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ASHLEY HUDSON

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF SACRAMENTO

ASHLEY HUDSON, on behalf of the State of California and all Aggrieved Employees,

Plaintiff,

v.

SUPERIOR VISION SERVICES, INC., a Delaware Corporation; SUPERIOR VISION BENEFIT MANAGEMENT, INC., a New Jersey Corporation; VERSANT HEALTH HOLDCO, INC., a Delaware Corporation; VERSANT HEALTH, INC., a Delaware Corporation; VERSANT HEALTH CONSOLIDATIONS CORP., a Delaware Corporation; VERSANT HEALTH LAB, LLC, a Delaware Limited Liability Company; DAVIS VISION, INC., a New York Corporation; METLIFE SERVICES AND SOLUTIONS, LLC; a Delaware Limited Liability Company; and DOES 1-100, inclusive,

Defendants.

CASE NO. **24CV008471**

Assigned for All Purposes to:
Hon. Lauri Damrell
Dept. 22

MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

Date: March 20, 2026
Time: 9:00 a.m.
Dept.: 22

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I. INTRODUCTION

Plaintiff Ashley Hudson hereby moves the Court for an order granting preliminary approval to a proposed non-reversionary class action settlement to resolve wage and hour claims on behalf of approximately 160 individuals employed by Defendants Davis Vision, Inc. or Superior Vision Services, Inc. or any other direct or indirect subsidiary of Versant Health, Inc. as non-exempt employees in California between May 1, 2020 and the Preliminary Approval Date and/or individuals who were assigned to perform services for Versant in a non-exempt role via a staffing agency in California between May 1, 2020 and the Preliminary Approval Date, excluding any individuals who previously signed releases covering the Released Claims and/or Released PAGA Claims. The proposed $382,500 settlement will provide at least $178,000 in cash payments to the settlement class, with an average award of about $1,112. The balance of approximately $204,500 will cover a modest enhancement award to Plaintiff, reasonable attorney's fees and actual litigation costs, settlement administration costs, and payment of civil penalties. The settlement is the product of Plaintiff's pre- and post-filing investigation, a pre-mediation exchange of information, and arms-length and adversarial negotiations overseen by experienced and well-regarded mediator Michael Young, Esq.

As demonstrated below, the settlement is within the "range of reasonableness" for preliminary approval. Plaintiff's counsel believes the settlement is a significant result for the class given the substantial risks inherent in this matter. Accordingly, Plaintiff requests the Court enter an order: (1) granting preliminary approval to the proposed class action settlement; (2) conditionally certifying the settlement class as defined below; (3) appointing Zachary Crosner, Jamie Serb, and Sepideh Ardestani, and Crosner Legal, PC as Class Counsel; (4) appointing plaintiff Ashley Hudson as the Class Representative; (5) appointing Simpluris, Inc. as the Settlement Administrator; (6) approving the form of notice to the class and the procedure for providing such notice; and (7) scheduling a final fairness hearing.

II. FACTUAL BACKGROUND AND PROCEDURAL POSTURE

Defendants collectively are a vision insurance company and related entities, and provide group and individual insurance services. Plaintiff Ashley Hudson worked Defendants as a non-exempt Membership Services Representative from 2019 through March 2023. During her employment, she typically worked Monday through Friday from 6:30 a.m. to 3:00 p.m., five days per week. On occasion, she also worked overtime hours. She was paid an hourly wage and received various bonuses, including incentive pay. [Declaration of Sepideh Ardestani ("Ardestani Decl."), ¶ 4.]

