<u>Tentative Rulings for September 15, 2026</u>
<u>Department 502</u>

<u>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)</u>

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.*

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

24CECG02472	***Johan Legarda v Madera Roofing Inc*. is continued to Thursday, September 17, 2026 at 3:30 p.m. in Department 502.**
24CECG05432	***Element 7 Parlier, LLC v City of Parlier* is continued to Tuesday, October 20, 2026 at 3:30 p.m. in Department 502**
25CECG02729	***Robert Champagne v General Motors LLC* is continued to Tuesday, October 27, 2026 at 3:30 p.m. in Department 502**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(03)

Tentative Ruling

Re:	***Ramirez v. Helena Industries, Inc.*** Case No. 23CECG04521 (lead case, consolidated with case no. 23CECG04522)
Hearing Date:	September 15, 2026 (Dept. 502)
Motion:	Plaintiff's Motion for Preliminary Approval of Class and PAGA Settlement

Tentative Ruling:

To deny plaintiff's motion for preliminary approval of class and PAGA settlement, without prejudice.

Explanation:

1. Class Certification

a. Standards

"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.)

b. Numerosity and Ascertainability

"Ascertainability is achieved by defining the class in terms of objective characteristics and common transactional facts making the ultimate identification of class members possible when that identification becomes necessary. While often it is said that class members are ascertainable where they may be readily identified without unreasonable expense or time by reference to official records, that statement must be considered in light of the purpose of the ascertainability requirement. Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be res judicata." (*Nicodemus v. Saint Francis Memorial Hospital* (2016) 3 Cal.App.5th 1200, 1212, internal citations and quote marks omitted.)

Here, the class appears to be ascertainable, as defendant's personnel records should be sufficient to allow the parties to identify the class members. The class is also sufficiently numerous to justify certification, as plaintiff's counsel claims that there are at least 26 class members who worked for defendant during the class period. Therefore, the court finds that the class is sufficiently numerous and ascertainable for certification.

c. Community of Interest

"[T]he '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.'" (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021, internal citations omitted.) "The focus of the typicality requirement entails inquiry as to whether the plaintiff's individual circumstances are markedly different or whether the legal theory upon which the claims are based differ from that upon which the claims of the other class members will be based." (*Classen v. Weller* (1983) 145 Cal. App. 3d 27, 46.) "[T]he adequacy inquiry should focus on the abilities of the class representative's counsel and the existence of conflicts between the representative and other class members." (*Caro v. Procter & Gamble Co.* (1993) 18 Cal. App. 4th 644, 669.)

Here, it does appear that there are common questions of law and fact, as all of the proposed class members worked for the same defendant and allegedly suffered the same type of Labor Code violations. Therefore, the proposed class involves common issues of law and fact.

With regard to the requirement of typicality of the class representative's claims, the named plaintiff, Mr. Ramirez states that he did the same type of work and was subjected to the same types of violations as the other class members. In addition, he states that he does not have any conflicts of interest that might prevent him from being an adequate class representative. He also describes the work he did on the case. Therefore, it appears that Ramirez is an adequate class representative.

Plaintiffs' counsel have submitted declarations that establish that they are experienced and qualified to represent the class. Counsel's declarations discusses their background, education, and experience in class action litigation. Therefore, counsel have provided sufficient evidence to support their assertion that they are experienced and qualified to represent plaintiffs and the other class members here.

d. Superiority of Class Certification

It does appear that certifying the class would be superior to any other available means of resolving the disputes between the parties. Absent class certification, each employee of defendant would have to litigate their claims individually, which would result in wasted time and resources relitigating the same issues and presenting the same testimony and evidence. Class certification will allow the employees' claims to be resolved in a relatively efficient and fair manner. (*Sav-On Drugs Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 340.) Therefore, plaintiffs have shown that class certification is the superior means of resolving her claims.

Conclusion: The court intends to grant certification of the class for the purpose of settlement.

2. Settlement

a. Legal Standards

"[I]n the final analysis it is the Court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing litigation. The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement . . . The courts are supposed to be the guardians of the class." (*Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal. App. 4th 116, 129.) "[T]o protect the interests of absent class members, the court must independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished . . . [therefore] the factual record must be before the … court must be sufficiently developed." (*Id*. at p. 130.) The court must be leery of a situation where "there was nothing before the court to establish the sufficiency of class counsel's investigation other than their assurance that they had seen what they needed to see." (*Id*. at p. 129.)

b. Fairness and Reasonableness of the Settlement

"In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.' The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244–245, internal citations omitted, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

Here, plaintiffs' counsel has presented a sufficient discussion of the strength of the case if it went to trial, the risks, complexity, and duration of further litigation, and an explanation of why the settlement is fair and reasonable in light of the risks of taking the case to trial. (See Motion for Prelim. Approval of Settlement, pp. 16-28.) Therefore, plaintiffs have shown that the settlement is fair, reasonable, or adequate in light of the unique facts and legal issues raised by the plaintiffs' case, and the court intends to grant preliminary approval of the settlement.

c. Proposed Class Notice

The proposed notice appears to be adequate. The notice will provide the class members with information regarding their time to opt out or object, the nature and amount of the settlement, the impact on class members if they do not opt out, the amount of attorney's fees and costs, and the service award to the named class representative. As a result, the court finds that the proposed class notice is adequate.

