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**ENDORSED
FILED
ALAMEDA COUNTY**

APR 10 2015

K. McCoy, Exec. Off./Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA
UNLIMITED CIVIL JURISDICTION

ALEXANDER GUREVICH, et al.)

Plaintiffs,)

vs.)

ROYAL AMBULANCE, INC., et al.,)

Defendants.)

KEVIN DICKENS, et al.)

Plaintiffs,)

vs.)

ROYAL AMBULANCE, INC., et al.)

Defendants.)

**Case Nos. RG12631895 (Lead Case)
RG12639791**

ASSIGNED FOR ALL PURPOSES TO
THE HON. WYNNE CARVILL, DEPT. 21

CLASS ACTION

**[PROPOSED] ORDER FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT AND
CERTIFICATION OF SETTLEMENT
CLASS**

Hearing Date: April 10, 2015
Time: 8:30 a.m.
Place: Dept. 21
Reservation No.: R-1609105

Complaints Filed: May 24, 2012
July 18, 2012

1 **TO ALL PARTIES AND TO THEIR COUNSEL OF RECORD:**

2 Plaintiffs ALEXANDER GUREVICH, KEVIN DICKENS, PATRICK OPPIDO,
3 SPENCER STECZ, CHRIS HERN, and PHILIP JONES (“Plaintiffs”) and Defendant Royal
4 Ambulance, Inc. (“Defendant”), (collectively the “Parties”) have reached terms of settlement of
5 this putative class action.

6 Pursuant to California Code of Civil Procedure § 382 and California Rules of Court 3.769
7 *et seq.*, Plaintiffs have filed a motion for preliminary approval of class action settlement of the
8 claims asserted against Defendant in this action.

9 The Joint Stipulation and Settlement and Settlement Agreement (“Agreement”) provides
10 that the Parties stipulate to certification of a Class for settlement purposes only. The Agreement
11 is conditioned upon the Court’s approval. Capitalized terms in this Order shall have the same
12 meaning as in the Agreement unless indicated otherwise. A summary of the terms of the
13 settlement is as follows:

- 14 A. Stipulation of the parties to certifying a Class for settlement purposes,
15 consisting of all individuals who are currently or were formerly employed by
16 Defendant as Emergency Medical Technicians - Ambulance Drivers, from May
17 24, 2008, through the date of preliminary approval of the Class Action
18 Settlement Agreement, including Representative Plaintiffs;
- 19 B. Stipulation of the parties to appointment of ALEXANDER GUREVICH,
20 KEVIN DICKENS, PATRICK OPPIDO, SPENCER STECZ, CHRIS HERN,
21 and PHILIP JONES as the Class Representatives for settlement purposes;
- 22 C. Stipulation of the parties to appointment of Smoger & Associates, Arbogast
23 Law, A Professional Corporation, the Law Office of Arthur R. Siegel and Jaret
24 & Jaret as Class Counsel for settlement purposes;
- 25 D. Stipulation of the parties to a proposed Notice of Class Action Settlement in the
26 form attached as Exhibit A to the Agreement and Exhibit A to this Order, to be
27 mailed to the Class;
- 28 E. Stipulation of the parties to the opt out and objection procedures provided in the

1 Agreement and set forth in the Notice of Class Action Settlement;

2 F. Stipulation of the parties that Defendant must furnish the Administrator within
3 14 calendar days after the Court grants preliminary approval of the Settlement
4 the names and last known addresses and telephone numbers of all Class
5 Members, as well as any other information the Administrator may reasonably
6 need to administer this settlement;

7 G. Stipulation of the parties to request a Final Approval Hearing sixteen weeks
8 after preliminary approval of the Settlement in Department 21 of the Alameda
9 County Superior Court;

10 H. Defendant will pay a total of \$650,000, a non-reversionary amount, in
11 installments of \$450,000 (deposited 10 days after Preliminary Approval),
12 \$100,000 (deposited no later than one year from initial deposit) and \$100,000
13 (deposited no later than two years from initial deposit);

14 I. Net Payments are to be divided as follows: 45% to wages (Paid to all
15 Settlement Class Members), 15% to Waiting Time (Labor Code § 203) Penalties
16 (paid to former employee Settlement Class Members only), and 40% to Other
17 Penalties and Interest) (Paid to all Settlement Class Members);