On May 1, 2024, Plaintiff filed a class action complaint against Defendants for several alleged violations of the Labor Code and IWC Wage Orders. In her complaint, Plaintiff contended she and other employees worked "off the clock" and that Defendants failed to pay for all hours worked. Plaintiff also alleged she and other employees did not receive all required meal breaks mandated under the Labor Code and IWC Wage Orders, or that the breaks were non-compliant and started after the fifth hour of work or lasted less than 30 minutes. Similarly, Plaintiff alleged Defendants failed to provide all required rest breaks. Plaintiff also contended Defendants failed to fully reimburse employees for all reasonable and necessary business expenses, including personal cell phone expenses and expenses incurred working remotely from home. Lastly, Plaintiff alleged claims for failing to provide proper itemized wage statements and payment of all wages due on separation of employment. On May 2, 2024, and after notice to the LWDA and Defendants and exhausting administrative remedies, Plaintiff filed a separate PAGA-only representative action complaint against Defendants. Plaintiff later filed a First Amended Complaint consolidating the two matters, and the FAC is the operative complaint for purposes of settlement. [Ardestani Decl., ¶ 5; Exh. 3.]

Defendants have at all times denied Plaintiff's allegations and maintained their meal break and payroll policies and procedures comply with California law, that they provided employees with fully compliant meal and rest breaks, and that they properly tracked employee time and paid Plaintiff and all other employees all wages due and at the correct hourly rate. Defendants further contend the fully reimbursed employees for all reasonable and necessary business expenses. Additionally, Defendants strongly contend the case cannot be maintained as any kind of class or representative action, arguing for example that to the extent class members missed meal breaks, that such breaks were non-compliant, it was intermittent and infrequent and evidence of such violations would be purely anecdotal, and therefore individualized issues predominate and trial would be unmanageable. [Ardestani Decl., ¶ 6.]

After Plaintiff filed her complaint, the Parties engaged in substantial meet and confer discussions regarding discovery, potential law and motion, and other case management issues, and ultimately agreed to attempt early mediation. The Parties also agreed on an informal exchange of information necessary to engage in a meaningful mediation. Consequently, Defendants produced, and Plaintiff's counsel reviewed payroll records, personnel policies and employee handbooks, meal break policies, personnel files, and a random sampling of paystubs and time records produced by Defendants for about 20% of the class members. Defendants also provided documents and information reflecting the estimated total amount of workweeks and pay periods they worked, and average hourly pay rates, among other data. [Ardestani Decl., ¶ 7.]

The Parties then engaged Michael Young, Esq., a highly respected mediator with extensive wage and hour class action experience and, on July 18, 2025, participated in a full day mediation with Mr. Turner. Throughout the day, the arms-length negotiations were hard-fought and adversarial as the Parties exchanged extensive information on their legal and factual positions, and made numerous offers and counter-offers, and ultimately reached agreement on all major issues. The Parties then collaboratively drafted the Settlement Agreement setting forth the full and final settlement terms. [Ardestani Decl., ¶ 8; Exh. 1.]

III. <u>THE PROPOSED SETTLEMENT TERMS</u>

Under the settlement, Defendant Versant will pay $382,500.00 into a common fund, the Maximum Settlement Amount ("MSA"). Reasonable attorney's fees of up to one-third of the MSA, or $127,500, actual litigation costs of up to $30,000, a modest enhancement award of up to $10,000 for plaintiff, settlement administration costs of no more than $7,000, and a payment of $30,000 for alleged civil penalties under PAGA (of which $22,500 will go to the LWDA with the remaining $7,500 to the Aggrieved Employees), all will be paid from the MSA. The remainder of approximately $220,750 will be allocated among the Participating Class Members based on their total weeks worked during the Class Period. No portion of the MSA will revert to the Defendants. [Ardestani Decl., ¶ 9.]

A. Certification of the Settlement Class

The settlement provides for conditional certification of a settlement class including all individuals employed by Defendants Davis Vision, Inc. or Superior Vision Services, Inc. or any other direct or indirect subsidiary of Versant Health, Inc. (collectively "Versant") as non-exempt employees in California between May 1, 2020 and the Preliminary Approval Date and/or individuals who were assigned to perform services for Versant in a non-exempt role via a staffing agency in California between May 1, 2020 and the Preliminary Approval Date, excluding any individuals who previously signed releases covering the Released Claims and/or Released PAGA Claims. The Parties estimate the Settlement Class consists of approximately 160 individuals. [Ardestani Decl., ¶ 10.]