3. Attorney's Fees and Costs

Plaintiffs' counsel seeks attorney's fees of $75,250.00, which is 35% of the gross settlement. Plaintiffs' attorneys have provided their declarations, which describe their education, skill, and experience. However, counsel has not provided any evidence regarding the time they spent on the case, or what their hourly rates are. Therefore, plaintiffs' counsel has not provided any information that would allow the court to conduct a lodestar analysis of the requested fees to determine whether they are reasonable in light of the work done on the case. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 504 [holding that trial court may award fees based on a percentage of the common fund in class actions, but it may also conduct a lodestar cross-check of the request for attorney's fees in order to confirm the fees are reasonable].) As a result, the court finds that plaintiffs' counsel has not adequately supported the request for $74,250.00 in fees.

In addition, counsel also seeks an award of costs of up to $25,000. Again, however, counsel has not provided a summary of its actual costs incurred so far in the case, so it is impossible to determine that the request for up to $25,000 is reasonable here. The court cannot approve the request for $25,000 in costs without some documentation of the costs incurred.

4. Payment to Class Representative

Plaintiff seeks preliminary approval of a $5,000 service award to the named plaintiff, Mr. Ramirez. Mr. Ramirez has provided a declaration which supports the request for a service award, as he states that he worked closely with plaintiffs' counsel, provided documents, answered questions, and participated in meetings about the case with counsel. Thus, he has shown that he did substantial work on the case, which supports an award of $5,000. Therefore, the court intends to grant preliminary approval of the incentive award to the named plaintiff.

5. Payment to Class Administrator

The class administrator will be CPT Group, which will receive up to $10,000 to administer the settlement. However, there is no declaration from a representative of the administrator, stating how much they will charge to administer the settlement or what exactly they will do. Therefore, the court cannot approve the proposed payment of up to $10,000 to the settlement administrator until plaintiffs' counsel provides evidence of the amount the administrator will charge and what services they will provide.

6. PAGA Settlement

$30,000 of the settlement will be allocated to the PAGA claims, with 75% of that amount being paid to the LWDA as required by law and the other 25% being paid out to the aggrieved employees. Plaintiff's counsel has also provided a discussion of the reasons why they chose to settle the PAGA claims for $30,000, and what the claims were potentially worth. In addition, plaintiff's counsel has given notice of the settlement to the LWDA before filing the motion for preliminary approval, and there is no evidence that the LWDA opposes the settlement. (See Labor Code, § 2699, subd. (s)(2).) As a result, the court intends to grant preliminary approval of the PAGA portion of the settlement.

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: lmg on 9-11-26.
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***Alcaraz v. Allstate Insurance Company***
Case No. 25CECG05412

Hearing Date: September 15, 2026 (Dept. 502)

Motion: Defendant's Demurrer to Complaint

Tentative Ruling:

To sustain defendant Allstate's demurrer to the complaint to the extent that it seeks to state a claim on behalf of plaintiff Servando Alcaraz, for failure to state a cause of action. (Code Civ. Proc., § 430.10, subd. (e).) To deny leave to amend the complaint.

Explanation:

Defendant Allstate demurs to both causes of action brought by plaintiff Servando Alcaraz on the ground that they fail to state facts to state a cause of action because Servando is not an owner of the subject property, and therefore lacks standing to sue for breach of the insurance agreement. Defendant requests judicial notice of the grant deed and deed of trust for the property, which show that Esther Alcaraz is the sole owner of the property. (Request for Judicial Notice, Exhibits 1 and 2.) Therefore, defendant concludes that, since Servando is not a property owner, he cannot bring claims based on denial of the insurance claim related to damage to the property.

The court will take judicial notice of the grant deed and deed of trust for the property under Evidence Code section 452, subdivisions (g) and (h). The judicially noticeable documents establish that Esther Alcaraz is the sole owner of the property. (Exhibits 1 and 2 to defendant's request for judicial notice.) Therefore, since Servando Alcaraz is not an owner of the property, he has no standing to sue for denial of the insurance claim that arose out of damage to the property, despite the fact that he is listed as one of the insured on the insurance policy. "If the insured has no insurable interest, the contract is void." (Cal. Ins. Code § 280; see also *Gillis v. Sun Ins. Office, Ltd*. (1965) 238 Cal.App.2d 408, 412.) Here, Servando is not an owner of the property, so he has no right to sue for denial of the insurance claim.

Consequently, the court intends to sustain the demurrer to the entire complaint to the extent that it seeks to bring claims for breach of the insurance policy and breach of the implied covenant of good faith and fair dealing on behalf of Servando Alcaraz. Furthermore, it does not appear that there is any possibility that plaintiffs will be able to amend the complaint to state a valid claim on behalf of Servando. Plaintiffs have not filed any opposition or attempted to show how they could amend the complaint to state valid claim. Therefore, the court intends to deny leave to amend the complaint.

