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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JEFFREY GREGORY, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiffs,

vs.

VERIO HEALTHCARE, INC., a California
corporation; and DOES 1-50, Inclusive.

Defendants.

Case No. 20STCV37254

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL**

Date: August 13, 2024

Time: 10:00 a.m.

Judge: Hon. Kenneth R. Freeman

Dept.: 14

1 Plaintiff's motion for an order finally approving the Class Action and PAGA Settlement
2 Agreement and Class Notice ("Agreement") and Motion for Class Counsel Attorneys' Fees and
3 Litigation Costs Payment and Class Representative Service Payment duly came on for hearing on
4 August 13, 2024, before the above-entitled Court. The Zakay Law Group, APLC appeared on behalf
5 of Plaintiff JEFFREY GREGORY ("Plaintiff"). Forward Counsel LLP appeared on behalf of
6 Defendant VERIO HEALTHCARE, INC. ("Defendant").

7 **I. FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

10 1. All terms used herein shall have the same meaning as defined in the
11 Agreement.

12 2. This Court has jurisdiction over the subject matter of this litigation pending
13 in the California Superior Court for the County of Los Angeles ("Court"), Case No. 20STCV37254,
14 entitled *Jeffrey Gregory v. Verio Healthcare, Inc.*, and over all Parties to this litigation, including
15 the Class.

16 **Preliminary Approval of the Settlement**

17 3. On July 24, 2023, this Court preliminarily approved the Agreement and
18 preliminarily certified the Class. On July 24, 2023, the Court approved the Class Notice to be mailed
19 to each Class Member. The Court confirms these Orders and finally approves the settlement and
20 the certification of the Class.

21 **Notice to the Class**

22 4. In compliance with the Preliminary Approval Order, the Notice Packet was
23 mailed by first class U.S. Mail to the 216 Class Members at their last known addresses on September
24 27, 2023. Mailing of the Notice Packet to their last known addresses was the best notice practicable
25 under the circumstances and was reasonably calculated to communicate actual notice of the
26 litigation and the proposed settlement to the members of the Class Members. On January 26, 2024,
27 Corrected Notice Packets were mailed to the 216 Class Members. The corrected notice contained
28 the adjusted class period due to the escalator clause being triggered. The Court finds that the

1 corrected Notice Packet provided fully satisfies the requirements of California Rules of Court, rule
2 3.769.

3 5. The mailing of the corrected Notice Packets triggered a forty-five (45) day
4 Response Deadline for the Settlement Class to submit requests for exclusion or objections to the
5 Settlement. There is an adequate interval between notice and deadline to permit Class Members to
6 choose what to do and act on their decision. **100%** of the Class Members are participating in the
7 Settlement.

8 **Fairness Of The Settlement**

9 6. The Agreement provides for a Gross Settlement Amount of \$150,000.00.
10 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
11 Cal.App.4th 1794, 1801.)

12 a. The settlement was reached through arms-length bargaining between
13 the parties. There is no evidence of any collusion between the parties in reaching the proposed
14 settlement.

15 b. The Parties' investigation and discovery have been sufficient to allow
16 the Court and counsel to act intelligently.

17 c. Counsel for all Parties are experienced in similar employment class
18 action litigation and have previously settled similar class claims on behalf of employees claiming
19 compensation. All counsel recommended approval of the Settlement.

20 d. No objections were received. No requests for exclusion were
21 received.

22 e. The participation rate is high. 100% of Class Members will be
23 participating in the Settlement and will be sent settlement payments.

24 7. The consideration to be given to the Class Members under the terms of the
25 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the claims
26 asserted in this Action and is fair, reasonable, and adequate compensation for the release of the
27 Released Class Claims, given the uncertainties and risks of the litigation and the delays which would
28 ensue from continued prosecution of the Action.

1 8. The Agreement is finally approved as fair, adequate, and reasonable and in
2 the best interests of the Class Members.

