35	BILAUCA, FLORIN
126	33	TILTON, CHRISTOPHER
127	243	KRISEL, JESSICA
128	255	Harris, Elizabeth
129	57	GEVORKIAN, DAVID
130	81	DOWELL, THOMAS
131	167	DENNIS, MICHAEL
132	41	FERRADA-MASIA, CLAUDIA A
133	180	GOTTUS, MICHAEL
134	150	CLARK MESKIMEN, HOLLY H M
135	122	MARX, SYLVIA
136	126	CALVERT, EMMA E
137	20	VILLAPUDUA, DINA
138	273	George, Jason
139	31	PARKIN, SEAN
140	136	THOMPSON, BRIAN
141	280	Le, Lam
143	104	KENT, WILLIAM
144	145	STOESZ, KATHERINE
145	265	Rofael, Mario
146	117	HUNT, EMILY

147	102	HAUSER, KAREN
148	91	MATA-VARGAS, JORGE
149	90	MANGROLA, UMANGSINH
150	112	SCHREINER DUNCAN, TRICIA
151	98	HERING, FREDERICK
152	170	GRECHKO, ALEXANDRIA
153	163	RODOLFF, KELLEY
154	11	JORDAN, NATANE
155	187	EVANGELISTA, CINDY
156	281	Hovelson, Elise
157	266	Harris, Daniel
158	276	Schraeder, Auden
159	62	PATZ, HEATHER
160	131	HANKS, KIM
161	236	TRAN, NHANIEN
162	500	Karle, Francesca
164	285	Wersan, Rebecca
165	263	Bender, Amber
166	246	WHITE, AMBER
167	157	LACKORE, JEFFREY
168	245	SOJA, KAILA
169	228	SHELTON, JAIMIE
170	39	CONTRERAS TORRES, PEDRO
171	202	VELASQUEZ-HICKERSON, ANA
172	249	Jackson, Dina
173	129	DENGLER, JENNIFER
174	268	Araujo, John
175	191	LEE, PORSCHE
176	196	RAMOS, RICHARD
177	203	WAITE, JOHN
179	13	MURRAY, ELIZABETH ANN
180	164	SIMS, CODY
181	217	RUGGLES, LINDSEY
182	181	IM, BRIAN
183	55	DANG, TRACY
184	115	FRAZER, JASON
185	279	Stempel, Alexander
186	119	REBIERO, KRISTINE A
187	134	MALLATT, MICHAEL
188	238	VOLEK, DENNIS
189	501	Hauser, Estela
191	252	Kosova, Jennifer
192	154	FRAZER, JEFFREY
193	258	Pace, Timothy
194	67	GOMEZ, MABEL ANTONIO
196	3	DEVIVO, RYAN
197	73	DERUM, JAMES

198	171	MCCASKILL, KEHLI
199	28	EASTER, THOMAS
200	278	Pachner, Aaron
201	160	OCONNELL, DENNIS E
202	190	LE, TIFFANY
203	9	GREENBERG, DAVID H
204	210	DYER, HOLLY
206	197	RODRIGUEZ, JAVIER
207	14	PETALVER, OLIVER CARINO
208	254	Park, Yulie
210	109	MORIN, KELLY ALEXANDRA
211	50	STEWART, DAVID
212	132	HEITTER, DAVID O
213	75	PECOY, ELIZABETH
214	48	ROHDE-MOE, GUNNAR
215	68	JUNG, JULIE MARIE
216	79	BURKETT, CHRIS
217	269	Der, Jessica
218	166	BORGHEI, KARIMEH
220	124	WATKINS, GAIL
221	142	CARPENTER, ROBYN
222	247	ZEVETCHIN, STACY
223	30	IBRAHIMI, ISAAC A