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F I L E D

Clerk of the Superior Court

APR 28 2008

By: L. ROCKWELL, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

JASMIN REECE, an individual, on behalf of
herself and on behalf of the general public,

Plaintiffs,

v.

CHARTONE, INC., a Delaware corporation,
KAISER FOUNDATION HOSPITALS, a
California corporation, and DOES 1 to 100,
inclusive,

Defendants.

Case No. GIC864290

**[PROPOSED] REVISED ORDER
PRELIMINARILY APPROVING
SETTLEMENT AND APPROVING
FORM AND MANNER OF NOTICE**

Case No. GIC864155

MELISSA JACKSON, on behalf of herself,
those similarly situated and on behalf of the
general public,

Plaintiff,

v.

CHARTONE, INC., a Delaware corporation,
and DOES 1 through 100, inclusive,

Defendants.

1 WHEREAS, these actions are pending before this Court as class actions; and

2 WHEREAS, on April 9, 2007, this Court issued a Preliminary Order preliminarily
3 approving the settlement of the class actions in accordance with the parties' Stipulation of
4 Settlement, dated January 31, 2007 which, together with the exhibits annexed thereto sets forth the
5 terms and conditions for a proposed settlement of the class actions, and for dismissal of the class
6 actions with prejudice as against the Settling Defendant upon the terms and conditions set forth
7 therein; and

8 WHEREAS, this Court had concerns about the proposed scope of release provided in the
9 settlement and therefore denied Plaintiffs' motion for approval on December 14, 2007. The
10 parties then met in a Judicially supervised settlement conference and revised the release contained
11 in the stipulation of settlement to meet the Court's concerns. The Court having read and
12 considered the revised Stipulation of Settlement and the exhibits annexed thereto;

13 NOW, THEREFORE, it is hereby ORDERED:

14 1. This Revised Preliminary Order incorporates by reference the definitions in the
15 Stipulation of Settlement, and all terms defined therein shall have the same meaning as set forth in
16 the Stipulation of Settlement.

17 2. The Court does hereby preliminarily approve the Stipulation of Settlement.

18 3. The Court finds that the requirements of California Code of Civil Procedure
19 section 382 have been satisfied and the Court has made a preliminary determination that the
20 Representative Plaintiffs are adequate class representatives of the Settlement Class.

21 4. The Court hereby certifies the Settlement Class, as defined in the Stipulation of
22 Settlement, for settlement purposes only and in accordance with the standards set forth in Dunk v.
23 Ford Motor Company, (1996) 48 Cal.App.4th 1794.

24 5. Pending resolution of these settlement proceedings, the court continues its order
25 that no other action now pending or hereinafter filed arising out of all or any part of the subject
26 matter of the Litigation shall be maintained as a Class Action and, except as provided by further
27 order of the Court, for good cause shown, all persons are hereby enjoined, during the pendency of
28 these settlement proceedings, from filing or prosecuting a purported class action against any

1 Released Persons with respect to any of the Released Claims as defined in the Stipulation of
2 Settlement.

3 6. A hearing ("Settlement Fairness Hearing") shall be held before this Court at
4 330 West Broadway on July 25th at 11:a.m., to determine: (1) whether the proposed settlement of
5 the Class Action on the terms and conditions provided for in the Stipulation of Settlement is fair,
6 reasonable and adequate; (2) whether said settlement should be finally approved by the Court; and
7 (3) whether the Order and Final Judgment, as provided in the Stipulation of Settlement, should be
8 entered herein. The Court may adjourn or continue the Settlement Fairness Hearing without
9 further notice to the Settlement Class.

10 7. The Court hereby approves, as to form and content, the Class Notice annexed as
11 Exhibit C and D to the Stipulation of Settlement. The Court finds that the publication of the Class
12 Notice substantially in the manner and form as set forth in the Stipulation of Settlement and this
13 Preliminary Order meets the requirements of California Code of Civil Procedure sections 382 and
14 581(k), Cal. Rule of Court 1856(d), and due process, and is the best notice practicable under the
15 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto.

16 8. The Court hereby appoints the Settling Defendant, or its designee, as Settlement
17 Administrators and hereby directs the Settling Defendant, or its designee, to publish the Summary
18 Class Notice in the Major California Newspapers identified in the Stipulation of Settlement by the
19 date specified in the Implementation Schedule, attached thereto. The Settling Defendant, or its
20 designee, is further directed to create a website where the full Notice of Pendency and Proposed
21 Settlement of Class Action can be found, read, and/or printed by the Settlement Class Members.
22 The Summary Class Notice published in the above-referenced Newspapers will direct the
23 Settlement Class Members to the website where the full Notice of Pendency and Proposed
24 Settlement of Class Action will be located.

25 9. At least 5 days before the Settlement Fairness Hearing, the Settling Defendant shall
26 file sworn statement(s) evidencing their compliance with the provisions of this Preliminary Order.

27 10. Settlement Class Members shall be bound by all determinations of the Court, and
28 by the Stipulation of Settlement and Order and Final Judgment, whether favorable or unfavorable.

1 Upon the Effective Date of the settlement, as defined in the Stipulation of Settlement, all Eligible
2 Settlement Class Members who have not opted out of the settlement shall be enjoined and barred
3 from asserting any of the Released Claims against any of the Released Persons, and each such
4 Settlement Class Member shall be deemed to release any and all such Released Claims as against
5 all of the Released Persons, as these terms are defined in the Stipulation of Settlement.