B. The Benefit Conferred on the Settlement Class

As noted, the settlement obligates Versant Health to pay $382,500 to resolve the Settlement Class's claims, inclusive of attorney's fees and costs. This is a cash settlement that does not require Participating Class Members to submit a claim form to receive their settlement share. Participating Class Members will receive their settlement checks automatically via First Class U.S. Mail. One-third of each settlement share will be allocated to wages and the remaining two-thirds will be allocated to expenses, penalties and interest. Versant Health will pay any and all applicable employer-side payroll taxes separately and in addition to the MSA. Subject to the Court's approval, any amounts not claimed (because a class member does not cash his or her settlement check) will be forwarded to the California State Controller's Unclaimed Property Fund. [Ardestani Decl., ¶ 11.]

Each Class Member's Individual Settlement Payment will be calculated using criteria typically used in determining appropriate amounts of unpaid wages, unpaid premium wages for missed meal breaks, and potential statutory penalties under applicable law. These methods are intended to ensure each Class Member receives a portion of the available settlement funds corresponding to the relative value of his or her potential claims. The proposed allocation provides a reasonable way to compensate Class Members based the amount of time they worked for Defendant, and the number of instances they missed a break, were not provided compensation in lieu of such missed breaks, lost wages due to the regular rate issue, etc. The average class award will be approximately $1,112, while the average PAGA award will be about $113. [Ardestani Decl., ¶ 12.]

As discussed below, the overall settlement amount is reasonable in light of the considerable risks associated with Plaintiff's claims as well as the delay and risk posed by continuing to litigate such disputed allegations. In Plaintiff's counsel's judgment, the total value recovered for the class is substantial and in the range of reasonableness.

C. Settlement Administration

Subject to the Court's approval, the Parties have agreed on Simpluris, Inc. ("Simpluris") as the Settlement Administrator. Simpluris is qualified and has significant experience administering class action settlements, including numerous wage and hour matters. Simpluris currently estimates its fees will be no more than $6,500.00. If the Court approves less than the above amount, the difference will remain in the Net Settlement Amount for distribution to the Participating Class Members. [Ardestani Decl., ¶ 13; Declaration of Michael Bui, ¶¶ 2-9; Exhs. A-C.]

D. The Class Notice

The proposed Notice (Exhibit A to the Settlement Agreement) sets out information about this case and explains the basic settlement terms in plain language. The Notice also sets forth the individualized information used to calculate Class Members' Individual Settlement Payments and each Class Member's estimated settlement award. The Notice likewise details the procedures for Class Members to dispute their individual information, the procedure for submitting an objection to the Settlement, and the procedure to request exclusion. In sum, the Notice provides the Class Members with the information necessary to evaluate the Settlement, provides fair opportunity to participate in, opt out of, or object to the proposed Settlement, and otherwise complies with California Rules of Court 3.769(f) and 3.766(d). Coupled with the notice procedure, the proposed Notice provides the Settlement Class with the best notice practicable. The Notice will be mailed in both English and Spanish versions. [Ardestani Decl., ¶ 14.]

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E. Right to Correct Information, Opt Out, or Object

Class Members will have forty-five (45) days to dispute the information in their Notice used to calculate their settlement award, and also have 45 days to submit any objections to the settlement or to request exclusion. In the event a Class Member disputes their individual information, the Settlement Administrator will review the Class Member's records as well as any additional information submitted, and make a final determination. [Ardestani Decl., ¶ 15.]

F. Release of Claims

All Participating Class Members will be deemed to release Defendant and the Released Parties from all claims alleged in the operative First Amended Complaint, or that could have been brought based on the allegations in the operative complaint, including PAGA claims, that arose during the Class Period and PAGA Period. The release is limited to the claims that were actually pleaded or could have been pleaded based on the alleged facts in the operative complaint. [Ardestani Decl., ¶ 16.]

