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VENTURA SUPERIOR COURT

03/30/23

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JUSTIN DE LEON, individually and
on behalf of all other Aggrieved Employees

SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA

JUSTIN DE LEON, individually
and on behalf of all others similarly
situated,

Plaintiff,

v.

VIP EMERGENT CARE, INC. D/B/A VIP
URGENT CARE,
JAIME ALONSO DIAZ, M.D., and
DOES 1 through 50, inclusive,

Defendants.

Case No. 56-2021-00549419-CU-OE-VTA

~~PROPOSED~~ ORDER APPROVING PAGA
SETTLEMENT; JUDGMENT

Complaint Filed: January 21, 2021
Department: 42
Judge: Hon. Henry Walsh

Motion Hearing Date: April 6, 2023
Motion Hearing Time: 8:30 a.m.
Reservation Number: 2717446

Pursuant to Plaintiff's Motion for Approval of PAGA Settlement and all submissions in support thereof and good cause appearing:

IT IS HEREBY ORDERED that the Motion is **GRANTED**, subject to the following findings and orders:

1. The Court hereby approves the terms set forth in the PAGA Settlement for settlement of

VENTURA SUPERIOR COURT

FILED

09/18/2023

Brenda L. McCormick
Executive Officer and Clerk

Elizabeth Muller

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1 PAGA claims under Cal. Lab. Code section 2699(a)(2), finds the PAGA Settlement is, in all respects,
2 fair, adequate, and reasonable, and directs the Parties to effectuate the PAGA settlement according to the
3 terms set forth in the PAGA Settlement. The Court finds that the Parties were able to reasonably evaluate
4 their respective positions. The Court also finds that settlement now will avoid potentially substantial
5 litigation costs, as well as delay and risks if the Parties were to continue to litigate the PAGA claims.

6 2. Defendants VIP Emergent Care, Inc. and Jaime Diaz, M.D. (collectively, “Defendants”
7 or “VIP”) shall jointly and severally pay the gross non-reversionary common fund of Thirty-Five
8 Thousand Dollars and No Cents (\$35,000.00), with the following terms:

9 a. Fourteen Thousand Seven Hundred Sixty-Seven Dollars and Eighty Three Cents
10 (\$14,767.83) of the common settlement fund is allocated for payment to the State of California
11 Labor and Workforce Development Agency (LWDA) and to the Aggrieved Employees (i.e., all
12 seven (7) former non-exempt workers in California who were employed by Defendant in
13 California at any time from September 23, 2019, though the date of approval of this settlement,
14 for settlement of PAGA claims (the “PAGA Payment”);

15 b. Seventy-Five Percent (75%) of the PAGA Payment shall be paid directly to the
16 California Department of Industrial Relations (DIR) Accounting Unit and Twenty-Five Percent
17 (25%) shall be distributed to approximately seven (7) Aggrieved Employees, including Plaintiff,
18 in a pro rata share based on the number of pay periods worked for Defendants from September
19 23, 2019, though the date of approval of this settlement¹ (i.e., the date of the PAGA Settlement);

20 c. The non-reversionary common fund will also include: (i) Eleven Thousand Six
21 Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$11,666.67) allocated to Plaintiff’s counsel
22 for attorneys’ fees, and Three Thousand Sixty-Five Dollars and Fifty Cents (\$3,065.50) is
23 allocated to Plaintiff’s counsel as reimbursement for advanced litigation costs; ii) administrative
24 costs to the settlement administrator estimated not to exceed Five Hundred Dollars and No Cents
25 (\$500.00); and (iii) a proposed enhancement payment for Plaintiff of Five Thousand Dollars and
26 No Cents (\$5,000.00).

27 3. Pursuant to the California Labor Code Private Attorneys General Act (“PAGA”), Cal.
28

¹ VIP stopped operating its business in September 2020, and issued final paychecks to its employees in October 2020.

1 Lab. Code §§ 2699(1)(2), (1)(4), the Labor Workforce and Development Agency (“LWDA”) has been
2 given notice of the Settlement. On the date Plaintiff filed the motion seeking approval of the Settlement
3 with the Court, Plaintiff submitted to the LWDA a Notice of Settlement enclosing a copy of the
4 Settlement. Plaintiff’s Notice of Settlement to the LWDA complied with the requirements of PAGA.