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: <u>**lmg**</u> **on** <u>**9-11-26**</u>.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Ivan Gonzalez v. Inter-Con Security Systems, Inc.***
Superior Court Case No. 25CECG02962

Hearing Date: September 15, 2026 (Dept. 502)

Motion: to Compel Arbitration and Stay Court Proceedings

Tentative Ruling:

To deny, without prejudice.

Explanation:

Defendant Inter-Con Security Systems, Inc. ("defendant" or "Inter-Con") moves to compel arbitration and stay court proceedings, subject to a purported arbitration agreement between Inter-Con and plaintiff Ivan Gonzalez ("plaintiff").

In moving to compel arbitration, the moving party must prove by a preponderance of evidence the existence of the arbitration agreement and that the dispute is covered by the agreement. The party opposing the motion must then prove by a preponderance of evidence that a ground for denial of the motion exists. (*Rosenthal v. Great Western Fin'l Securities Corp.* (1996) 14 Cal.4th 394, 413-414; *Hotels Nevada v. L.A. Pacific Ctr., Inc.* (2006) 144 Cal.App.4th 754, 758; *Villacreses v. Molinari* (2005) 132 Cal.App.4th 1223, 1230.) In ruling on a motion to compel arbitration, the court must first determine whether the parties actually agreed to arbitrate the dispute, and general principles of California contract law guide the court in making this determination. (*Mendez v. Mid-Wilshire Health Care Center* (2013) 220 Cal.App.4th 534, 540-543.)

"In determining the existence of an agreement to arbitrate, the trial court must employ a three-step burden shifting process. [Citation] The party seeking to compel arbitration bears an initial burden to show an agreement to arbitrate; that burden can be met by providing a copy of the alleged agreement. (*Ibid*.) If that initial burden is met, the burden shifts to the party opposing arbitration to identify a factual dispute as to the agreement's existence, thereby shifting the burden back to the arbitration proponent. (*Ibid*.) At that point, and '[b]ecause the existence of the agreement is a statutory prerequisite to granting the petition, the petitioner bears the burden of proving its existence by a preponderance of the evidence.' " (*Garcia v. Stoneledge Furniture LLC* ("*Garcia*") (2024) 102 Cal.App.5th 41, 51, internal citations omitted.)

Here, defendant provides a copy of the "Mutual Agreement to Arbitrate Claims." (Griffiths Decl., ¶ 11, Exh. A.) The court previously determined that the declaration of Brianne Schuck was sufficient to authenticate the attached agreement. (See Request for Judicial Notice,[1] Item No. 6, Minute Order dated January 15, 2026.) While Ms. Schuck's

[1] Plaintiff's request for judicial notice is granted as to Item Nos. 4 and 6. The remaining Item Nos. 1, 2, 3, and 5 are granted only to the extent such records exist.

declaration was not submitted in support of this renewed motion, the filed declaration of Natalie Griffiths is also sufficient to meet the initial burden to show an agreement to arbitrate, as Ms. Griffiths is a custodian of records for defendant's personnel files. (Griffiths Decl., ¶ 1.) The custodian of a document does not need to have been present when the document was created or signed to authenticate a document in a company's files. (*Iyere v. Wise Auto Group* (2023) 87 Cal.App.5th 747, 758.)

Plaintiff then specifically denies signing the arbitration agreement, electronically or otherwise. (Gonzalez Decl., ¶ 4.) A denial of signing an arbitration agreement is sufficient to shift the burden back to the moving party. (*Garcia*, *supra*, 102 Cal.App.5th at 52.)

In *Ruiz v. Moss Bros. Auto Group, Inc.*, a declaration that failed to explain how Ruiz's printed electronic signature, or the date and time printed next to the signature, came to be placed on the arbitration agreement was insufficient to meet defendant's burden. A supplemental declaration did not provide the necessary authentication where the declarant explained that the agreement was part of an employee acknowledgment form that is presented to all employees and that each employee is required to log into the company's HR system, using his or her "unique login ID and password," to review and sign the employee acknowledgment form. This too was insufficient, as the declarant did not explain how, or upon what basis, she inferred that the electronic signature was "the act of" Ruiz, leaving a critical gap in the evidence supporting the petition. (*Ruiz v. Moss Bros. Auto Group, Inc.* (2014) 232 Cal.App.4th 836, 843-844.)

Espejo v. Southern California Permanente Medical Group (2016) 246 Cal.App.4th 1047 provides an example of a showing that would be found adequate:

> Tellez detailed SCPMG's security precautions regarding transmission and use of an applicant's unique username and password, as well as the steps an applicant would have to take to place his or her name on the signature line of the employment agreement and the DRP. Based on this procedure, she concluded that the "name Jay Baniaga Espejo could have only been placed on the signature pages of the employment agreement and the DRP by someone using Dr. Espejo's unique user name and password.... [¶] Given this process for signing documents and protecting the privacy of the information with unique and private user names and passwords, the electronic signature was made by Dr. Espejo" on the employment agreement and the DRP at the date, time, and IP address listed on the documents. These details satisfactorily meet the requirements articulated in *Ruiz* and establish that the electronic signature on the DRP was "the act of" Espejo (*Civ.Code, § 1633.9, subd. (a)*), and therefore provide the necessary factual details to properly authenticate the document.
>
> (*Id.* at p. 1062, fn omitted.)

