

Tentative Rulings for March 3, 2026
Department 503

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.*

24CECG05527 *Halford v. Manas* (for Department 501)

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

24CECG01430 *Nannette Regua v. Sandy Romero Crane* is continued to Wednesday, March 4, 2026, at 3:30 p.m. in Department 503.

25CECG00954 *Carmen Esqueda v. Jasdave Maan, Medical Doctor* is continued to Tuesday, April 21, 2026, at 3:30 p.m. in Department 503.

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Tentative Rulings for Department 503

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Tentative Ruling

Re: **Guidry v. Kids Kare Schools, Inc.**
Superior Court Case No. 24CECG02433

Hearing Date: March 3, 2026 (Dept. 503)

Motion: by Plaintiff for Preliminary Approval of Class Action and PAGA Settlement

Tentative Ruling:

To deny 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 required in order to give notice to putative class members as to whom the judgment in the action will be *res judicata*. (*Bell v. Superior Court* (2007) 158 Cal.App.4th 147, 166.) “Whether a class is ascertainable is determined by examining (1) the class definition, (2) the size of the class, and (3) the means available for identifying class members.” (*Reyes v. Board of Supervisors* (1987) 196 Cal.App.3^d 1263, 1271.)

To determine the identity of potential class members, the court will look to whether there are any objective criteria to describe them and whether they can be found without unreasonable expense or effort through business or official records. (*Lewis v. Robinson Ford Sales, Inc.* (2007) 156 Cal.App.4th 359, 369-370, citing *Daar v. Yellow Cab Co.* (1967) 67 Cal.2^d 695, 706 [proposed class action of taxi cab users from 1960 to 1964 who paid by coupons identifiable where they could be identified by serial numbers which were kept manually, not in computerized form]; *Rose v. City of Hayward* (1981) 126 Cal.App.3^d 926, 932 [plaintiff safety members denied uniform allowances, ammunition allowance, holiday pay and lump sum unused sick leave pay as factors used calculating their “final compensation,” used in PERS’ service retirement formula easily identifiable from PERS records].)

Here, the class members are current and former non-exempt employees who worked for defendant Kids Kare Schools, Inc. between June 6, 2020 and June 10, 2025. (Blanchard Decl., ¶ 15, Ex. 1, Settlement Agreement, ¶¶ 10c, 10g.) Class members can be ascertained from defendant's payroll and business records. The Blanchard declaration indicates the putative class consists of an estimated 1,100 members based on information provided by defendant. (*Id.*, ¶ 15.)

This is sizeable enough for class treatment and the ability to identify potential members appears feasible without unreasonable expense through defendant's payroll records. This number would certainly satisfy the numerosity requirement. (*Vasquez v. Coast Valley Roofing, Inc.* (E.D. Cal. 2009) 670 F.Supp.2d 1114, 1121 ["Courts have routinely found the numerosity requirement satisfied when the class comprises 40 or more members"].) Counsel's estimate, however, is hearsay. Further there is no evidence going to the means of identifying class members.

The numerosity and ascertainability factors lack admissible evidence. Plaintiff should submit a declaration from defendant Kids Kare Schools, Inc. attesting to the number of class members, and showing that they can be readily identified by reference to defendant's payroll or other business records.

c. Community of Interest

The community of interest factor requires consideration of three separate factors: (1) predominant common questions of law or fact; (2) class representatives whose claims are typical of the class; and (3) class representatives and counsel who can adequately represent the class. (*Brinker Restaurant Corp.*, *supra*, 53 Cal.4th at 1021.) The community of interest requirement for certification does not mandate uniform or identical claims, but focuses on internal policies, pattern and practice in order to assess whether that common behavior toward similarly situated plaintiffs renders class certification appropriate. (*Capitol People First v. Dept. Developmental Servs.* (2007) 155 Cal.App.4th 676, 692.)

This action involves claims that defendant failed to provide meal and rest breaks, failed to pay overtime and minimum wages, failed to timely pay wages, failed to issue compliant wage statements, failed to timely pay final wages, failed to reimburse employees for necessary business expenses, all of which were unfair business practices under Business and Professions Code section 17200 and are the subject of a PAGA claim for civil penalties. (Blanchard Decl., ¶ 14.)

