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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

DEBRA WOLF, individually and on behalf of all other similarly situated individuals,

Plaintiff,

v.

THE PERMANENTE MEDICAL GROUP, INC., a California corporation,

Defendant.

Case No. 17-cv-05345-VC

CLASS ACTION

[PROPOSED] ORDER GRANTING MOTION FOR ATTORNEYS' FEES, LITIGATION/SETTLEMENT ADMINISTRATION EXPENSES, AND CLASS REPRESENTATIVE SERVICE AWARDS

Date: September 6, 2018
Time: 10:00 a.m.
Courtroom: 4
450 Golden Gate Avenue, 17th Flr
San Francisco, California 94102
Judge: Hon. Vince Chhabria

1 On September 6, 2018, a hearing was held on the joint motion of Plaintiff Debra Wolf and
2 Defendant The Permanente Medical Group, Inc. (“TPMG”), and on the separate motion of Plaintiff’s
3 Motion for Attorneys’ Fees, Litigation Expenses, Settlement Administration Expenses, and Class
4 Representative Service Awards. Kevin J. Stoops and Jason L. Thompson of Sommers Schwartz,
5 P.C., and Jahan C. Sagafi of Outten & Golden LLP appeared for plaintiffs; and Jeffrey D. Wohl and
6 Caitlin M. Wang of Paul Hastings LLP appeared for TPMG.

7 The parties have submitted their Settlement, which this Court preliminarily approved by its
8 order entered on May 9, 2018. In accordance with the Preliminary Approval Order, Class Members
9 have been given notice of the terms of the Settlement and the opportunity to object to it or to exclude
10 themselves from its provisions.

11 Having received and considered the motion of Plaintiff and Class Counsel for Attorneys’
12 Fees, Litigation Expenses, Settlement Administration Expenses, and Class Representative Service
13 Awards; the Memorandum and corresponding declarations and documents filed in support of that
14 motion; Plaintiff’s and Class Counsel’s Reply Brief in support of their motion for Attorneys’ Fees,
15 Litigation Expenses, Settlement Administration Expenses, and Class Representative Service
16 Awards; the Memorandum and corresponding declarations and documents filed in support of that
17 reply; and based on the entire record of this actions; the Court HEREBY ORDERS and MAKES
18 DETERMINATIONS as follows:

19 1. The Court has jurisdiction over the subject matter of this action, the Defendant, and
20 the Class.

21 2. Notice of the requested award of attorneys’ fees, reimbursement of litigation
22 expenses, reimbursement of settlement administration expenses, and awards of class representative
23 service payments was directed to Class Members in an reasonable manner, and complies with Rule
24 23(h)(1) of the Federal Rules of Civil Procedure.

25 3. Class Members and any party from whom payment is sought have been given the
26 opportunity to object in compliance with Fed. R. Civ. P. 23(h)(2).

Appointment of Class Representatives and Approval of Class Representative Awards

4. The Court confirms as final the appointment of Debra Wolf and Natty Medrano as Class Representatives of the FLSA Collective and the California Rule 23 Class.