Here, there remain to be gaps in the evidence as to whether plaintiff signed the arbitration policy. First, the declaration in *Ruiz* was from defendant's business manager, and the declaration in *Espejo* was from a systems consultant. Here, the declaration of Natalie Griffiths submitted in support of the motion is made in her capacity as a "Chief

Compliance Officer and Senior Vice President of Employee Relations," and "[previous] Vice President of Compliance and Assistant General Counsel and as Corporate Counsel." (Griffiths Decl., ¶ 1.) In a motion such as this, the court would expect to see a declaration from a qualified individual such as a systems engineer, or someone in information technology. The declaration by Ms. Griffiths based on information and belief is insufficient, as it does not bridge the evidentiary gap to explain the technological connection between plaintiff's credentials and the act of electronically signing the arbitration agreement. She testifies as having "gained insight into how the PayCom system works as part of my knowledge and experience gained from doing my job." (Griffiths Decl., ¶ 5.) Acknowledging that plaintiff would have needed to use an individualized PayCom account to electronically sign his onboarding documents, including the contested arbitration agreement, is not enough to establish that plaintiff actually signed the agreement.

Civil Code 1633.9 subdivision (a) states that "[a]n electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable." (Civ. Code, § 1633.9, subd. (a).)

There is an absence of any supporting records to corroborate the conclusions of Ms. Griffiths' declaration. It is not supported that plaintiff had an account inaccessible (other than viewing) to anyone other than him (Id., ¶ 8), that he signed other HR documents with the same signature and/or electronic identification (Id., ¶ 9), that defendant received a notice and executed copy when plaintiff electronically executed the agreement (Id., ¶ 14), or that plaintiff logged in and entered any of the identifying information required to place his electronic signature (Id., ¶ 15), etc. Ultimately, what is missing is evidence that plaintiff used his unique credentials to access and execute the agreement. The court cannot determine from the declaration alone that the disputed electronic signature appearing on the agreement resulted from plaintiff's use of credentials exclusively controlled by him, or was an "act" of plaintiff under section 1633.9.

Ms. Griffiths attests that she "reviewed documents contained in Plaintiff's personnel file" and "Inter-Con's business records, to which I have access[.]" (Griffiths Decl., ¶ 4.) These records and documents are not identified in the declaration, and the arbitration agreement alone is attached as Exhibit A. This, however, suggests the existence of other supporting documentation that could connect the signatory process and plaintiff's alleged act – but it is not before the court.

In *Garcia*, there was also an evidentiary gap. (*Garcia v. Stoneledge Furniture LLC, supra,* 102 Cal.App.5th 41.) There, the declarant stated that the plaintiff had created a unique user ID and password, accessed the onboarding system, reviewed the arbitration agreement, and electronically signed it. However, the court held the declaration to be insufficient because the declarant did not explain *how* he knew the electronic signature could only have been placed on the agreement through plaintiff's credentials. He merely concluded that plaintiff signed it as her name appeared on the agreement. (*Garcia*, at p. 53.) Defendant here attempts to distinguish from *Garcia*, but misses the point that it is not sufficient to merely identify the unique ID or the credentials and authentication that are required, but the declarant needs to show *how* the plaintiff's unique credentials are linked to the agreement. While Ms. Griffiths mentions creation of an e-sign ID number, this still has not been established by a preponderance of the evidence to link plaintiff to the presented signature. (Griffiths Decl., ¶ 15.)

The court intends to deny the motion to compel arbitration. In light of the foregoing, the court will not address the arguments of unconscionability at this time.

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: lmg on 9-13-26 .
(Judge's initials) (Date)

(20)

Tentative Ruling

Re:	***Estate of Jae-Luv Smith v. County of Fresno et al.*** Superior Court Case No. 22CECG00120
Hearing Date:	September 15, 2026 (Dept. 502)
Motion:	By County Defendants to Continue Trial or Stay Action By Plaintiffs to Compel Further Response to Sixth Set of Requests for Production

Tentative Ruling:

To deny without prejudice the request to stay the action. Trial has already been continued by stipulation of the parties.

To grant plaintiffs' motion to compel. Within 20 days of service of the order by the clerk, the County of Fresno shall produce County of Fresno Department of Social Services Quality Assurance report requested in Request for Production Set Six, no. 36, and shall served a further verified response with a statement of compliance, and omitting all objections. (Code Civ. Proc., § 2031.310.)

