


Filed 6-25-19  
ROSA JUNQUEIRO, CLERK

By   
DEPUTY

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6 Attorneys for Plaintiff  
7 PATRICK TRULY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF SAN JOAQUIN

10 PATRICK TRULY,  
11 Plaintiff,

12 v.

13 TRI-VALLEY ORTHIOPEDIC AND SPORTS  
14 MEDICAL GROUP, INC., A CALIFORNIA  
15 CORPORATION DBA TRI-VALLEY  
16 ORTHOPEDIC SPECIALISTS, INC., AND  
DOES 1-10, INCLUSIVE,  
17 Defendants.

Case No.: STK-CV-UWT-2017-10117  
Case assigned to Hon. Elizabeth Humphreys  
for all purposes including trial

**[PROPOSED] ORDER GRANTING  
FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT; CERTIFYING CLASS  
FOR SETTLEMENT PURPOSES; AND  
GRANTING PLAINTIFFS' MOTION  
FOR ATTORNEYS' FEES, COSTS, AND  
SERVICE AWARDS**

DATE: June 6, 2019  
TIME: 9:00 A.M.  
DEPT: 10C

Date Filed: 09/25/17  
FAC: 10/24/17  
SAC: 01/17/18  
TAC: 10/15/18

23 On June 6, 2019, this Court considered Plaintiff PATRICK TRULY'S ("Plaintiff")  
24 unopposed Motion for Final Approval of Class Action Settlement and Plaintiffs' Motion for an Award  
25 of Attorneys' Fees, Costs, Claims Administration Expenses and Class Representative Enhancements  
26 (the "Motions"). Counsel for Plaintiff and Defendant appeared telephonically.

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JUN 21 2019

1 On January 22, 2019, this Court entered an "Order for Preliminary Approval of Class Action  
2 Settlement, Setting of a Final Approval Hearing, and Approval of Notice to the Class." The Class  
3 Member are defined as follows: *"All persons employed by Defendant in the State of California, other  
4 than those employee-physicians who have an ownership interest in Defendant, who received a paycheck  
5 or wage statement between September 25, 2016 and June 15, 2018."*

6 That Order further directed (1) the mailing of the Court approved Class Notice via first class  
7 mail to the Settlement Class Members in accordance with the schedule and procedures set forth in the  
8 Settlement and that Order, and (2) that the Settlement Administrator submit a declaration to the Court,  
9 within 10 days of the Final Approval Hearing, noting the number of notices mailed to the Class  
10 Members, the number re-mailed, the number ultimately undeliverable, the number of timely Opt Outs,  
11 the number of wage statements represented by the Opt-outs, the number of objections received, the final  
12 rate of compensation for wage statement issued, the amount of the average payment to a Participating  
13 Class Member, the amount of the highest payment to a Participating Class Member, the total charges  
14 for services rendered, and the anticipated future charges beyond the date of final approval. A copy of  
15 this order is attached hereto as **Exhibit A** and incorporated herein by reference.

16 In accordance with the Preliminary Approval Order, Class Members have been given  
17 notice of the terms of the Settlement and the opportunity to request exclusion or object to it or  
18 any of its terms. Having received and considered the Settlement, the supporting papers filed by  
19 the Parties, and the evidence and argument received by the Court in conjunction with the instant  
20 Motions, the Court grants final approval of the Settlement and **HEREBY ORDERS,**  
21 **ADJUDGES, AND MAKES THE FOLLOWING DETERMINATIONS:**

22 1. This Court has jurisdiction over the subject matter of the Actions and over all Parties  
23 to the Actions, including all members of the Class.

24 2. The Notice provided to the Class conforms with the requirements of California  
25 Code of Civil Procedure section 382, California Civil Code section 1781, California Rules of  
26 Court 3.766 and 3.769, the California and United States Constitutions, and any other applicable  
27 law, and constitutes the best notice practicable under the circumstances, by providing individual  
28 notice to all Class Members who could be identified through reasonable effort, and by providing due

1 and adequate notice of the proceedings and of the matters set forth therein to the other Class Members.  
2 The notice fully satisfied the requirements of due process.

3 3. The Court finds and determines that the proposed Class, as defined in the Settlement  
4 Agreement, meets all of the legal requirements for class certification, and it is hereby ordered that the  
5 Class is finally approved and certified as a class for purposes of settlement of this action.

