

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE**

Hernandez, David Plaintiff/Petitioner, vs. Mitchell Lewis & Staver CO. Defendant/Respondent.	Jud. Officer: Bret Hillman Clerk: Mark Dimas Bailiff: K Hice CSR: Interpreter: Language:
Minutes: Motion Hearing Other Date: September 22, 2026	Case No. VCU307083 Department 02 Related Cases: VCU309266

Appearances: ☐ No Appearances

☐ Party: _____

☐ Remote Appearance

☐ Party: _____

☐ Remote Appearance

☐ Party: _____

☐ Remote Appearance

☐ Other: _____

☐ Remote Appearance

☒ Attorney: David Gray, via Zoom, representing Plaintiff

☒ Remote Appearance

☐ Attorney: _____

☐ Remote Appearance

☐ Attorney: _____

☐ Remote Appearance

☒ No court reporter was available for today's proceedings.

☒ Not Reported

☒ Case called at 08:56 A.M.

Motion: Motion for Final Approval of Class Action and PAGA Settlement

☒ No requests for oral argument presented.

ORDER: The Court adopts the Tentative Ruling as the Order of the Court as follows:

TENTATIVE RULING: To grant the motion as modified herein; to set the hearing as to distribution of the settlement fund for April 6, 2027, 8:30 am. Dept. 2.

Facts and Analysis

Plaintiff's motion for final approval of class action and PAGA settlement, attorneys' fees, costs, enhancement award, LWDA payment and class certification for settlement purposes came on for hearing on September 22, 2026. The Court finds and rules as follows:

On August 27, 2026, the settlement administrator Apex Class Action, LLC, through its Case Manager, filed a declaration detailing the following events.

On February 4, 2026, the administrator received a mailing list of 52 potential class members from Defendant's counsel with names, contact information, social security numbers and relevant employment information.

On February 24, 2026, after the administrator processed the names through the National Change of Address Database and updated the list with any updated addresses located, the administrator sent class notice by mail to

52 members. Four (4) notices were returned and updated addresses for two (2) were obtained and notices were mailed. Therefore, two (2) notices have been deemed undeliverable.

Class members had sixty (60) days, until April 27, 2026 to submit objections, disputes and/or requests for exclusions. Zero (0) requests for exclusion and zero (0) valid objections have been received from class members. Therefore, all 52 Class Members or 100% of the Class will participate in the settlement.

The court presumes the settlement is fair and reasonable given (a) that it was reached through arms-length bargaining at mediation, (b) that there was sufficient time for investigation and discovery since commencement of litigation (c) class counsel have particularized experience with the claims at issue in the case, and (d) there appear to be no disputes or objections. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1802.)

The Court calculates that the net settlement amount of \$151,066.11 is available to pay to the class members in accordance with the terms of settlement. The highest class portion to be paid is approximately \$6,257.56, the lowest class portion to be paid is approximately \$3.13, and the average class portion to be paid is approximately \$2,694.42.

The Court believes basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise under the circumstances, in accordance with *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 133. This case involved extensive informal discovery and investigation of disputed claims, including review and analysis by Plaintiff's expert. The settlement avoids significant risks and delay that would result from further litigation of the case, which would include, amongst other matters, certification proceedings, trial, and the possibility of further delay and cost resulting from appeals.

Class counsel has provided an updated declaration in support of the requests for attorney fees representing 33 1/3% of the gross settlement fund of \$285,000 or \$95,000. Here, Counsel indicates the firm has spent 129 at rates ranging from \$1,000 per hour to \$675 per hour, resulting a base lodestar of \$98,700. (Declaration of Gray ¶26.)

The Court, however, will not award \$1,000 per hour on these motions. The Court notes that these rates are already higher than what is typically "...prevailing in the community for similar work." (*PLCM Group Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095.) The Court will reduce Mr. Lavi's rate to \$950 per hour, resulting in an adjusted total base lodestar of \$97,200.

Counsel has additionally provided sufficient cost information indicating actual costs incurred in the amount of \$23,933.89. (Declaration of Gray ¶41.)

The Court believes the requested attorney fees and costs appear reasonable under the circumstances. Additionally, counsel has provided a sufficient declaration to demonstrate adequate previous experience with class actions to further support the reasonableness of the award.

The settlement administrator has provided, in the declaration describing the work it has performed on the case, a value of services totaling \$4,890.00.

The Court believes the amount requested as compensation for the administrator appears reasonable.

The settlement agreement designates the distribution of unclaimed settlement proceeds to California Controller's Office Unclaimed Property Division, with an identification of the Participating Class Member to whom the funds belong, in accordance with Code of Civil Procedure section 384.

The Court previously approved a representative payment of \$5,000 and finds that the requested enhancement payment is appropriate under the circumstances.

Finally, the Court confirms its conditional certification of the settlement class. The Court finds no significant events have occurred that would cause it to change its prior determination that the settlement class met all requirements

under Code of Civil Procedure section 382 for certification for settlement purposes at the time it granted Plaintiff's motion for preliminary approval.

On review of the declarations and pleadings submitted, the Court finds, given the established presumption that the settlement is fair and reasonable under the circumstances of this case, and, particularly, given the absence of any objection or opposition following the class notice, that the settlement is fair and reasonable and that the motion for final approval should be, and is hereby, granted.

Therefore, the following deductions from the gross settlement of \$285,000 are approved as follows:

Approved Court Approved Attorney Fees:	\$95,000.00
Approved Incurred Attorney Costs:	\$23,933.89
Approved Enhancement Payment to Plaintiff :	\$5,000.00
Approved Settlement Administrator Costs	\$4,890.00
Approved PAGA Payment (LWDA and Aggrieved Employees)	\$10,000.00
Approved Net Settlement Amount	\$151,066.11

Therefore, the Court sets the hearing as to distribution of the settlement fund for April 6, 2027, 8:30 am. Dept. 2.

☒ Clerk to provide notice to parties by mail.

09/28/2026

STEPHANIE CAMERON, CLERK
Mark Dimas, Deputy

SUPERIOR COURT OF CALIFORNIA
COUNTY OF TULARE

Visalia Division
221 S Mooney Blvd, Room 124
Visalia, CA 93291
559.730.5000

Hernandez, David
Plaintiff/Petitioner,

vs.

Mitchell Lewis & Staver CO.
Defendant/Respondent.

Case No. VCU307083

CLERK'S CERTIFICATE OF SERVICE

I certify that I am not a party to this cause.

I certify that I caused the Minute Order dated September 28, 2026, to be served on the persons listed below in the following manner:

☒ BY MAIL: I placed the documents for collection and mailing on the date shown, so as to cause it to be mailed in a sealed envelope with postage fully prepaid on that date following standard court practices to the persons and addresses shown. The mailing and this certification occurred at Visalia, California on September 28, 2026.

STEPHANIE CAMERON,
CLERK OF THE SUPERIOR COURT
COUNTY OF TULARE

By 
Mark Dimas, Deputy Clerk

Names and Mailing/E-Mail Address of Person(s) Served:

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