Explanation:

The court has signed the stipulation and proposed order vacating the current trial date. The motion to continue trial is therefore moot. It is not clear if the County defendants (County of Fresno, Richard Plantz and Julie Donnelly) still seek a stay, which was specified as alternative relief to trial continuance. Discovery in this civil action has been hampered by the criminal prosecution of defendant Patrick Johnson for the alleged conduct and actions that form the basis of plaintiffs' claims. It is clear, as the parties agree, that the case is not yet ready to proceed to trial, and that trial must be continued. The court signed the stipulation and proposed order, vacating the current trial date. There does not appear to be an actual need to stay the action at this time, with the upcoming trial date being vacated. The parties should proceed with discovery and trial preparation, though the court may be open to staying proceedings in the future if the criminal case is not nearing completion and the parties have completed the discovery they need in this action. The request for a stay is therefore denied without prejudice to a future motion to stay.

Plaintiffs propounded on the County of Fresno Request For Production Set Six. Request no. 36, seeks production of a County of Fresno Department of Social Services Quality Assurance report. The County has refused to produce the report pursuant to various privileges and protections, few of which were asserted in its initial response. Any objections not asserted in the initial response are waived. (See *Scottscale Ins. Co. v. Superior Court* (1997) 59 Cal.App.4th 263, 273.) And the County has the burden of justifying its objections. (See Coy v. Superior Court (1962) 58 Cal.2d 210, 220-221; *Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255.) The only objection both raised in the initial response and clearly addressed in opposition to the motion to compel is the official information privilege. All other objections are deemed waived.

Evidence Code section 1040 provides in pertinent part,

> (a) As used in this section, "official information" means information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.
> (b) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing official information, if the privilege is claimed by a person authorized by the public entity to do so and either of the following apply:
> (1) Disclosure is forbidden by an act of the Congress of the United States or a statute of this state.
> (2) Disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice; but no privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding. In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered.

Similarly, the deliberative process privilege permits nondisclosure if "on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (Gov. Code, § 792.000.)

The County does not contend that disclosure is forbidden by an act of Congress or a statute of this state (Evid. Code, § 1040, subd. (b)(1)). Thus, the question is whether the disclosure is against the public interest. The County maintains that the purpose of the report was to conduct an internal evaluation of the County's systems, an internal evaluation of the functioning of those systems and the protocols followed (or not). Because the Quality Assurance report is part of the County's deliberative process, the County contends it is subject to the official information privilege.

However, the court agrees with plaintiffs that the public has a strong interest in the work of social services agencies who are entrusted with the welfare of vulnerable children, including children. Disclosure is in the interest of justice, since the substance of this lawsuit focuses on injuries sustained by plaintiffs as a result of their interactions with the Department of Social Services. Accordingly, the court intends to grant the motion and order the County to produce the Quality Assurance report, and serve a further verified response to demand no. 36 with a statement of compliance, and omitting all objections.

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: ___________lmg_________________ on ______9-13-26_______________.

(Judge's initials) (Date)

(48)

Tentative Ruling

Re:	***McCormick v. Henley Pacific LLC*** Superior Court Case No. 25CECG03002
Hearing Date:	September 15, 2026 (Dept. 502)
Motion:	By Defendant to Compel Arbitration

Tentative Ruling:

To grant defendant Henley Pacific LLC's motion to compel arbitration. To stay this action pending the completion of arbitration.

Explanation:

Plaintiff Adam McCormick ("Plaintiff") was hired on May 31, 2023 by defendant Henley Pacific LLC ("Defendant"). (Bowditch Decl., ¶ 4.) On June 25, 2025, Plaintiff filed his Complaint alleging several employment related causes of action. Defendant now moves the court to compel arbitration of Plaintiff's claims pursuant to the Mutual Agreement to Arbitrate Claims ("agreement"). (*Id.,* ¶ 7, Ex. A.)

With a motion to compel arbitration, the moving party must prove by a preponderance of evidence the existence of the arbitration agreement and that the dispute is covered by the agreement. The party opposing the motion must then prove by a preponderance of evidence that a ground for denial of the motion exists (e.g., fraud, unconscionability, etc.). (*Rosenthal v. Great Western Fin'l Securities Corp.* (1996) 14 Cal.4th 394, 413-414; *Hotels Nevada v. L.A. Pacific Ctr., Inc.* (2006) 144 Cal.App.4th 754, 758; *Villacreses v. Molinari* (2005) 132 Cal.App.4th 1223, 1230.) There is a strong public policy in favor of arbitration agreements and "doubts concerning the scope of arbitrable issues are to be resolved in favor of arbitration." (*Nyulassy v. Lockheed Martin Corp.* (2004) 120 Cal.App.4th 1267, 1278 (*quoting Ericksen, Arbuthnot, McCarthy, Kearney & Walsh, Inc. v. 100 Oak Street* (1983) 35 Cal.3d 312, 323).)

Plaintiff argues that Defendant has not met its burden to show that an agreement between the parties exists and Defendant has waived the right to compel arbitration.