6 4. The Court finds the settlement was entered into in good faith, that the settlement is  
7 fair, reasonable and adequate, and that the settlement satisfies the standards and applicable  
8 requirements for final approval of this class action settlement under California law, including the  
9 provisions of California Code of Civil Procedure §382 and California Rules of Court, Rule 3.769.

10 5. No Class Members have objected to the terms of the Settlement.

11 6. Upon entry of this Order, compensation to the Class Members shall be effected  
12 pursuant to the terms of the Settlement Agreement.

13 7. The Court hereby confirms William A. Muñoz and Nathan T. Jackson with Murphy,  
14 Pearson, Bradley & Feeney as Class Counsel.

15 8. The unopposed Motion for Final Approval of Attorneys' Fees and Costs is hereby  
16 granted. Class Counsel shall be awarded \$20,625.00 as attorneys' fees and \$2,839.98 as litigation costs,  
17 with payment coming out of Settlement funds.

18 9. Plaintiff Patrick Truly is hereby awarded a \$1,000.00 "service award" with payment  
19 coming out of Settlement funds.

20 10. Administration Costs of \$4,000.00 shall be paid from the Settlement according to the  
21 terms of the Settlement Agreement to the claims administrator, CPT Group.

22 11. \$4,500 shall be paid from the Settlement to the California Labor and Workforce  
23 Development Agency ("LWDA").

24 12. No other litigation costs and/or attorneys' fees shall be awarded, either against  
25 Defendant or any related persons or entities or from the award to the Class.

26 13. The Parties are ordered to give notice to all Class Members in accordance with CRC  
27 3.771(b) by having this order and judgment placed on the website established by CPT Group, Inc.

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1           14.       Upon the Effective Date, Plaintiff and all Class Members, shall have, by operation  
2 of this Order, fully, finally and forever released and discharged Defendant, and all of its present,  
3 former, and future parent companies, subsidiaries, affiliates, predecessors, successors and assigns, and  
4 joint ventures and all of their respective past, present, and future shareholders, officers, directors,  
5 employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and  
6 any other persons acting by, through, under or in concert with any of them ('Releasees'), from any and  
7 all individual and class claims, debts, liabilities, demands, obligations, claims for restitution or injunctive  
8 relief, penalties, guarantees, costs, expenses, attorneys' fees, damages, actions or causes of action of  
9 whatever kind or nature, whether known or unknown, under California Labor Code sections 226, 226.3,  
10 2698 et seq., 2699 et. seq., as it pertains to claims under sections 226 or 226.3 pursuant to California's  
11 Private Attorney General Act ("PAGA"). Upon the Effective Date, all Class Members shall be and are  
12 hereby permanently barred and enjoined from the institution or prosecution of any and all of the claims  
13 released under the terms of the Settlement.

14           15.       Without affecting the finality of this order in any way, pursuant to California Rules of  
15 Court, Rule 3.769(h), this Court shall retain jurisdiction with respect to all matters related to the  
16 administration and consummation of the settlement, and any and all claims, asserted in, arising out of,  
17 or related to the subject matter of the lawsuit, including but not limited to all matters related to the  
18 settlement and the determination of all controversies relating thereto.

19           16.       Upon satisfaction of all payments and obligations under the Settlement Agreement and  
20 under this Order, every Class Member who was mailed or otherwise given notice who did not opt out  
21 of the Settlement shall be bound by the Settlement and its Release.

22           17.       Excluded from the Settlement and its Releases are those persons who have submitted  
23 valid and timely Requests for Exclusion. There has been one such Request for Exclusion.

24           18.       The Parties are hereby ordered to comply with the terms of the Settlement. Defendants  
25 shall make the necessary payments to class members, class counsel, CPT Group, and the LWDA within  
26 the time frames set forth in the Settlement Agreement.

27           19.       The Court hereby enters final judgment in this case in accordance with the terms of the  
28 Settlement, Preliminary Approval Order, this Order, and Rule 3.769(h) of the California Rules of Court.

1 IT IS SO ORDERED.

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DATED: *Jun 25<sup>th</sup>, 2019*



JUDGE OF THE SUPERIOR COURT

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# EXHIBIT A

ORIGINAL

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2 Nathan T. Jackson – 285620  
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Filed 1-22-19  
ROSA JUNQUEIRO, CLERK  
By [Signature] DEPUTY

6 Attorneys for Plaintiff  
7 PATRICK TRULY and the Class

JAN 09 2019

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN JOAQUIN

11 PATRICK TRULY, individually and on behalf  
12 of all others similarly situated;  
13 Plaintiff,  
14 v.  
15 TRI-VALLEY ORTHOPEDIC AND SPORTS  
16 MEDICAL GROUP, INC. a California  
17 Corporation, dba TRI-VALLEY ORTHOPEDIC  
SPECIALISTS, INC., and DOES 1-10, inclusive,  
18 Defendants.