G. Attorney's Fees and Costs, and Plaintiff's Enhancement Award

The settlement provides Defendants will not oppose a request for reasonable attorney's fees not to exceed one-third of the Maximum Settlement Amount, or $127,500, nor will they oppose a request for reimbursement of actual litigation costs and expenses of up to $30,000. Defendants also will not oppose a request for an enhancement award to Plaintiff of not more than $10,000.00 in recognition of her time spent on this matter, the risks she undertook on behalf of the class, and the benefit conferred to the class. Plaintiff's counsel will provide the Court with appropriate summaries and evidence of its efforts and time records in anticipation of the Final Approval Hearing, and Plaintiff has submitted her declaration herewith. If the Court approves less than the above amounts, the difference will remain in the Net Settlement Amount for distribution to the Participating Class Members. [Ardestani Decl., ¶ 17.]

H. PAGA Claims and Notice to the LWDA

The Parties allocated $30,000 to payment of civil penalties under PAGA for such claims against Defendant, as addressed in more detail below, and Plaintiff submits that amount is fair, reasonable and adequate, and consistent with PAGA's underlying purposes. As required by Labor

Code section 2699(*l*)(2), Plaintiff gave notice of the settlement and preliminary approval hearing to the LWDA via its online portal. [Ardestani Decl., ¶ 18; Exh. 4.]

V. ARGUMENT

A. Standard of Review for a Class Action Settlement

The law favors settlement, particularly in class actions where substantial resources can be conserved by avoiding the time, costs and rigors of formal litigation. H. Newberg & A. Conte, 4 Newberg on Class Actions (4th ed. 2002) § 11.41; Class Plaintiffs v. City of Seattle (9th Cir. 1992) 955 F.2d 1268, 1276, cert. denied, 506 U.S. 953; Potter v. Pacific Coast Lumber Co. (1951) 37 Cal.2d 592, 602. Nevertheless, to ensure the rights of absent class members are not unjustly compromised, settlement of a class action requires court approval. Cal. Rule of Court. 3.769; Wershba v. Apple Computer (2001) 91 Cal.App.4th 224, 245; Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1801. This judicial review protects against fraud or collusion and ensures fairness to the absent class members. Dunk, 48 Cal.App.4th at 1800-01. Judicial review occurs via a two-step process to determine, under all the circumstances, if the proposed settlement is fair, reasonable and adequate. Id. at 1801; Wershba, 91 Cal.App.4th at 245.

The first step is a motion for preliminary approval, through which the parties present the court with the proposed settlement and seek a determination if it is sufficiently fair and reasonable to warrant notice to the class and further proceedings as to its fairness and adequacy. Cal. Rule of Court 3.769(c). This preliminary evaluation determines if the proposed settlement is within the "range of reasonableness" and if notice should be provided to the class regarding the settlement's proposed terms and conditions, and whether a final fairness hearing should be scheduled. Wershba, 91 Cal.App.4th at 234-35; North County Contractors Ass'n, Inc. v. Touchstone Ins. Servs. (1994) 27 Cal.App.4th 1085, 1089-90. Considering the strong judicial policy favoring settlement of class actions, courts generally apply a presumption of fairness to class action settlements when (1) the settlement results from arms-length bargaining, (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently, (3) counsel is experienced in similar litigation, and (4) the percentage of objectors is small. Dunk, 48 Cal.App.4th at 1802; Wershba, 91 Cal.App.4th at 245.

If the court grants preliminary approval, it then orders the class be given notice in an appropriate manner, establishes a schedule and procedures for class members to request exclusion or object, and sets the matter for a final fairness hearing. Typically, any motion for attorney's fees and costs, and any enhancement for the class representative(s), is filed subsequent to preliminary approval and heard with the motion for final approval, as part of the second step of the two-step approval process. Dunk, 48 Cal.App.4th at 1800; Wershba, 91 Cal.App.4th at 232.

