

Tentative Rulings for July 9, 2026
Department 501

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) *The above rule also applies to cases listed in this "must appear" section.*

25CECG03046	<i>Giovanni Rodriguez v. Independent AG Inc.</i>
22CECG04093	<i>Rocio Cota v. Frontier Trans Inc.</i> - hearing for Dept. 503
25CECG03173	<i>Celia Garcia v. Isaias Huerta Rojas</i> – hearing for Dept. 503

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

25CECG02336	<i>David Nino v. General Motors, LLC</i> is continued to Thursday, August 20, 2026, at 3:30 p.m. in Department 501.
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Tentative Rulings for Department 501

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(03)

Tentative Ruling

Re: ***Garcia v. Fresno Plumbing & Heating, Inc.***
Case No. 24CECG03236

Hearing Date: July 9, 2026 (Dept. 501)

Motion: Plaintiff's Motion for Class Certification

Tentative Ruling:

To deny plaintiff's motion for class certification. (Cal. Code Civ. Proc., § 382; Cal Rules of Court, rule 3.764.)

Explanation:

"Class certification requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e., that proceeding as a class is superior to other methods. In turn, the community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class." (*In re Tobacco II Cases* (2009) 46 Cal. 4th 298, 313.)

California case law requires that substantial evidence underlie a decision to certify. (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal. 3d 462, 470.) "In particular, we must consider whether the record contains substantial evidence to support the trial court's predominance finding, as a certification ruling not supported by substantial evidence cannot stand." (*Lockhead Martin Corp. v. Superior Court* (2003) 29 Cal. 4th 1096, 1106.)

"The certification question is 'essentially a procedural one that does not ask whether an action is legally or factually meritorious.' A trial court ruling on a certification motion determines 'whether ... the issues which may be jointly tried, when compared with those requiring separate adjudication, are so numerous or substantial that the maintenance of a class action would be advantageous to the judicial process and to the litigants.'" (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 326, citations omitted.)

In the present case, plaintiff seeks to certify a class defined as all non-exempt employees of Defendant Fresno Plumbing & Heating, Inc. in California during the period of November 28, 2018 through the date of the order granting class certification. Plaintiff also seeks certification of three subclasses: (1) a meal break subclass defined as "All non-exempt employees of Defendant in California who worked one of more shifts of over five hours during the Class Period"; (2) a third rest break subclass, which is defined as "All non-exempt employees of Defendant in California who worked in one or more shifts of 10 hours or longer during the Class Period"; and (3) a reimbursement subclass, which is defined as "All non-exempt employees of Defendant in California who were not reimbursed for their work related expenses incurred during the Class Period." Plaintiff also

moves for an order certifying the class and subclasses for the derivative claims of failing to pay all wages due to discharged and quitting employees, failing to furnish accurate itemized wage statements, failing to maintain adequate employment records, and unfair and unlawful business practices. He also seeks to certify himself as class representative, and certify his attorneys as class counsel.

However, plaintiff has failed to show by substantial evidence that the proposed class and subclasses should be certified. With regard to the third rest break subclass, plaintiff has not provided any evidence that he actually worked any shifts of 10 hours or longer that would have entitled him to a third rest break. Plaintiff's declaration only alleges that he was not given a first rest break, and that he was provided with a 30-minute meal break instead. (Garcia decl., ¶ 6.)¹ He also never alleges that he worked any shifts of 10 hours or more, which would trigger the obligation to provide a third rest break. He only mentions that he was not provided with a first rest break for shifts of 8 hours, and never alleges that he worked more than ten hours. (*Id.* at ¶¶ 5, 6.) Thus, he has not alleged any facts showing that he suffered a violation based on failure to provide him with a third rest break.

In addition, defendant's expert has analyzed plaintiff's time records and found that plaintiff never worked any shifts longer than 9.5 hours. (Nelson decl., ¶ 16.) Plaintiff has not presented any evidence on reply that would tend to rebut defendant's showing. In fact, the reply does not even discuss the third rest break subclass, and instead solely focuses on the theory that defendant failed to provide full and timely meal breaks due to its rounding policy. Thus, plaintiff has not shown that he suffered the same type of rest break violations that he alleges the other class members suffered. In other words, he has not shown typicality or adequacy of representation with regard to the rest break subclass.