Case No.: STK-CV-UWT-2017-10117  
Case assigned to Hon. Elizabeth Humphreys  
for all purposes including trial

**[PROPOSED] ORDER ON PLAINTIFF'S  
UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT**

DATE: December 27, 2018  
TIME: 9:00 A.M.  
DEPT: 10C

Date Filed: 09/25/17  
FAC : 10/24/17  
SAC : 01/17/18  
TAC : 10/15/18

No Trial Date

23 The Court hereby adopts its tentative ruling, a copy of which is attached hereto as  
24 Exhibit A and incorporated herein by reference, with the following modifications:

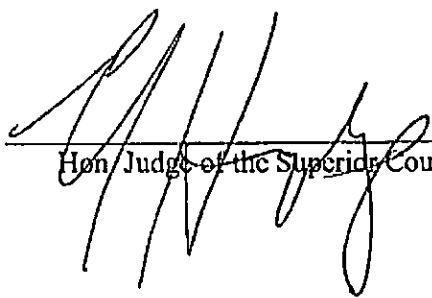
- 25 1. Having considered additional information supplied by Plaintiff's counsel, the  
26 Court hereby approves CPT Group as class action administrator.

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2. The Court sets a Final Approval Hearing for April 23, 2019 at 9:00 a.m. in Department 10C of the above entitled Court.
3. The Court approves the revised class notice attached as Exhibit 3 to the Supplemental Declaration of Nathan Jackson in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement.
4. Plaintiff's briefs and supporting papers in support of final approval of the proposed settlement, and for an application for an award of fees and expenses to Class Counsel and incentive awards to the representative Plaintiff, shall be filed with the Court no later than March 27, 2019.

**IT IS SO ORDERED.**

DATED: 1/22/19

  
\_\_\_\_\_  
Hon. Judge of the Superior Court





**EXHIBIT "A"**

Superior Court of California, County of San Joaquin

MINUTE ORDER

Date: 12/27/2018 09:00 AM

Case Number: STK-CV-UWT-2017-0010117

Patrick Truly vs Try-Valley Orthopedic And Sports  
Medical Group Inc.  
Event Type: Motion

Department: 10C

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Appearances: Presiding Judge: Elizabeth Humphreys. Attorney, Nathan Thomas Jackson, appears for Plaintiff, Patrick Truly, individually and on behalf of all others similarly situated. Private Attorney, Bailey K Bifoss, appears for Defendant, Tri-Valley Orthopedic And Sports Medical Group, Inc. a California Corporation, dba Tri-Valley Orthopedic Specialists, Inc.. Also attending: A.L. Court Clerk.

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Telephonic appearance by counsel for Plaintiff.

Telephonic appearance by counsel for Defendant.

Counsel appear pursuant to the Court's tentative ruling.

No oral argument is requested by either side. Counsel submits on the Court's tentative ruling.

The Court affirms the tentative ruling as follows: Tentative Ruling on Plaintiff, Patrick Truly's (individually and on behalf of all others similarly situated) ("Plaintiff,") Motion for Preliminary Approval of Class Action Settlement ("motion") set for hearing on December 27, 2018 in Department 10C.

Ruling:

Appearance required.

The motion of plaintiff Patrick Truly ("plaintiff") for an order preliminarily approving the settlement of this action, approving the form of notice to the class and setting a final approval hearing is set for hearing in Department 10C of this Court on December 27, 2018.