<u>*Formation*</u>

The terms of the agreement provide that the agreement is governed by the Federal Arbitration Act ("FAA"), 9 U.S.C. § 1, et seq. Section 2 of the FAA provides for enforcement of arbitration provisions in any contract "evidencing a transaction involving commerce." (9 U.S.C. § 2.) To determine whether there is an enforceable arbitration agreement, courts apply state law principles related to formation, revocation, and enforcement of contracts. (*Banner Entertainment, Inc. v. Alchemy Filmworks, Inc.* (1998) 62 Cal.App.4th 348, 357.) Moving defendants are not required to submit evidence of impact on interstate commerce to establish FAA preemption. (See *Valencia v. Smyth* (2010) 185 Cal.App.4th 153, 157; *Cronus Investments, Inc. v. Concierge Services* (2005) 35

Cal.4th 376, 387, 394.) Plaintiff does not address the FAA in opposition, as such, Plaintiff concedes its applicability.

A trial court is required to grant a motion to compel arbitration "if it determines that an agreement to arbitrate the controversy exists." (Code Civ. Proc., § 1281.2) However, there is "no public policy in favor of forcing arbitration of issues the parties have not agreed to arbitrate." (*Garlach v. Sports Club Co.* (2012) 209 Cal.App.4th 1497, 1505) Thus, when a motion to compel arbitration is filed and accompanied by prima facie evidence of a written agreement to arbitrate the controversy, the court itself must determine: (1) whether the agreement exists, and (2) if any defense to its enforcement is raised, whether it is enforceable. The moving party bears the burden of proving the existence of an arbitration agreement by a preponderance of the evidence. The party claiming a defense bears the same burden as to the defense. (*Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal.4th 394, 413-414.)

"First, the moving party bears the burden of producing 'prima facie evidence of a written agreement to arbitrate the controversy.' The moving party 'can meet its initial burden by attaching to the [motion or] petition a copy of the arbitration agreement purporting to bear the [opposing party's] signature.' Alternatively, the moving party can meet its burden by setting forth the agreement's provisions in the motion. For this step, 'it is not necessary to follow the normal procedures of document authentication.' If the moving party meets its initial prima facie burden and the opposing party does not dispute the existence of the arbitration agreement, then nothing more is required for the moving party to meet its burden of persuasion." (*Gamboa v. Northeast Community Clinic* (2021) 72 Cal.App.5th 158, 165, citations omitted.)

"If the moving party meets its initial prima facie burden and the opposing party disputes the agreement, then in the second step, the opposing party bears the burden of producing evidence to challenge the authenticity of the agreement. The opposing party can do this in several ways. For example, the opposing party may testify under oath or declare under penalty of perjury that the party never saw or does not remember seeing the agreement, or that the party never signed or does not remember signing the agreement." (*Gamboa v. Northeast Community Clinic*, *supra*, 72 Cal.App.5th at p. 165, citations omitted.) "If the opposing party meets its burden of producing evidence, then in the third step, the moving party must establish with admissible evidence a valid arbitration agreement between the parties. The burden of proving the agreement by a preponderance of the evidence remains with the moving party." (*Id.* at pp. 165–166, citation omitted.)

Here, Defendant has met their initial burden of showing that there is an agreement to arbitrate by simply attaching to Bo Bowditch's declaration a copy of the agreement purporting to bear Plaintiff's signature. (Bowditch Decl., ¶ 7, Ex. A.) Plaintiff has "likewise met [his] burden on the second step by filing an opposing declaration, saying [he] did not recall the agreement…" (See *Gamboa v. Northeast Community Clinic, supra,* 72 Cal.App.5th at p. 167.) Plaintiff declared that he does not recall being provided a copy of the agreement or electronically signing the agreement. (McCormick Decl., ¶ 4.) "In the face of [the plaintiff's] failure to recall signing the [arbitration] agreement, [the defendant] had the burden of proving by a preponderance of the evidence that the electronic signature was authentic." (*Id*., at pp. 167-168 citing *Ruiz v. Moss Bros. Auto Group, Inc.* (2014) 232 Cal.App.4th 836, 846 (*Ruiz*).)

"Authentication of a writing means (a) the introduction of evidence *sufficient to sustain a finding that it is the writing that the proponent of the evidence claims it is* or (b) the establishment of such facts by any other means provided by law." (*Ibid*., italics in original, citations omitted.) "An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable." (*Ibid*., citing Civ. Code, § 1633.9, subd. (a), italics omitted.)

"In *Ruiz*, the court denied enforcement of an arbitration agreement purportedly signed electronically by Ruiz, an employee. Ruiz declared that he 'did not recall signing any arbitration agreement,' and if he had been given such an agreement, he would not have signed it. [Citation.] The employer offered a declaration that explained how it disseminated the agreement and how employees electronically executed it, yet 'did not indicate whether or if so how [the employer] ascertained that Ruiz electronically signed, or was the person who electronically signed, ... the 2011 [arbitration] agreement.' [Citation.] Applying the Uniform Electronic Transactions Act (Civ. Code, § 1633.1 et seq.), the Fourth Appellate District held that the employer had not borne its burden of proving that the electronic signature was 'the act of' the employee. [Citation.]" (*Iyere v. Wise Auto Group* (2023) 87 Cal.App.5th 747, 756–757 citing *Ruiz v. Moss Bros. Auto Group, Inc.* (2014) 232 Cal.App.4th 836, 842-845.)