Also, plaintiff has not presented any evidence that any of the other members of the proposed subclass suffered any third rest break violations. He has not provided any expert analysis or time records showing that he or other employees suffered any third rest break violations. Nor has he stated that he personally witnessed other employees being denied third rest breaks, or that other employees complained to him that they did not get a third rest break. Therefore, there is no substantial evidence to show that plaintiff or any other employees of defendant fall into the third rest break subclass.

As a result, the court intends to deny certification of the third rest break subclass. The named plaintiff has not shown that he has claims that are typical of the other putative class members, he does not appear to be an adequate representative of the rest break subclass, and he has not provided any evidence that other members of the subclass suffered third rest break violations.

Likewise, plaintiff has not met his burden of showing by substantial evidence that the proposed third subclass for failure to reimburse business expenses should be certified. Plaintiff does allege that he incurred business expenses for which the defendant failed to reimburse him, including driving his vehicle to jobsites and having to purchase tools without being reimbursed. (Garcia decl., ¶¶ 7, 8.) However, he has not presented any evidence that any other employees of defendant incurred business expenses without being reimbursed. He does not state that he witnessed other employees having to pay

¹ Defendant has objected to plaintiff's declaration on various grounds. The court intends to overrule all of the objections and consider the declaration.

for necessary business expenses without being reimbursed, or that other employees complained to him about having to buy tools or other equipment to do their jobs. He also provides no documents to show that defendant had a policy of requiring its employees to pay for their tools or equipment to do their work.

On the other hand, defendant has presented declarations from many of its employees who state that they were not required to purchase tools or incur other business expenses. According to defendant's evidence, defendant provides its employees all of the tools necessary to perform their work. If employees do purchase their own tools, it is because of personal preference or convenience rather than being a job requirement. (See declarations attached to defendant's Compendium of Evidence, Exhibits 1A – 1X.) Defendant does require its employees to use their cell phones to clock in and out of shifts, but it also reimburses them \$5.00 per week for use of their phones. (*Ibid.*) Plaintiff's reply fails to present any evidence or argument to show that defendant's other employees were forced to incur business expenses for which they were not reimbursed.

Thus, while plaintiff has provided evidence that he incurred business expenses without being reimbursed for them, he has failed to present substantial evidence that any other employees had to incur business expenses for which they were not reimbursed. As a result, plaintiff has not shown that the proposed subclass is numerous, or that it shares common claims for failure to reimburse business expenses. Nor has he shown that his claim is typical of the other subclass members, or that he would be an adequate representative of the subclass. Therefore, the court intends to deny certification of the business expense reimbursement subclass.

Finally, the court intends to deny certification of the first subclass for meal break violations. Plaintiff has presented evidence that he suffered meal break violations, as he alleges that, while he was technically provided with meal breaks of 30 minutes, they were often interrupted or taken at a later time. (Garcia decl., ¶ 6.) "I was instructed to clock out for lunch and to continue working. This was normally done to get the job done on time. This occurred varies [sic] times throughout my employment." (*Ibid.*) Thus, plaintiff has provided evidence showing that he was not provided with full 30-minute meal breaks as required by law, which is enough to show that he suffered meal break violations.

Plaintiff has also presented evidence that defendant had a policy of rounding employee time punches to the nearest quarter hour, which might have resulted in employees receiving less than 30-minute meal breaks. (*Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 61.) The California Supreme Court in *Donohue* held that an employer's policy of rounding time punches violates the policies underlying the Labor Code and IWC wage order requiring employees to be provided with meal breaks of at least 30 minutes. (*Ibid.*)

"The premium pay scheme reflects the Legislature's and the IWC's determination that infringements on meal period requirements threaten employees' health and safety whenever they occur, and the scheme was enacted to address inadequate employer compliance. Rounding policies are at odds with the requirement that employers pay the full premium wage for meal period violations. When the actual times that an employee must work during a day reveal a meal period violation, the violation cannot be papered over by rounding." (*Id.* at p. 70, citations omitted.) "By deeming delayed or shortened meal breaks as 'timely' and 'complete' when they are not, a rounding policy erodes the

health and safety protections that the meal period requirements are intended to achieve." (*Id.* at p. 73, citation omitted.)