The First Amended Complaint alleges defendant's business practices and procedures caused violations of the Labor Code. Defendant is alleged to have required pre-shift and post-shift work resulting in unpaid time and inaccurate timesheets. (FAC, ¶¶ 43, 53, 81, 85.) Defendant is also alleged to have required employees to work through lunch and rest breaks, or take late lunch and rest breaks, or take short lunch and rest breaks, or not permit them to leave during the lunch break and did not compensate the employees the meal period premiums or rest period premiums (*Id.*, ¶¶ 63, 64, 73, 75.) These practices resulted in employees working greater than 8 hours per day and not being compensated overtime, inaccurate wage statements that did not reflect all hours actually worked, and defendant's failure to pay all wages upon termination of

employment. Defendant is further alleged to have failed to reimburse business-related expenses, however no particular expense or practice is alleged. (*Id.*, ¶¶ 95-97.)

Class representative, Ramella Guidry, who was employed as a school bus driver from approximately March 2023 to August 2023. (Guidry Decl., ¶ 3.) She states in her declaration that she and other employees were not allowed to take meal and rest breaks and her decision to seek legal advice. (*Id.*, ¶ 4.) There are no factual statements of what policies or practices were in place to support the allegations of pre- and post-shift hours worked without compensation or what business expenses were not reimbursed, or, importantly, how her experience was common to all employees and not only those also worked as school bus drivers. Although the issues may be common between members of the putative class, plaintiff's declaration is not sufficient evidence to demonstrate commonality. Further, the evidence is not sufficient to demonstrate the class representative experienced the violations alleged in the First Amended Complaint.

There is also a typicality requirement, i.e. that plaintiffs' claims are significantly similar to those of other class members. (*Richmond v. Dart Indus., Inc.* (1981) 29 Cal.3d 462, 470.) This requires them to arise from the same event, practice, course of conduct, or legal theories (even if they are not identical to the class). (*Miller v. Woods* (1983) 148 Cal.App.3d 862, 874; *B.W.I. Custom Kitchen v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347.)

Usually, in wage and hour class actions, the distinctive feature that permits class certification is that the employees have the same job title or perform similar jobs, and the employer treats all in that discrete group in the same allegedly unlawful fashion. In *Brinker Restaurant v. Superior Court* (2012) 53 Cal.4th 1004, 1017, "no evidence of common policies or means of proof was supplied, and the trial court therefore erred in certifying a subclass."

As discussed with respect to commonality, plaintiff's declaration does not include adequate evidence of the practices in the workplace forming the basis of the alleged Labor Code violations could demonstrate that her experiences were typical of the putative class. Plaintiff's declaration should explain what policies were implemented that resulted in Labor Code violations alleged in the First Amended Complaint, that those policies were implemented across all job titles and California locations of her employer, and demonstrate the plaintiff experienced those Labor Code violations as a result of these policies.

The evidence is insufficient to demonstrate the commonality of the Labor Code violations alleged in the First Amended Complaint and the typicality of the class representative's experiences for the class members she seeks to represent. The class includes all non-exempt employees and it is unclear from the evidence provided whether the representative plaintiff's experiences as a bus driver were common to *all positions at all locations* she is including within the putative class.

"[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.) Counsel have shown that they are experienced and that they have successfully litigated other

class actions. (Blanchard Decl. ¶¶ 2-8, Ex. 1.) The next question is whether other circumstances evidence that the proposed class counsel and representative may have looked more to their own interests than to those of the class. One consideration is the incentive award.

i. Class Representative Incentive Award

“Where, as here, the class representatives face significantly different financial incentives than the rest of the class because of the conditional incentive awards that are built into the structure of the settlement, we cannot say that the representatives are adequate. See *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 627, 117 S. Ct. 2231, 138 L Ed 2d 689 (1997) (“The settling parties, in sum, achieved a global compromise with no structural assurance of fair and adequate representation....”)

(*Radcliffe v Experian Information Solutions, Inc.* (2013) 715 F. 3d 1157, 1165.)

“We once again reiterate that district courts must be vigilant in scrutinizing all incentive awards to determine whether they destroy the adequacy of the class representatives. The conditional incentive awards in this settlement run afoul of our precedents by making the settling class representatives inadequate representatives of the class.” (*Id.* at p. 1164.)