6 11. Any Settlement Class Member who has not opted out of the settlement may enter
7 an appearance through counsel of such member's own choosing and at such member's own
8 expense or may appear individually and show cause, if he or she has any, as to: (1) why the
9 proposed settlement of the Class Action embodied in the Stipulation of Settlement should or
10 should not be approved as fair, reasonable and adequate; (2) why the Order and Final Judgment
11 should or should not be entered on the proposed Stipulation of Settlement; or (3) why attorneys'
12 fees and reimbursement of expenses, and the Representative Plaintiffs' awards should or should
13 not be approved in accordance with the terms of the Stipulation of settlement. However, no
14 Settlement Class Member or any other person shall be heard or entitled to contest the approval of
15 the terms and conditions of the proposed settlement, or, if approved, the Order and Final Judgment
16 to be entered thereon approving the same or the fees and expenses to be awarded, unless on or
17 before the date specified in the Implementation Schedule, that person has served by hand delivery
18 or by First Class regular U.S. Mail written objections and copies of any papers and briefs in
19 support of their position and verification of their membership in the Settlement Class upon
20 Plaintiffs' Counsel, Attn.: Sheldon A. Ostroff, 1441 State Street, San Diego, California 92101 and
21 James C. Kostas, 1441 State Street, San Diego, California 92101; and Defendant's Counsel, Attn:
22 David I. Kornbluh, Esq., Miller, Morton, Caillat & Nevis, LLP, 25 Metro Drive, 7th Floor, San
23 Jose, California 95110; and, in addition, filed their objections, papers and briefs with the Clerk of
24 this Court. In order to be valid, the papers must be filed with the Clerk of this Court and
25 postmarked or actually received by the above counsel by the date specified in the Implementation
26 Schedule.

27 12. Any Settlement Class Member who wishes to appear and be heard at the Settlement
28 Fairness Hearing must file and serve a statement of his or her intention to appear at the Settlement

1 Fairness Hearing. The statement of intention to appear must be served by hand delivery or by
2 First Class regular U.S. Mail upon Plaintiffs' Counsel, Attn.: Sheldon A. Ostroff, 1441 State
3 Street, San Diego, California 92101 and James C. Kostas, 1441 State Street, San Diego, California
4 92101; and Defendant's Counsel, Attn.: David I. Kornbluh, Esq., Miller, Morton, Caillat & Nevis,
5 LLP, 25 Metro Drive, 7th Floor, San Jose, California 95110; and, in addition, filed with the Clerk
6 of this Court. In order to be valid, the statement must be filed with the Clerk of this Court and
7 postmarked or actually received by the above counsel by the date specified in the Implementation
8 Schedule.

9 13. Any Settlement Class Member who does not make their objection in the manner
10 provided for in this order shall be deemed to have waived such objection and shall forever be
11 foreclosed from making any objection to or appeal of the fairness, reasonableness or adequacy of
12 the proposed settlement, and to the award of fees and expenses to Plaintiffs' Counsel and other
13 costs, all as set forth in the Stipulation of Settlement, the Preliminary Order, and the Order and
14 Final Judgment.

15 14. Any Settlement Class Member may choose to exclude himself or herself from the
16 settlement. Any such person who chooses to be excluded from the settlement will not be entitled
17 to any recovery and will not be bound by the Stipulation of Settlement or have any right to object,
18 appear or comment thereon. Any such person who chooses to request exclusion may do so by
19 submitting a written statement requesting exclusion from the class on or before the date specified
20 in the Implementation Schedule. Such written request for exclusion must contain the name,
21 address, and telephone number of the person requesting exclusion, be returned by mail to
22 Plaintiffs' Counsel via Sheldon A. Ostroff, 1441 State Street, San Diego, California 92101, and
23 must be post-marked on or before the date specified in the Implementation Schedule.

24 15. Neither the Stipulation of Settlement, nor any of its terms or provisions, nor any of
25 the negotiations or proceedings connected with it, shall be construed in this or any lawsuit as an
26 admission or concession by Settling Defendant of the truth of any of the allegations in the class
27 actions, or of any liability, fault, or wrongdoing of any kind, or by the Representative Plaintiffs or
28 any other Settlement Class Member of the merit of any defense or lack of merit of any claim.

1 The Court sets the following deadlines:

2 a. Deadline to commence publication of notice to class members:

3 May 9, 2008.

4 b. Deadline to return Claim Forms:

5 July 11, 2008.

6 c. Deadline to mail (postmarked no later than) Request for Exclusion:

7 July 11, 2008.

8 d. Deadline to file and serve Objections:

9 July 11, 2008.

10 e. Filing and service of Motion for Final Approval per C.C.P.

11
12 f. Final settlement Fairness Hearing:

13 July 25, 2008.

14 16. The Court reserves the right to adjourn or continue the date of the Settlement
15 Fairness Hearing without further notice to the Settlement Class, and retains jurisdiction to consider
16 all further applications arising out of or connected with the proposed settlement.

17 IT IS SO ORDERED.

18 **JAY M. BLOOM**

19 DATED: APR 28 2008

20 THE HONORABLE JAY M. BLOOM
21 JUDGE OF THE SUPERIOR COURT
22 FOR THE COUNTY OF SAN DIEGO
23 STATE OF CALIFORNIA

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