3 **PAGA Payment**

4 9. The Agreement provides for a PAGA Payment in the amount of \$5,000.00.
5 The Court has reviewed the PAGA Payment and finds and determines that the PAGA Payment and
6 the allocation of \$3,750.00 to LWDA and \$1,250.00 to the PAGA Employees is fair and reasonable
7 and complies with the requirements set forth in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th
8 56.

9 **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

10 10. The Agreement provides for a Class Counsel Fees Payment and Class
11 Counsel Litigation Expenses Payment in the amount of up to Seventy Thousand Dollars and Zero
12 Cents (\$70,000.00). Subject to Court approval, the Class Counsel Attorneys' Fees and Litigation
13 Costs Payment consists of attorneys' fees equal to one-third (1/3) of the Gross Settlement Amount,
14 Fifty Thousand Dollars and Zero Cents (\$50,000.00) and reimbursement of costs and expenses in
15 the amount of up to Twenty Thousand Dollars (\$20,000.00).

16 11. A Class Counsel Fees Payment and Class Counsel Litigation Expenses
17 Payment of Seventy Thousand Dollars and Zero Cents (\$70,000.00) comprised of attorneys' fees in
18 the amount of Fifty Thousand Dollars and Zero Cents (\$50,000.00) and reimbursement of costs and
19 expenses in the amount of up to Twenty Thousand Dollars (\$20,000.00) is reasonable in light of the
20 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
21 achieved by Class Counsel. The requested attorneys' fee award represents one-third (1/3) of the
22 common fund, which is reasonable and at the low end of the range for fee awards in common fund
23 cases and is supported by Class Counsel's lodestar.

24 **Class Representative Service Payment**

25 12. The Agreement provides for a Class Representative Service Payment of up
26 to \$7,500.00 to Plaintiff, subject to the Court's approval. The Court finds that the amount of
27 \$7,500.00 is reasonable in light of the risks and burdens undertaken by the Plaintiff in this class
28 action litigation.

1 **Settlement Administration Fees**

2 13. The Agreement provides for Settlement Administrative Fees to be paid in an
3 amount not to exceed \$3,500.00. The Declaration of the Settlement Administrator provides that the
4 actual claims administration expenses were \$3,500. The amount of this payment is reasonable in
5 light of the work performed by the Settlement Administrator.

6 **II. ORDERS**

7 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

8 1. The Class is certified for the purposes of settlement only. The Settlement
9 Class is hereby defined to include:

10 All non-exempt employees who are or previously were employed by Verio
11 Healthcare, Inc. in California as Drivers and/or who earned an “On Call Fee” in
12 California during the period of September 29, 2016, through April 23, 2018.

13 2. There are 216 members of the Class. Every person in the Class who did not
14 opt out is a Settlement Class Member. There are zero opt-outs to the Settlement.

15 3. The Agreement is hereby approved as fair, reasonable, adequate, and in the
16 best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with
17 this Order and the terms of the Agreement.

18 4. Defendant shall fund the Gross Settlement Amount of \$150,000.00 in one
19 lump sum payment. In exchange, the Class Members shall release Defendant from the “Released
20 Class Claims” and the “PAGA Employees” shall release the “Released PAGA Claims.”

21 a. The Released Class Claims are defined as all class claims alleged in
22 the operative complaint which occurred during the Class Period, and expressly excluding all other
23 claims, including claims for vested benefits, wrongful termination, unemployment insurance,
24 disability, social security, workers’ compensation, and class claims outside of the Class Period.

25 b. The Released PAGA Claims are defined as all claims alleged in the
26 operative complaint and Plaintiff’s PAGA Notice to the LWDA which occurred during the PAGA
27 Period, and expressly excluding all other claims, including claims for vested benefits, wrongful
28

1 termination, unemployment insurance, disability, social security, workers' compensation, and
2 PAGA claims outside the PAGA Period.