The proposed settlement in this matter warrants preliminary approval under the liberal standard discussed above, as it is fair, reasonable and adequate under all the circumstances, and represents a favorable result for the class.

B. The Proposed Settlement Class Should Be Conditionally Certified

The purpose of conditional class certification for purposes of settlement is to facilitate provision of notice of the proposed settlement's terms, and the date and time of the final fairness hearing. In this context, courts apply lesser scrutiny than they would otherwise in the context of certifying a class. Dunk, 48 Cal.App.4th at 1807, n.19; Global Minerals & Metals Corp. v. Superior Court (2003) 113 Cal.App.4th 836, 839 ("[I]t is well established that trial courts should use different standards to determine the propriety of a settlement class.")

In the present matter, conditional certification is proper since this matter satisfies all requirements for class certification under Code of Civil Procedure section 382. First, the class is both sufficiently numerous, consisting of approximately 160 individuals, and ascertainable by reference to Defendants' personnel and payroll records. [Ardestani Decl., ¶ 20.] Next, Plaintiff is an adequate class representative, as her claims do not conflict with and are not antagonistic to the claims of other class members. Further, her claims are typical given she is a member of the class and her claims arise from the same employment practices and course of conduct giving rise to the claims of the other class members. [Ardestani Decl., ¶ 20; Declaration of Ashley Hudson, ¶¶ 2-9.] Lastly, her counsel is experienced and adequate class counsel. [Ardestani Decl., ¶¶ 36-41.]

Next, common questions of law and fact predominate – particularly for purposes of a settlement class – as the Class Members all were subject to the same meal and rest break policies, the same alleged overtime policies that shorted them on overtime pay, etc. Since the focus of the claims against Defendants concern the legality of common policies applied uniformly to the entire class, common issues predominate over individualized inquiries concerning liability. Defendants' alleged lack of a compliant break policy and the resulting failure to provide compliant meal breaks is company-wide policy applied equally and consistently to all class members, and this policy is either compliant with California law or it is not. Regardless of that determination, it will decide liability for all class members one way or another. Similarly, whether Defendants' expense reimbursement policies fully reimbursed employees for all reasonable and necessary expenses presents another common question. [Ardestani Decl., ¶ 21.]

By now it is well-settled that a theory of recovery asserting the existence of a uniform policy violating California law is sufficient to satisfy the requirements for class certification. Jones v. Farmers Ins. Exch. (2013) 221 Cal.App.4th 986, 996 ("Claims alleging that a uniform policy consistently applied to a group of employees is in violation of the wage and hour laws are of the sort routinely, and properly, found suitable for class treatment"); Williams v. Superior Court (2013) 221 Cal.App.4th 1353 ("A company-wide practice can sustain a common question of fact or law that supports commonality for class certification"). Lastly, a class action is superior to other means for the fair and efficient adjudication of this controversy. [Ardestani Decl., ¶ 22.]

C. The Proposed Settlement Meets the Dunk and Kullar Factors and is within the Range of Reasonableness

The proposed settlement resulted from serious, arms-length negotiations facilitated by respected mediator Michael Young, Esq., who has extensive experience mediating wage and hour class actions. [Ardestani Decl., ¶ 8.] Plaintiff's counsel Zach Crosner, Jamie Serb, and Sepideh Ardestani all have years of litigation experience, including litigating wage and hour class actions. Plaintiff's counsel is well-qualified to evaluate the risks and benefits of pursuing further litigation or settling the matter. [Ardestani Decl., ¶¶ 36-41.]

California law recognizes several factors bearing on the fairness, adequacy, and reasonableness of a proposed class settlement. Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116, 128. In relevant part, these factors include: 1) the amount offered in settlement 2) the strength of plaintiff's case; 3) the risk, expense, complexity, and likely duration of further litigation; 4) the risk of maintaining class action status throughout trial; 5) the experience and views of counsel; and 6) the reaction of the class members to the proposed settlement. Id. As demonstrated below, the proposed settlement satisfies these requirements.