5. The requested Class Representative service awards of \$10,000 (\$7,500 for Named Plaintiff Debra Wolf and \$2,500 or opt-in Plaintiff Natty Medrano) are fair and reasonable in light of the time and effort the Class Representatives expended for the benefit of the Class Members, as well as the risk accepted by initiating the litigation and publicly representing the Class. *See, e.g., Stevens v. Safeway, Inc.*, No. 05 Civ. 01988, 2009 U.S. Dist. LEXIS 17119, at *34-37 (C.D. Cal. Feb. 25, 2008) (\$20,000 and \$10,000 to two class representatives); *Glass v. UBS Financial Services, Inc.*, 7 Case No. 06 Civ. 4068, 2007 WL 221862, at *16-17 (N.D. Cal. Jan. 26, 2007) (\$25,000 each to four class representatives); *Van Vranken v. Atl. Richfield Co.*, 901 F. Supp. 294, 300 (N.D. Cal. 1995) (\$50,000 to one class representative); *In Re Janney Montgomery Scott LLC Financial Consultant Litig.*, No. 06 Civ. 3202, 2009 U.S. Dist. LEXIS 60790, at *35-37 (E.D. Pa. July 16, 2009) (\$20,000 each to three class representatives); *Wade v. Kroger Co.*, No. 01 Civ. 699, 2008 WL 4999171, at *13 (W.D. Ky. Nov. 20, 2008) (\$30,000 each to multiple class representatives); *Wright v. Stern*, 553 F. Supp. 2d 337, 342 (S.D.N.Y. 2008) (\$50,000 each to eleven class representatives); *In re Dun & Bradstreet Credit Servs. Customer Litig.*, 130 F.R.D. 366, 374 (S.D. Ohio 1990) (\$35,000-55,000 each to five class representatives). The Class Representatives have satisfied the criteria as set forth in *Staton v. Boeing Co.*, 327 F.3d 938, 963 (9th Cir. 2003). Under *Staton*, a service award request should be evaluated using “relevant factors, includ[ing] the actions the Plaintiff has taken to protect the interests of the class, the degree to which the class has benefited from those actions, ... the amount of time and effort the Plaintiff expended in pursuing the litigation ... and reasonabl[e] fear[s] of workplace retaliation.” *Staton*, 327 F.3d at 977 (citing *Cook v. Niedert*, 142 F.3d 1004, 1016 (7th Cir. 1998)) (ellipses in original). Here, the Class Representatives’ leadership of this action caused them personal exposure and potential adverse consequences with future employers, and their representation of the FLSA and state law Classes enhanced the case’s value overall by increasing TPMG’s potential exposure, tolling the statutes of limitations for those claims. Furthermore, Class Counsel attests that the Class Representatives were substantially

1 involved throughout the litigation, educating Class Counsel regarding Class Members' job
 2 experiences and TPMG's policies and procedures. Accordingly, the Court approves payment of
 3 Class Representative service awards in the amount of \$7,500 to Debra Wolf and \$2,500 to Natty
 4 Medrano.

5 **Appointment of Class Counsel: Approval of Class Counsel's Attorneys' Fees and**
 6 **Litigation Expenses**

6 6. The Court confirms as final the appointment of the following law firms and attorneys
 7 as class counsel ("Class Counsel") for the Rule 23 and FLSA Classes: Kevin Stoops and Jason
 8 Thompson of Sommers Schwartz, P.C., Jahan C. Sagafi of Outten & Golden LLP.