18 J. The Employer's share of payroll taxes and contributions shall be paid by
19 Defendant from its separate funds, and these will be paid separate and apart
20 from the Gross Settlement Amount;

21 K. No claim or other submission is necessary in order to become a member of the
22 Settlement Class;

23 L. Settlement Class Members will be mailed a check automatically if they do not
24 opt out of the Settlement;

25 M. The settlement will release wage-and-hour claims for those Settlement Class
26 Members who are mailed a check;

27 N. The release for those Class Members is precisely tailored to only those claims
28 alleged in the Consolidated Master Complaint;

- 1 O. After deducting Class Counsel's attorneys' fees and costs, service payments to
2 the Plaintiffs, a portion of settlement administration costs, and a payment to
3 California Labor Workforce Development Agency, the Net Settlement Amount
4 will be distributed and paid to Settlement Class Members who do not opt out of
5 the Settlement, with each Settlement Class Member's share to be determined
6 based on the number of workweeks worked by each Settlement Class Member
7 during the Settlement Class Period as set forth in Defendant's records;
- 8 P. Any settlement checks that are mailed to the Settlement Class Members and
9 remain uncashed after 180 days of the date of issuance will be cancelled, and
10 the moneys will be directed to one or more cy pres recipients benefitting
11 California Employees;
- 12 Q. The notice portion of the Settlement will be administered by Angeion Group, a
13 third-party Administrator;
- 14 R. Defendant will not oppose service payments in the total amount of \$32,000 to
15 the Named Plaintiffs, to be paid out of the Gross Settlement Amount;
- 16 S. Defendant will not oppose payment to Class Counsel for fees up to the 33.3% of
17 the Gross Settlement Amount and costs of up to \$25,000, to be paid out of the
18 Gross Settlement Amount.

19 After reviewing the Agreement and other related documents, and having heard the
20 argument of Counsel for respective parties, **IT IS HEREBY ORDERED AS FOLLOWS:**

21 1. The Court hereby GRANTS preliminary approval of the class action settlement
22 upon the terms and conditions set forth in the Agreement. The Court preliminarily finds that the
23 terms of the proposed class action settlement are fair, reasonable, and adequate, pursuant to
24 California Code of Civil Procedure § 382. In granting preliminary approval of the class action
25 settlement the Court has considered the factors identified in *Dunk v. Ford Motor Co.*, 48 Cal.
26 App. 4th 1794 (1996), as approved in *Wershba v. Apple Computer, Inc.*, 91 Cal. App. 4th 224
27 (2001) and *In re Microsoft IV Cases*, 135 Cal. App. 4th 706 (2006).

1 2. The Court hereby certifies the Settlement Class for settlement purposes as:

2 All individuals who are currently or were formerly employed by Defendant as
3 Emergency Medical Technicians - Ambulance Drivers, from May 24, 2008, through
4 April 10, 2015 [date of preliminary approval];

5 3. The Court hereby appoints, for settlement purposes, Plaintiffs ALEXANDER
6 GUREVICH, KEVIN DICKENS, PATRICK OPPIDO, SPENCER STECZ, CHRIS HERN, and
7 PHILIP JONES as Class Representatives.

8 4. The Court hereby appoints, for settlement purposes Smoger & Associates,
9 Arbogast Law, A Professional Corporation, the Law Office of Arthur R. Siegel and Jaret & Jaret
10 as Class Counsel.

11 5. The Court hereby preliminarily finds the Agreement was the product of informed,
12 non-collusive negotiations conducted at arms' length by the Parties. In making these preliminary
13 findings, the Court considered the estimate of the Settlement Class Members' total recovery,
14 Defendant's potential liability, the allocation of settlement proceeds among Settlement Class
15 Members, and the fact that a settlement represents a compromise of the Parties' respective
16 positions rather than the result of a finding of liability at trial. The Court further preliminarily
17 finds that the terms of the Agreement have no obvious deficiencies and do not improperly grant
18 preferential treatment to any individual Settlement Class Member. While the Court, through this
19 Order, authorizes notice to the Settlement Class of the proposed terms of a class action settlement
20 that appears preliminarily reasonable, the Court is not awarding any particular amount of
21 attorney's fees, costs, or Incentive Payments to the Class Representatives at this time.