Prior to mediation, the parties engaged in substantial informal discovery to facilitate settlement discussions. As a result, Plaintiff reviewed documents and information regarding Defendants' payroll practices, pay stubs and time records for essentially all of the class members, meal and rest break policies, etc., and information from Defendants regarding class size and breakdown of job positions, work weeks, rates of pay, and other information used to formulate a damages model. Plaintiff had this extensive information analyzed by a consulting expert to look for meal and rest break violation rates, overtime pay lost, and other issues relevant to liability and damages. Plaintiff’s counsel are confident they obtained sufficient information to enable them to understand the law and facts of this case and make an informed decision regarding the proposed settlement and whether it is in the best interests of the class. [Ardestani Decl., ¶¶ 7, 23.]

Using that data, Plaintiff ran various calculations and estimated Defendants' likely maximum exposure on the class claims at approximately $3,260,550, including about $254,490 on the unpaid wage/off the clock claim, $2,250 on the underpaid overtime/regular rate claims, $658,535 on the meal break claims, $1,626,795 on the rest break claims, $170,000 on the expense reimbursement claims, $300,000 on the wage statement claims, and $248,480 on the waiting time penalty claims. [Ardestani Decl., ¶¶ 24-25.] Plaintiff and her counsel substantially discounted the value of these claims, however, in light of the multiple and considerable risks posed by proceeding with the litigation.

On the unpaid wage claims, Plaintiff first alleged she and other employees regularly performed off-the-clock work prior to the start of a scheduled shift as it each day it took approximately 3 to 5 minutes to start up computers and receive a security code on her mobile phone as part of a multi-step authentication process required to access necessary work software, including an application called Dayforce that was used to clock in and out for her shifts and to record meal periods. Plaintiff further alleges employees had to review Quality Assurance Reports and submit rebuttals approximately 4 to 6 times per month, which reports could not be completed on the clock because of the high volume of incoming calls during scheduled hours. [Ardestani Decl., ¶ 26.]

Second, Plaintiff alleges Defendant incorrectly calculated Class Members' regular rate of pay when compensating them with overtime wages and sick pay wages, by failing to include additional compensation (i.e., bonuses) earned by Class Members. The regular rate of pay must include all remunerations, including bonuses. "Where an employee receives a higher wage or rate because of undesirable hours or disagreeable work, such wage represents a shift differential or higher wages because of the character of work done or the time at which he is required to labor. Such payments enter into the determination of the regular rate of pay." Huntington Mem'l Hosp. v. Superior Court (2005) 131 Cal.App.4th 893, 894; Alvarado v. Dart Container Corp. of Cal. (2018) 4 Cal.5th 542 (bonuses should be factored into the employee's regular rate of pay so the regular rate reflects all forms of regular compensation that the employee earned). Accordingly, Plaintiff alleges underpaid class members for overtime and sick pay wages. [Ardestani Decl., ¶ 27.]

In response to Plaintiff's unpaid wage claims, Defendants argued their timekeeping and payroll practices accurately captured all hours worked by the class members and paid for those hours at the correct hourly rates, including both overtime pay and sick pay. Defendants further argued their policies strictly prohibited off the clock work and, to the extent any such work occurred it was aberrational and intermittent, and performed without management's approval or knowledge. White v. Starbucks Corp. (N.D. Cal. 2007) 497 F.Supp.2d 1080, 1083 (employer must have actual or constructive knowledge of the off the clock work). For similar reasons, Defendants emphasized this issue would not be amenable to class treatment since individualized inquiries would be required to determine on a case-by-case basis if any alleged off the clock work was in fact compensable. [Ardestani Decl., ¶ 28.]