3 5. Class Counsel are awarded a Class Counsel Fees Payment and Class Counsel
4 Litigation Expenses Payment in the amount of Seventy Thousand Dollars and Zero Cents
5 (\$70,000.00) comprised of attorneys' fees in the amount of Fifty Thousand Dollars and Zero Cents
6 (\$50,000.00) and reimbursement of costs and expenses in the amount of up to Twenty Thousand
7 Dollars (\$20,000.00) Class Counsel shall not seek or obtain any other compensation or
8 reimbursement from Defendant, Plaintiff, or members of the Class.

9 6. The payment of the Class Representative Service Payment to the Plaintiff in
10 the amount of \$7,500.00 is approved.

11 7. The payment of \$3,500.00 to the Settlement Administrator for the Settlement
12 Administration Fees is approved.

13 8. The PAGA Payment of \$5,000.00 is hereby approved as fair, reasonable,
14 adequate, and adequately protects the interests of the public and the LWDA. Further, the Court
15 finds that Plaintiff and Class Counsel negotiated the PAGA Payment at arms-length, absent of any
16 fraud or collusion.

17 9. Final Judgment is hereby entered in this action. The Final Judgment shall
18 bind each Settlement Class Member.

19 10. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
20 California and all Aggrieved Employees, pursuant to the California Private Attorneys' General Act
21 ("PAGA").

22 11. The term "PAGA Employees" is hereby defined to include all non-exempt
23 employees who are or previously were employed by Verio Healthcare, Inc. as Drivers and/or who
24 earned an "On Call Fee" in California during the period of April 15, 2019 to April 23, 2021.

25 12. The Court further finds and determines that Class Counsel satisfied
26 California Labor Code § 2699(1)(2) by giving the LWDA notice of the proposed Settlement of
27 claims arising under the Private Attorney General Act ("PAGA") on April 15, 2020.

1 13. The Court orders Class Counsel to comply with California Labor Code §
2 2699(l)(3) by providing the LWDA a copy of this order within ten (10) calendar days of the Court's
3 entry of this Order.

4 14. The Agreement is not an admission by Defendant, nor is this Final Approval
5 Order and Judgment a finding of the validity of any claims in the Action or of any wrongdoing by
6 Defendant. Neither this Final Approval Order, the Settlement, nor any document referred to herein,
7 nor any action taken to carry out the Settlement is, may be construed as, or may be used as an
8 admission by or against Defendant of any fault, wrongdoing, or liability whatsoever. The entering
9 into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not
10 in any event be construed as, or deemed to be evidence of, an admission or concession with regard
11 to the denials or defenses by Defendant and shall not be offered in evidence in any action or
12 proceeding against Defendant in any court, administrative agency or other tribunal for any purpose
13 as an admission whatsoever other than to enforce the provisions of this Final Approval Order and
14 Judgment, the Settlement, or any related agreement or release. Notwithstanding these restrictions,
15 any of the Parties may file in the Action or in any other proceeding this Final Approval Order and
16 Judgment, the Agreement, or any other papers and records on file in the Action as evidence of the
17 Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of claim
18 or issue preclusion or similar defense as to the claims being released by the Settlement.

19 15. Notice of entry of this Final Approval Order and Judgment shall be given to
20 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send notice
21 of entry of this Final Approval Order and Judgment to individual Class Members and the Final
22 Approval Order and Judgment shall be posted on Settlement Administrator's website as indicated
23 in the Notice Packet.

24 16. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
25 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a
26 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
27 connection with the distribution of settlement benefits.

1 17. If the Settlement does not become final and effective in accordance with the
2 terms of the Settlement, resulting in the return and/or retention of the Gross Settlement Amount to
3 Defendant consistent with the terms of the Settlement, then this Final Approval Order and Judgment,
4 and all orders entered in connection herewith shall be rendered null and void and shall be vacated.

5 **IT IS SO ORDERED.**

6
7 DATED: _____

Hon. Kenneth R. Freeman
JUDGE OF THE SUPERIOR COURT