Having read the motion, the memorandum, the Request for Judicial Notice, and the declarations filed, this Court finds that the proposed settlement appears to be fair, reasonable and adequate and that a hearing should be held after notice to the plaintiff Settlement Class of the proposed settlement to determine if the Settlement Agreement and Release of Claims ("Settlement Agreement") and settlement are fair, reasonable and adequate and if an "Order Granting Final Approval of Class Action Settlement; Certifying Class for Settlement Purposes; and Granting Plaintiff's Motion for Attorneys' Fees, Costs, and Service Awards" should be entered in this action based upon the Settlement Agreement;

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement and the settlement contained therein are preliminarily approved as fair, reasonable and adequate including but not limited to certifying the proposed Settlement Class for settlement purposes, appointing Patrick Truly as the Class Representative, and appointing Murphy, Pearson, Bradley & Feeney as counsel for the Class ("Class Counsel.") The Court could not locate any information regarding the person or entity that is proposed to serve as the Settlement Administrator and therefore is unable to provide approval. The "[Proposed Order] on Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement" references "CPT Group" being appointed as Settlement Administrator but the court was unable to locate any other reference to CPT Group in the moving papers. The parties may provide the court with additional information at the hearing.
2. The Court approves as to form and content the Notice of Proposed Class Action Settlement and Hearing Date for Final Court Approval of Settlement ("the Class Notice") attached as Exhibit 1 to the Settlement Agreement except that on page 5 [Additional Information] the Class Notice should also include information regarding how to

Minute Order

access "the precise terms and conditions of the Settlement and for more information about the Action, you may obtain a complete copy of any version of the complaint and the 'Stipulation of Class Action Settlement and Release of Claims'" on the Court's public website. The Class Notice meets the requirements of section 382 of the Code of Civil Procedure, Rule 3.766 of the California Rules of Court and due process. Defendant, Tri-Valley Orthopedic and Sports Medical Group, Inc. a California Corporation, dba Tri-Valley Orthopedic Specialists, Inc. ("Defendant,") Plaintiff and the Settlement Administrator shall, as soon as practicable, but no later than 20 days following the signing of the Order on the motion, cause the Class Notice to be sent to all members of the Settlement Class in accordance with the procedure set forth in sections VII of the Settlement Agreement (attached as Exhibit 1 to the Memorandum of Points and Authorities in Support of Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement.) The mailing of the Class Notice as directed constitutes the best notice practicable under the circumstances and sufficient notice to all members of the Settlement Class.

3. The costs and expenses of printing and Mailing the Class Notice shall be paid in accordance with the provisions of the Settlement Agreement.
4. A hearing (the final fairness hearing designated by the parties as the "Final Approval Hearing") [referred to by the parties in paragraphs VIII of the Settlement Agreement and in page 2 of Exhibit 1 to the Settlement Agreement] shall be held as set forth in the Class Notice to determine whether the proposed settlement is fair reasonable and adequate and should be finally approved. The Court will also consider at the Final Approval Hearing whether applications for plaintiff's attorney fees and expenses and incentive awards to the representative plaintiffs should be granted and, if so, in what amounts. [At the hearing on the motion, counsel should be prepared to request a reasonable date for the Final Approval Hearing.]
5. Plaintiff's briefs and supporting papers in support of the proposed settlement, and application for an award of fees and expenses to Class Counsel and incentive awards to the representative plaintiff, shall be filed with the Court [to be determined at the hearing] days prior to the Final Approval Hearing. After the Final Approval Hearing, the Court may enter a Final Approval Order and Judgment in accordance with the Settlement Agreement that will adjudicate the rights of all class members ["[Proposed] Order Granting Final Approval of Class Action Settlement; Certifying Class for Settlement Purposes; and Granting Plaintiff's Motion for Attorneys' Fees, Costs, and Service Awards" attached as Exhibit 3 to Settlement Agreement.]
6. Objections to the settlement shall be heard, and any papers or briefs submitted in support of said objections shall be considered by the Court only if, on or before the "Objection Deadline" as defined in the Settlement Agreement (the date forty five (45) days following the date on which the Settlement Administrator first mails the Class Notice to the Settlement Class members), said objector(s) file with the Clerk of the Superior Court written notice of their intention to object, together with supporting papers stating specifically the factual basis and legal grounds for the objections, and serve copies thereof together with proof of service on or before said date upon Counsel for plaintiffs and defendant.
7. The objections must state the name and number of the action. No Settlement Class member shall be entitled to be heard and no objection shall be considered unless these requirements are satisfied.
8. Any member of the Settlement Class who has not timely elected to be excluded from the Settlement Class, and who objects to approval of the proposed settlement, including any application for attorney fees and expenses and incentive awards to the named plaintiffs, may appear at the Final Approval Hearing in person or through counsel to show cause why the proposed settlement should not be approved as fair, reasonable and adequate.
9. Any Settlement Class member who does not make an objection to the settlement in the manner provided herein shall be deemed to have waived any such objection by appeal, collateral attack or otherwise.
10. All discovery and other pretrial proceedings in this action are stayed and suspended until further order of this Court except actions that are necessary to implement the Settlement Agreement and the Court's Order.