There, the employer provided the declaration of its business manager, who "was 'required to be familiar with the generation and maintenance' of employee personnel records…" and "summarily asserted that Ruiz 'electronically signed' the 2011 agreement 'on or about September 21, 2011,' and that the same agreement was presented to 'all persons who seek or seek to maintain employment' with [the employer]." (*Ruiz, supra,* 232 Cal.App.4th at p. 839.) The business manager "did not explain how she arrived at that conclusion or inferred Ruiz was the person who electronically signed the 2011 agreement." (*Id*., at p. 843.) Despite Ruiz's full name and date appearing on the signature and date lines of the 2011 agreement, and that the business manager apparently retrieved the proffered true and correct copy of the 2011 agreement from the employer's personnel records, it was "never explained how Ruiz's printed electronic signature, or the date and time printed next to the signature, came to be placed on the 2011 agreement. More specifically, [the business manager] did not explain how she ascertained that the electronic signature on the 2011 agreement was 'the act of Ruiz'. (Civ. Code, § 1633.9, subd. (a).)" (*Id.*, at pp. 843-844.) The court further found it insufficient that the business manager "explained in her reply declaration that the 2011 agreement was part of an employee acknowledgment form that 'is' presented to all … employees as part of a series of changes to the company's employee handbook, and each employee is required to log into the company's HR system using his or her 'unique login ID and password,' to review and sign the employee acknowledgment form." (*Ibid*.)

Defendant has presented evidence to attribute the electronic signature appearing on the agreement to Plaintiff. Bo Bowditch, the Director of HR Operations and Engagement for Defendant, explains in his declaration how employee's employment records are signed and maintained in their information system, UKG Pro. To show that the agreement was "the act of" Plaintiff, Bowditch explains that new employees are sent a welcome email with a link to access the Onboarding Portal, where they create a unique password that is not provided to anyone else. (Bowditch Supp. Decl., ¶¶ 6-7.) Then, if the employee consents to using an electronic signature, the onboarding process proceeds, otherwise, UKG Pro aborts the process. (Bowditch Decl., ¶ 11.) Bowditch declares that Plaintiff signed the consent to use an electronic signature form electronically, and a copy of the consent is attached. (Bowditch Decl., ¶ 11, Ex. C.) UKG Pro then allows the employee to view each document, click the "Sign here" button, and type their name in the box. (Bowditch Decl., ¶¶ 13-14.) The process can be completed on a computer or tablet at the jobsite or on the employee's personal cell phone. (Bowditch Decl., ¶ 17.) Bowditch declares that Plaintiff signed the agreement on May 31, 2023, using IP Address 172.56.120.130, and attached a table showing the times that Plaintiff received, reviewed, acknowledged, and/or signed during his employment. (Bowditch Decl., ¶¶ 18-19, Ex. D.) The table showed the employment documents, including the subject agreement, were signed on the same date and in close succession. (*Ibid.*) Bowditch declares that the aforementioned IP Address is not associated with a device owned by Defendant. (Bowditch Decl., ¶ 20.)

Plaintiff contends that Defendant failed to provide sufficient evidence to authenticate Plaintiff's electronic signature. Plaintiff argues that the following show that the signatures cannot be authenticated: Plaintiff does not "recognize" the IP Address that was used to sign the agreement, Plaintiff does not prefer to sign with his full legal name, Plaintiff believes that his former manager, Luis Velazquez, signed the agreement without Plaintiff's consent, and the signature does not contain a timestamp. (Opp., pp. 5-6; McCormick Decl., ¶ 5.)

Defendant has met its burden of establishing the authenticity of Plaintiff's electronic signature. Plaintiff's declarations that he does not recognize IP Address 172.56.120.130 or that he prefers to sign his name, "A.J. McCormick" is only made in connection with the subject agreement, and not with the other documents. Plaintiff does not dispute that he signed the other onboarding documents, all of which were executed on the same date with the same device and the same electronic signature. (Bowditch Decl., Ex. A, p. 13, Ex. C, p. 18, Ex. D, p. 52; Bowditch Supp. Decl., Ex. F, pp. 14-18.) Plaintiff's argument that he did not use the device associated with the aforementioned IP Address or use his full name to sign the agreement is neither persuasive nor well supported.

In regard to the allegation that Luis Velazquez[2] signed Plaintiff's agreement, the evidence is weak and unpersuasive. Plaintiff argues that because Luis Velazquez has the same "New Hire ID", it shows that he forged Plaintiff's electronic signature. (Opp., p. 6; McCormick Decl., ¶¶ 5-6; Bowditch, Ex. C, D.) In response, Bowditch declares that the user designation only reflects the role of the new employee's manager and employer representative. The manager's name indicates their completion of the employer's portion of the same document. (Bowditch Supp. Decl., ¶ 18.) Bowditch further declares that Plaintiff's electronic signatures are recorded separately and are only associated with Plaintiff's user account. (*Id.*, ¶¶ 18-19) He then explains that a manager cannot execute an employee's electronic signature with their account. (*Id.*, ¶¶ 23.) Notably, Plaintiff's only

[2] Plaintiff incorrectly refers to Luis Enrique Velazquez as "Vasquez" and "Valezquez".

evidence is vague and conclusory. He submits that he "found out" that Luis Velazquez signed the agreement without his consent. (McCormick Decl., ¶ 5.) The evidence does not support the allegation that Luis Velazquez signed the agreement.