9 7. The Court finds and determines that Class Counsel's requested award of \$737,500 in
 10 attorneys' fees, or 25% of the common funds, is reasonable under the percentage of the common
 11 fund method, as it is consistent with Ninth Circuit authority. *See, e.g., Vizcaino v. Microsoft Corp.*,
 12 290 F.3d 1043 (9th Cir. 2002) (affirming award of 28% of \$96.885 million common fund, while
 13 recognizing that the percentage of an award generally increases as the common fund decreases); *In*
 14 *re Pacific Enterprises Sec. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming award of 33% of \$12
 15 million common fund); *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 460 (9th Cir. 2000)
 16 (affirming award of 33.3% of \$1.725 million fund); *see also In re Activision Sec. Litig.*, 723 F. Supp.
 17 1373, 1378 (N.D. Cal. 1989) (surveying cases and stating, "in class action common fund cases the
 18 better practice is to set a percentage fee and that, absent extraordinary circumstances that suggest
 19 reasons to lower or increase the percentage, the rate should be set at 30%."). The Court reaches this
 20 conclusion based on attorneys' fees awards issued in similar wage and hour cases in this District,
 21 and the fact that the common fund of \$2,950,000 was created for Class Members through the efforts
 22 of Class Counsel. *See Boyd v. Bank of Am. Corp.*, No. 13 Civ. 0561, 2014 WL 6473804, at *9 (C.D.
 23 Cal. Nov. 18, 2014) (approving fee award of 36% of common fund settlement); *In re Quantum*
 24 *Health Res., Inc.*, 962 F.Supp. 1254, 1258 (C.D. Cal. 1997) (attorneys representing a class "routinely
 25 recover attorneys' fees in the range of 20 to 40 percent of the common fund"); *see also Vasquez v.*
 26 *Coast Valley Roofing, Inc.*, 266 F.R.D.482, 492 (E.D. Cal. 2010) (33.3% fee award; \$300,000
 27 common fund) (collecting cases).
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1 8. The requested fee award is also reasonable under the lodestar method. The hours
2 devoted to this case by Class Counsel and their rates are reasonable. The award, results in a
3 multiplier of 2.75-3.0, which falls within the range of fee multipliers courts routinely approve, is
4 reasonable in light of the time and labor required, the difficulty of the issues involved, the requisite
5 legal skill and experience necessary, the results obtained for the Class, the contingent nature of the
6 fee and risk of no payment, and the range of fees that are customary. Courts routinely approve
7 similar or higher lodestar multipliers in comparable common fund cases. *See Vizcaino*, 290 F.3d at
8 1052-54; *Steiner v. Am. Broad. Co.*, 248 Fed. Appx. 780, 783 (9th Cir. 2007) (affirming award with
9 multiplier of 6.85); *see also* Newberg, *Attorney Fee Awards*, § 14.03 at 14-5 (1987) (“multiples
10 ranging from one to four are frequently awarded in common fund cases when the lodestar method is
11 applied.”); *Rabin v. Concord Assets Group, Inc.*, No. No. 89 Civ. 6130 (LBS), 1991 WL 275757
12 (S.D.N.Y. 1991) (4.4 multiplier) (“In recent years multipliers of between 3 and 4.5 have become
13 common.”) (internal quotations and citations omitted); *In re Xcel Energy, Inc., Securities, Derivative*
14 *& “ERISA” Litig.*, 364 F. Supp. 2d 980, 998-99 (D. Minn. 2005) (approving 25% fee, resulting in
15 4.7 multiplier); *In re Aremissoft Corp. Sec. Litig.*, 210 F.R.D. 109, 134-35 (D.N.J. 2002) (approving
16 28% fee, resulting in 4.3 multiplier); *Maley v. Del Global Techs. Corp.*, 186 F. Supp. 2d 358, 371
17 (S.D.N.Y. 2002) (approving 33.3% fee, resulting in “modest multiplier of 4.65”); *Di Giacomo v.*
18 *Plains All Am. Pipeline*, Nos. 99-4137 & 99-4212, 2001 WL 34633373, at *10-11 (S.D. Fla. Dec.
19 19, 2001) (approving 30% fee, resulting in 5.3 multiplier); *Roberts v. Texaco, Inc.*, 979 F. Supp. 185,
20 198 (S.D.N.Y. 1997) (5.5 multiplier); *Roberts v. Texaco*, 979 F. Supp. 185 (S.D.N.Y. 1997) (5.5
21 multiplier); *Weiss v. Mercedes-Benz of N. Am., Inc.*, 899 F. Supp. 1297, 1304 (D.N.J. 1995) (9.3
22 multiplier), *aff’d*, 66 F.3d 314 (3d Cir. 1995).

23 9. For these reasons, the Court awards Class Counsel attorneys’ fees in the amount of
24 \$737,500.

25 10. The Court finds and determines, pursuant to the terms of the Settlement, that within
26 7 days of receipt of the Total Settlement Amount from TPMG (which must be paid within 14 days
27 of the Settlement becoming Final) the Settlement Administrator will wire transfer the attorneys’ fee
28

1 award of \$737,500 to Sommers Schwartz, P.C., and Sommers Schwartz, P.C., will be responsible
2 for distribution of fees to Class Counsel including Outten & Golden LLP.

3 11. The Court finds and determines that Class Counsel's request for reimbursement of
4 litigation expenses in the amount of \$ _____ is reasonable and is consistent with Ninth
5 Circuit authority. The litigation expenses incurred by Class Counsel have been adequately
6 documented and were reasonably incurred for the benefit of the Class. The Court finds that these
7 litigation expenses are justified.

8 12. The Court finds and determines, pursuant to the terms of the Settlement, that within
9 7 days of receipt of the Total Settlement Amount from TPMG (which must be paid within 14 days
10 of the Settlement becoming Final) the Settlement Administrator will wire transfer the fees expenses
11 to Sommers Schwartz, P.C., and Sommers Schwartz, P.C., will be responsible for distribution of
12 litigation expenses to Class Counsel including Outten & Golden LLP.

13 **Settlement Administration Expenses**

14 13. Settlement Administrator, Simpluris, Inc., has filed a declaration identifying the work
15 it has performed and will perform in this matter and identifying its total invoice amount of
16 \$ _____.

17 14. The Court finds that these settlement administration expenses are fair and reasonable
18 and appropriate in this case and awards reimbursement of that amount to Simpluris, Inc., from the
19 Total Settlement Amount.

20 IT IS SO ORDERED.

21 Dated: _____, 2018.

22 _____
23 Vince Chhabria
24 United States District Judge