On the meal break claims, Plaintiff argued Defendants' meal and rest break policy was not fully compliant with California law and, regardless, that Plaintiff's review of the time and payroll records provided suggested numerous "de facto" violations, such as late and short meal breaks or missed second meal periods. Plaintiff's review of the time records produced suggested around

44.8% of shifts had a unique violation for a missed, late, or short meal period. Plaintiff similarly argued that Defendants failed to provide all required rest breaks, and in particular employees missed breaks due to the high volume of incoming customer calls that made it difficult to either take a break at all or to take a compliant break. [Ardestani Decl., ¶ 29.]

In response, Defendants argued their break policies were fully compliant and that it met its obligation to provide employees with all required meal and rest periods. Per Defendants, many class members waived meal periods when appropriate and also that, in light of the compliant policies, whether a class member missed a meal period, received a late meal period, or missed a rest break would have been aberrational and against company policy. Thus, per Defendants, these issues are not amenable to class or representative treatment since their resolution would require individualized inquiries as to why a break was missed or non-compliant. [Ardestani Decl., ¶ 30.]

On the expense reimbursement claims, Plaintiff argued that employees who worked remotely incurred various costs including personal cell phone use, internet, electricity, and supplies, all of which were only partially reimbursed by Defendants. Here, while Plaintiff acknowledged employees received a $16.25 expense allowance per bi-weekly paycheck, she also argued that amount simply was insufficient to completely reimburse for all expenses required to work remotely. On the other hand, Defendant argued its allowance did fully reimburse all necessary and reasonable expenses, and to the extent employees chose to incur additional expenses, such as extra high speed internet, it was purely for personal preference and not a reasonable business expenses. [Ardestani Decl., ¶ 31.]

The claims under Labor Code sections 203 and 226 are derivative of the primary unpaid wage claims, and accordingly are subject to the same risks and uncertainties plus additional risks posed by the need to account for the "good faith" and other defenses available to Defendants. Amaral v. Cintas Corp. No. 2 (2008) 163 Cal.App.4th 1157, 1203-4 (employer did not willfully fail to pay wages under Labor Code § 203 even though class prevailed on underlying claim for failure to pay living wages). Thus, while these claims largely are derivative of the unpaid wage claim, they also are subject to additional defenses. [Ardestani Decl., ¶ 32.]

As far as potential PAGA liability, the allegedly aggrieved employees theoretically are entitled about $1.5 million in civil penalties should Plaintiff prevail on all claims and establish violations of the multiple Labor Code sections at issue for every single pay period. [Ardestani Decl., ¶ 33.] As with the class claims, Plaintiff discounted the potential PAGA penalties based on Defendants' various defenses on the merits and also accounted for the Court's wide discretion to reduce such penalties, or to decline to award penalties at all. Labor Code § 2699(e)(2); Carrington v. Starbucks Corp. (2018) 30 Cal.App.5th 504 (trial court awarded penalties of $5 per pay period after a bench trial, which decision was upheld on appeal); In re Taco Bell Wage and Hour Actions (E.D. Cal. Apr. 8, 2016) 2016 U.S. Dist. LEXIS 48557 (PAGA penalties denied after trial). Accordingly, the Parties allocated $30,000 to PAGA penalties, and Plaintiff submits this amount is reasonable under the circumstances and in line with comparable settlements in other wage and hour class actions in California. *E.g.*, Van Kempen v. Matheson Tri-Gas, Inc. (N.D. Cal. Aug. 25, 2017) 2017 U.S. Dist. LEXIS 137182 (granting final approval of $5,000 PAGA penalty from $370,000 settlement, or 1.4 percent of total settlement); Slavkov v. First Water Heater Partners I (N.D. Cal. July 25, 2017) 2017 U.S. Dist. LEXIS 116303 (finding a $7,500 PAGA payment reasonable when measured against the overall settlement of $345,000 and the possible weaknesses in Plaintiffs' case, or 2.2 percent of total settlement). Additionally, the LWDA has been informed of the terms of the PAGA portion of the settlement, and will be able to weigh in as necessary. Jennings v. Open Door Mktg. Inc. (N.D. Cal. Oct. 3, 2018) 2018 U.S. Dist. LEXIS 171356, at *27 (approving settlement with PAGA penalties of 0.6% where "[p]laintiffs [have] submitted the settlement agreement to the LWDA, and the LWDA has not objected to the settlement.