Plaintiff's last contention, that the electronic signature is not authentic because it lacks a time stamp, is likewise unconvincing. Plaintiff does not address or dispute the accuracy of the table evidencing the date and time each document was received, reviewed, acknowledged, and signed. (Bowditch Decl., ¶ 18, Ex. D, p. 38) According to the table provided, each document was signed on May 31, 2023, between 4:10 p.m. and 4:51 p.m., including the agreement (*Id.,* Ex. D., pp. 24-29.) The timestamp for the signature on the agreement and the short timeframe in which all the documents were signed supports the authenticity of the electronic signature.

Accordingly, there is sufficient information about how the electronic signature was obtained and sufficient information for the basis that the electronic signature was an act of plaintiff. As such, the electronic signature has been properly authenticated. Thus, Defendant has met their burden of showing the existence of an agreement to arbitrate.

Waiver

The party opposing enforcement of a contractual agreement on the basis of waiver must prove by clear and convincing evidence that the waiving party knew of the contractual right and intentionally relinquished or abandoned it. (*Quach v. California Commerce Club, Inc.* (2024) 16 Cal.5th 562, 584.) Its intentional relinquishment or abandonment of the right may be proved by evidence of words expressing an intent to relinquish the right or of conduct that is so inconsistent with an intent to enforce the contractual right as to lead a reasonable fact finder to conclude that the party had abandoned it. (*Ibid.*) In *Quach,* the California Supreme Court found that the defendant had waived their right to arbitrate where, after answering the complaint, propounded discovery requests, took plaintiff's deposition, corresponded with plaintiff's counsel about discovery disputes, did not raise the issue of arbitration with plaintiff's counsel or the court, affirmatively indicated its preference for a jury trial, left the checkbox unmarked for arbitration in the case management conference statement, posted jury fees, and filed the motion to compel arbitration 13 months after the complaint was filed. (*Id.* at pp. 586–587.)

Plaintiff argues that defendant has acted inconsistently with the right to arbitrate because it did not timely file a motion to compel arbitration and required Plaintiff's wet signature to obtain a copy of his employment records. (Opp., p. 6.)

The court does not find that the delay in moving for arbitration adequately evinces the intention to relinquish the right to compel arbitration or to abandon it. While the instant motion was filed 8 months after Defendant's answer, defendant has at all times insisted on arbitration and has not engaged in acts inconsistent with that intent. Defendant's counsel has included an intent to arbitrate Plaintiff's claims in the Answer, lodged requests with Plaintiff's counsel to proceed with arbitration, stated an intent to arbitrate in the case management statement, marked "Arbitration" on the Stipulation Regarding Alternative Dispute Resolution form, and there is no evidence that Defendant propounded discovery or has taken depositions. (Answer, pp. 1-2; Scardigli Decl., ¶ 5, Ex.

C, p. 13; Todd Decl., ¶ 3, Ex. A; Def.'s Case Management Statement, filed 10/29/25, pp. 1-2, 4; Def.'s Stip. ADR filed 2/26/26.)

As such, Plaintiff has not met his burden to demonstrate a waiver of the right to compel arbitration.

Accordingly, Defendant's motion is granted. This action is stayed pending the completion of arbitration.

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: lmg on 9-13-26.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Spencer Jr. v. Xiong***
Superior Court Case No. 26CU02651

Hearing Date: September 15, 2026 (Dept. 502)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant. To sign the proposed Order Approving Compromise without modification. To sign the proposed Order to Deposit with modification to Item 4, which is corrected from $9,385.37, to $8,928.96 to align with the petition and the Order Approving Compromise. No appearances necessary.

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: <u>lmg</u> on <u>9-14-26</u>.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re:	***In re Jonathan Izic Freeman*** Superior Court Case No. 26CU02699
Hearing Date:	September 15, 2026 (Dept. 502)
Motion:	Petition to Compromise Minor's Claim

Tentative Ruling:

To deny without prejudice. Petitioner Rosita Moreno must file a new petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of an amended petition. In the event that oral argument is requested, both petitioner Rosita Moreno and claimant Jonathan Izic Freeman are excused from appearing.

Explanation:

The petition appears to be in order with the exception of the disposition. Petitioner Rosita Moreno seeks a direct disbursement as guardian to claimant Jonathan Izic Freeman ("Claimant"). No evidence or information was provided in support of the disposition. The petition alternatively states that the funds could be deposited into a blocked account. Given the nature of the claims and Claimant's age, it would appear that the funds should be deposited into a blocked account. However, the petition fails to identify a financial institution in the alternative. The petition is denied without prejudice.

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: ___<u>Img</u>___ **on** ___<u>9-14-26</u>___.
(Judge's initials) (Date)