11. In the event the proposed settlement as provided in the Settlement Agreement is not approved by the Court, or for any reason the parties fail to obtain a Final Approval Order and Judgment as contemplated in the Settlement Agreement, or the Settlement Agreement is terminated pursuant to its terms, the Settlement Agreement and all orders entered in connection therewith shall become null and void and of no further force and effect, and shall not be used or referred to for any purpose whatsoever. In such event, the Settlement Agreement and all negotiations and proceedings relating thereto shall be withdrawn without prejudice as to the rights of any and all parties thereto.

12. The "Request for Judicial Notice in Opposition to Plaintiff's Unopposed Motion for Preliminary Approval of Class Action Settlement" appears to have been incorrectly titled. Assuming that it is filed in support of the motion, it is granted as to Requests 1-12.

- The Court will require that the Class Notice include on page 5 [Additional Information] information regarding how to access "the pleadings, the Settlement Agreement and other papers filed in the lawsuit for inspection" on the Court's public website.
- Counsel should be prepared to provide the Court with a proposed date for the Final Approval Hearing.
- Counsel should be prepared to provide the Court with a proposed date for filing the motion for final approval.

Elizabeth Humphreys/Judge of the Superior Court

Plaintiff shall submit a separate declaration with the additional information as to CPT Group.

Motion for Final Approval of Class Settlement is scheduled at 9:00 AM on April 23, 2019 in Department 10C.

Counsel for Plaintiff shall prepare a formal order consistent with the orders herein.

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**CERTIFICATE OF SERVICE**

I, Crystal J. Roberts, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 520 Capitol Mall, Suite 250, Sacramento, CA 95814.

On December 31, 2018, I served the following document(s) on the parties in the within action:

**[PROPOSED] ORDER ON MOTON FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

XXX

**VIA MAIL:** I am familiar with the business practice for collection and processing of mail. The above-described document(s) will be enclosed in a sealed envelope, with first class postage thereon fully prepaid, and deposited with the United States Postal Service at San Francisco, California on this date, addressed as listed below.

Bailey K. Bifoss  
Fisher & Phillips, LLP  
One Embarcadero Center  
Suite 2050  
San Francisco, CA 94111

Attorney For Defendant

Lonnie Giamela  
Fisher & Phillips, LLP  
444 South Flower Street, Suite 1500  
Los Angeles, CA 90071

Attorney For Defendant

I declare under penalty of perjury under the laws of the State of California that the foregoing is a true and correct statement and that this Certificate was executed on December 31, 2018.

By   
Crystal J. Roberts

1 **CERTIFICATE OF SERVICE**

2 I, Isela Bravo, declare:

3 I am a citizen of the United States, am over the age of eighteen years, and am not a party to or  
4 interested in the within entitled cause. My business address is 520 Capitol Mall, Suite 250, Sacramento,  
5 CA 95814.

6 On June 21, 2019, I served the following document(s) on the parties in the within action:

7 **[PROPOSED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION  
8 SETTLEMENT; CERTIFYING CLASS FOR SETTLEMENT PURPOSES; AND  
9 GRANTING PLAINTIFF'S MOTION FOR ATTORNEYS' FEES, COSTS, AND SERVICE  
AWARDS**

10 **XXX** **VIA MAIL:** I am familiar with the business practice for collection and processing of  
11 mail. The above-described document(s) will be enclosed in a sealed envelope, with first  
12 class postage thereon fully prepaid, and deposited with the United States Postal Service  
at Sacramento, California on this date, addressed as listed below.

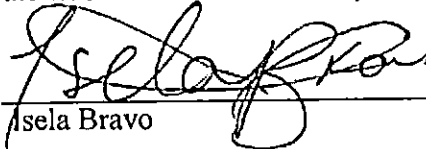
13 Bailey K. Bifoss  
14 Fisher & Phillips, LLP  
15 One Embarcadero Center  
16 Suite 2050  
17 San Francisco, CA 94111  
18 E-mail: bbifoss@fisherphillips.com

Attorney For Defendant

17 Lonnie Giamela  
18 Fisher & Phillips, LLP  
19 444 South Flower Street, Suite 1500  
20 Los Angeles, CA 90071

Attorney For Defendant

21 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
22 a true and correct statement and that this Certificate was executed on June 21, 2019.

23 By   
Isela Bravo