The settlement obviates the significant risk that this Court may find any kind of class or representative resolution unachievable or deny certification of all or some of Plaintiff's claims. Furthermore, even if Plaintiff obtained certification of all or some of the claims, continued litigation would be lengthy and expensive as the Parties pursued merits discovery, a probable motion to decertify, as well as trial and possible appeals, and would substantially delay any recovery by the class with no assurance of recovering significantly more than the proposed settlement. While Plaintiff is confident in the merits of these claims, legitimate controversies exist regarding each one of them and Plaintiff also recognizes proving the amount of wages and penalties due each Class Member would be an expensive, time-consuming, and uncertain proposition. [Ardestani Decl., ¶ 34.]

Plaintiff and her counsel discounted the value of the class claims consistent with the risks discussed above, and carefully weighed the likelihood of the class receiving substantially greater benefit if the litigation continued. Plaintiff and counsel concluded – in light of these very real and substantial risks – settlement on the proposed terms and without prolonged and costly litigation was in the best interests of the class. The overall $382,500 recovery represents a significant percentage of Defendant's potential exposure – around 11.7% of the overall class exposure and about 8% of the estimated class/PAGA exposure, and around 78% of the estimated risk-discounted exposure. Given the various procedural and merits risks addressed above, a total recovery for the class of $382,500, which will result in average award of some $1,112 per class member, plus additional amounts under PAGA, is a significant result well within the range of reasonableness considering all potential outcomes, and it will provide direct monetary awards to all Class Members without further delay. [Ardestani Decl., ¶ 35.]

Importantly, the mere fact that a settlement does not provide the same recovery as might be achieved at trial is not a proper indicator of whether the settlement is fair, reasonable, and adequate. <u>Wershba</u>, 91 Cal.App.4th at 246, 250 ("Compromise is inherent and necessary in the settlement process…even if the relief afforded by the proposed settlement is substantially narrower than it would be if the suits were to be successfully litigated, this is no bar to a class settlement because the public interest may indeed be served by a voluntary settlement in which each side gives ground in the interest of avoiding litigation"); <u>Lane v. Facebook, Inc.</u> (9th Cir. 2012) 696 F.3d 811, 819 ("[T]he question whether a settlement is fundamentally fair . . . is different from the question whether the settlement is perfect in the estimation of the reviewing court"); <u>7-Eleven Owners for Fair Franchising v. Southland Corp.</u> (2000) 85 Cal.App.4th 1135, 1150 ("The fact that a proposed settlement may amount to only a fraction of the potential recovery does not, in and of itself, mean that the proposed settlement is grossly inadequate and should be disapproved"); White v. Experian Information Solutions, Inc. (C.D. Cal. 2011) 803 F.Supp.2d 1086, 1098 (rejecting contention settlement was not fair and reasonable even though it represented 99% discount off the maximum value of the claims). Importantly as well, the proposed settlement is non-reversionary and will provide timely benefits to the Class Members without a claims process. White, 803 F.Supp.2d at 1098; c.f., Federal Judicial Center, Managing Class Action Litigation: A Pocket Guide for Judges (3d ed. 2010) at 20, available at http:// www.fjc.gov/sites/default/files/2012/ClassGd3.pdf (reversionary provisions and/or cumbersome claims process may indicate lack of fairness). Plaintiff and his counsel submit the settlement is within the "range of reasonableness," and is fair and adequate for the Class.

V. CONCLUSION

For all the foregoing reasons, Plaintiff respectfully requests that the Court grant this motion, conditionally certify the settlement class, grant preliminary approval to the proposed class action settlement, and enter the [Proposed] Order filed herewith

Dated: February 23, 2026

CROSNER LEGAL, PC

S. Ardestani

Sepideh Ardestani
Attorneys for Plaintiff Ashley Hudson