5 4. The Court confirms approval of the Settlement as to the following group of individuals,
6 collectively referred to as the “Aggrieved Employees” or the “PAGA Claim Employees”: all former non-
7 exempt employees of Defendants in California who were employed by Defendants at any time from
8 September 23, 2019, though the date of approval of this settlement.

9 5. The Notice of PAGA Settlement and Release of Claims, attached hereto, fairly and
10 adequately describes the Action, the approved Settlement, and is the best notice practicable under the
11 circumstances.

12 6. The Court approves the following release of claims:

13 *Plaintiff, individually and as the representative acting as a proxy or agent*
14 *of the LWDA, a State of California Executive Branch Agency, in this Action,*
15 *release Defendants, their parent, subsidiary, and affiliated companies,*
16 *owners, members, partners, officers, directors, predecessors, successors,*
17 *assigns, agents, shareholders, investors, insurers and legal representatives*
18 *(“Released Parties”) for penalties under the California Labor Code Private*
19 *Attorneys’ General Act (“PAGA”) predicated on the violation of Labor*
20 *Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558(a),*
21 *558(c), 1174, 1174.5, 1191, 1194, 1194.2, 1197, 1197.1, 1198, 2699(a),*
22 *2699(f), 2699.3, and 2699.5 and Industrial Welfare Commission Order No.*
23 *2001-4 based on the facts as alleged in the Complaint that accrued at any*
24 *time between September 23, 2019 through the date of approval of this*
25 *settlement (“Released Claims”), pursuant to the Agreement.*

26 The express purpose of this Agreement and the Judgment to be entered by the Court
27 following approval of this settlement is to forever bar Plaintiff, the LWDA, and any other individual or
28 entity acting on behalf of or purporting to act on behalf of the LWDA (including all PAGA Claim
Employees) from asserting any of the Released Claims in any future litigation. It is the intent of the
Parties that, to the greatest extent provided by law, including under the holding of *Arias v. Superior Court*
(2009) 46 Cal. 4th 969, 986, the ability of Plaintiff, the State of California or any PAGA Claim Employee
to bring a PAGA claim on behalf of the LWDA based on the Released Claims is completely and forever
foreclosed. Any Party to this Agreement may use the Agreement to assert that this settlement and the

1 judgment to be entered by the Court following approval by this settlement bars any later-filed action
2 asserting any of the Released Claims against any of the Released Parties at any time between October 8,
3 2019 to the date of approval of this Agreement.

4 The PAGA Claim Employees waive any rights provided by California Civil Code Section
5 1542 as to the PAGA Released Claims only, which states:

6 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
7 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR
8 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
9 EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR
HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

10 7. The Gross Settlement Amount, Net Settlement Amount, and the methodology used to
11 calculate each PAGA Claim Employee Settlement Award, in accordance with the Settlement is approved
12 under Cal. Lab. Code § 2699(l)(2).

13 8. The Court authorizes the Settlement Administrator to calculate and pay the PAGA Claim
14 Employee Settlement Awards, in accordance with the terms of the Settlement.

15 9. The Court dismisses without prejudice all class action allegations brought under Code of
16 Civil Procedure section 384.

17 9. The Court retains exclusive and continuing jurisdiction over this Action for the purposes
18 of supervising, administering, implementing, interpreting, and enforcing this Order, as well as the
19 Settlement.

20 10. Nothing in this Judgment or the Settlement shall be construed as an admission or
21 concession by any party. The Settlement and this resulting Judgment simply represent a compromise of
22 disputed allegations.

23 **JUDGMENT**

24 1. In accordance with and for the reasons stated in the Order, Judgment is hereby entered
25 consistent with the terms of this Order.

26 2. This Judgment is intended to be a final disposition of and dismissal of the Lawsuit in its
27 entirety, with prejudice.

28 ///

IT IS SO ORDERED.

Dated: 09/11/2023



Hon. Henry J. Walsh
Judge of the Superior Court