Here, plaintiff's has presented defendant's Employee Handbooks from 2018 and 2022, both of which show that defendant had a policy of rounding employees' time punches to the nearest quarter hour. (Exhibits A and B to Stahle decl.) Defendant later abandoned the rounding policy in its Employee Handbook in January of 2024. (Exhibit C to Stahle decl.) Defendant's person most knowledgeable also admitted in her deposition that defendant had a policy of rounding time punches to the nearest quarter hour up until 2024. (Exhibit A to Kirnosova decl., Quintero depo., pp. 146:19-23, 147:16-23; 148:17-21; 149:12-25.)

Thus, plaintiff has presented evidence that defendant had a policy of rounding employees' time punches to the nearest quarter of an hour until January of 2024. Under *Donohue*, *supra*, the policy was illegal because it could result in employees receiving meal breaks of less than 30 minutes under some circumstances. Thus, there is evidence that defendant's rounding policy *might* have resulted in its employees receiving shorter meal breaks.

However, just because the rounding policy could potentially create meal break violations does not necessarily mean that such violations actually occurred. Under *Donohue*, there is no presumption that a meal break violation occurred just because the employer had a policy of rounding its employees' time punches. In *Donohue*, the Supreme Court held that "time records showing noncompliant meal periods raise a rebuttable presumption of meal period violations at summary judgment." (*Id.* at p. 74.) "If an employer's records show no meal period for a given shift over five hours, a rebuttable presumption arises that the employee was not relieved of duty and no meal period was provided.'" (*Ibid*, quoting with approval Justice Werdegar's concurring opinion in *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1052–1053.)

Thus, under *Donohue*, the fact that an employer has a policy of rounding its employees' time punches does not result in a rebuttable presumption that it violated the law regarding provision of meal breaks. Only if the plaintiff points to time records showing that the employer did not provide meal periods for shifts over five hours, or that the meal periods that the employer provided were less than 30 minutes, would there be a presumption of a violation. (*Ibid.*) In the absence of some evidence that defendant did not provide full and timely meal periods to its employees, there is no presumption that defendant violated the law regarding meal periods simply because defendant had a policy of rounding its employees' time punches.

Here, plaintiff has not provided any time records or other evidence showing that any of the defendant's other employees did not receive a meal break for shifts of over five hours, or that any other employee received a meal break of less than 30 minutes. He provides only his own declaration, which states that he did not always receive a full 30-minute meal break and that his breaks were often interrupted so that he could continue working. (Garcia decl., ¶ 6.) However, while plaintiff alleges that he did not always receive a full 30-minute meal break, he does not state that his breaks were shortened due to defendant's rounding policy. Also, he has not presented any evidence showing that any of the other employees also did not receive a 30-minute break or that defendant's rounding policy resulted in them receiving a break of less than 30 minutes.

Thus, plaintiff has not met his burden of presenting substantial evidence showing that he has claims that are typical of the proposed class, that he is an adequate class representative, or that there are numerous other employees with similar meal break claims. The mere fact that defendant had a policy of rounding employees' time punches, without any other evidence that the rounding policy actually resulted in illegally shortened meal periods, does not establish that there were other employees who did not receive full 30-minute meal breaks. At most, it suggests that other employees *might* have received some of meal breaks that were less than 30 minutes. Without some evidence of other employees actually being denied full meal breaks, the court cannot certify the meal break subclass.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Issued By: KCK on 07/07/26
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: **Paez v. Singh**
Case No. 26CECG01083

Hearing Date: July 9, 2026 (Dept. 501)

Motion: Plaintiffs' Petitions for Compromise of Minors' Claims of Giovanni Iker Paez and Adrian Christopher Paez

Tentative Ruling:

To grant the petitions to approve the compromise of the minors' claims of Giovanni Iker Paez and Adrian Christopher Paez. (Code Civ. Proc., §372; Probate Code, §§ 3500, 3600-3613.) The proposed orders have been signed. The matter is off calendar. No appearances are necessary.

The court sets a status conference for Thursday, September 10, 2026 at 3:30 pm., in Department 501, for confirmation of deposit of the minor's funds into a blocked account. If Petitioner files the Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) at least five court days before the hearing, the status conference will come off calendar.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By: KCK on 07/07/26
(Judge's initials) (Date)