22 6. The Court hereby approves, as to form and content, the Notice of Class Action
23 Settlement in the form attached as Exhibit A to the Agreement and attached as Exhibit A to this
24 Order. The Court approves the procedure for Settlement Class Members to opt out of and to
25 object to the settlement as set forth in the Notice.

26 7. The Court finds that the Notice constitutes the best notice practicable under the
27 circumstances and is in full compliance with the laws of the State of California and, to the extent
28 applicable, the United States Constitution and the requirements of due process. The Court

1 further finds that the Notice fully and accurately informs Settlement Class Members of all
2 material elements of the proposed class action settlement, of each Settlement Class Member's
3 right to be excluded from the Settlement Class, and each Settlement Class Member's right and
4 opportunity to object to the proposed class action settlement.

5 8. The Court approves Aengion Group to serve as the Settlement Administrator.

6 9. Within 15 calendar days of the entry of this Order Defendant shall provide the
7 Settlement Administrator with all information necessary for the Settlement Administrator to be
8 able to administer this proposed class action settlement and mail the Notice to the Settlement
9 Class Members.

10 10. The Notice shall be delivered via First Class U.S. mail to the most recent known
11 address of each Settlement Class Member. The Settlement Administrator shall follow
12 administration procedures set forth in the Agreement.

13 11. Any Settlement Class Member requesting to be excluded from the Settlement
14 Class must submit his or her Request for Exclusion no later than 30 days after the original date of
15 the Settlement Administrator's mailing of the Notice. Any Settlement Class Member who
16 submits a valid and timely Request for Exclusion from the settlement shall no longer be a
17 member of the Settlement Class, shall not be bound by the terms of the settlement as provided in
18 the Agreement, shall have no right to object to this settlement, and shall receive no benefit from
19 this settlement.

20 12. In addition to any information that must be provided under the Agreement, the
21 Settlement Administrator shall provide Class Counsel and Counsel for Defendant with periodic
22 reports that include information about the progress of the work performed and the number of
23 requests for exclusion from the Settlement Class.

24 13. The Court further orders that each Settlement Class Member shall be given full
25 opportunity to object to the proposed class action settlement and to participate at a final Fairness
26 Hearing provided the Court is notified of his or her intent to do so. Any Settlement Class
27 Member objecting to the proposed class action settlement shall make such objection in writing
28 with the Court and shall serve such objection on Class Counsel and Counsel for Defendant. To

1 be considered, any objections must be filed with the Court and served on the Parties no later nine
2 (9) court days before the Final Approval Hearing.

3 14. Any Settlement Class Member who fails to file and serve a timely written
4 objection shall be foreclosed from objecting to the proposed class action settlement, unless
5 otherwise ordered by the Court.

6 15. The Final Approval Motion is set for hearing on JULY 10, 2015 at 8:30 a.m.
7 (“Fairness Hearing”) in Department 21 of the Alameda County Superior Court to determine
8 whether the proposed settlement of the action on the terms and conditions provided for in the
9 Agreement are fair, reasonable, and adequate, and should be approved by the Court; whether the
10 Judgment (which incorporates the Agreement) should be entered herein and to determine the
11 amount of attorneys’ fees and costs that should be awarded to Class Counsel. The Court reserves
12 the right to adjourn the date of the Fairness Hearing without further notice to the Settlement
13 Class Members.

14 16. No later than 20 days prior to the final Fairness Hearing, a declaration by the
15 Settlement Administrator of due diligence and proof of mailing with regard to the mailing of the
16 Notice shall be filed with the Court and served on all Parties.

17 17. Plaintiffs’ motion for final approval of this class action settlement, award of
18 attorneys’ fees and costs, and award of Incentive payments to Plaintiffs shall be filed with the
19 Court and served on all Parties in this action no later than nine (9) court days before the final
20 Fairness Hearing.

21 IT IS SO ORDERED.

22 Dated: APR 10 2015

Wynne Carvill
23 Hon. Wynne Carvill
ALAMEDA COUNTY SUPERIOR COURT JUDGE