“There is a serious question whether class representatives could be expected to fairly evaluate whether awards ranging from \$26 to \$750 is a fair settlement value when they would receive \$5,000 incentive awards. Under the agreement, if the class representatives had concerns about the settlement's fairness, they could either remain silent and accept the \$5,000 awards or object to the settlement and risk getting as little as \$26 if the district court approved the settlement over their objections.” (*Id.* at p. 1165.)

“The propriety of incentive payments is arguably at its height when the award represents a fraction of a class representative's likely damages; for in that case the class representative is left to recover the remainder of his damages by means of the same mechanisms that unnamed class members must recover theirs. The members' incentives are thus aligned. But we should be most dubious of incentive payments when they make the class representatives whole, or (as here) even more than whole; for in that case the class representatives have no reason to care whether the mechanisms available to unnamed class members can provide adequate relief.”

(*In re Dry Max Pampers Litigation* (6th Cir. 2013) 724 F.3d 713, 722.)

The settlement agreement in the instant case provides that the named plaintiff is to receive an enhancement payment of up to \$10,000 as class representative. It is unclear if this payment is in addition to their respective individual settlement payment as a class member and/or PAGA group member. After deduction of administration expenses, attorney costs and fees, PAGA settlement, and the \$10,000 incentive award, approximately \$1,050,00 is left to be distributed to the class members. (Blanchard Decl., ¶ 16.) The mathematical average payment determined by dividing the remaining amount by the estimated number of class members amounts to approximately \$910 per

person. The actual amounts will vary based on the class member's amount of workweeks.

The class representative incentive award is 10 times the mathematical average payment to class members and represents less than 1% of the gross settlement. The usual amount approved is 1.5% or less and this request is within that range. Ramella Guidry attests to spending approximately 45 hours assisting with the prosecution of her case for over one year. (Guidry Decl., ¶ 13.) She additionally attests to signing a general release of claims against her employer but does not specify what, if any, claims she is relinquishing other than those alleged in this action. (*Id.*, ¶ 14.) She additionally attests to a very brief employment period from March 2023 through August 2023 which, in theory would result in a smaller settlement share than the mathematical average. Although this doesn't prevent granting preliminary approval, plaintiff's declaration submitted with a motion for final approval must include evidence of their involvement in the case and risks taken, beyond speculation, to support the incentive award greatly disproportionate to the recovery of an average class member.

d. Superiority of Class Certification

Wage and hour Labor Code cases are particularly well-suited to class resolution because of the small amounts of each employee's claim, which makes it impractical to bring wage and hour cases on an individual basis. The large number of proposed class members (once established with admissible evidence) would also make it impractical to bring the claims separately. Although generally superior, there is insufficient evidence of commonality of the Labor Code violations alleged and typicality of the plaintiff's claims with respect to the experiences of the putative class. The court is unable to find that class certification is superior at this time.

2. SETTLEMENT

a. Legal Standards

"When, as here, a class settlement is negotiated prior to formal class certification, there is an increased risk that the named plaintiffs and class counsel will breach the fiduciary obligations they owe to the absent class members. As a result, such agreements must withstand an even higher level of scrutiny for evidence of collusion or other conflicts of interest than is ordinarily required under Rule 23(e) before securing the court's approval as fair." (*Koby v. ARS Nat'l. Serv. Inc.* (9th Cir. 2017) 846 F.3d 1071, 1079.)

"[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 before the ... court must be sufficiently developed.” (*Id.* at p. 130, internal citation omitted.) “The court ‘must stop short of the detailed and thorough investigation that it would undertake if it were actually trying the case,’ but nonetheless it ‘must eschew any rubber stamp approval in favor of an independent evaluation.’” (*Id.* at p. 130, internal citation omitted.) 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. The Adequacy 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, The Declaration of Annabel Blanchard presents counsel’s assessment of the realistic exposure and maximum recovery for plaintiff’s claimed Labor Code violations. (Blanchard Decl., ¶¶ 24-36.) Counsel’s summary is based upon her analysis of a random sampling or class member time and pay records together with defendant’s relevant policies, the total workweeks for the period and average rate of pay for the class members to calculate the maximum exposure and counsel’s experience to discount the maximum exposure to an adjusted realistic exposure. (*Id.*, ¶¶ 21-22, 24.) There is no declaration from an expert to provide foundation for the figures relied upon in counsel’s assessment of the settlement as reasonable.

The potential value for each of the alleged violations is based entirely on plaintiffs’ counsel’s declaration. Counsel does not have personal knowledge to testify to the actions, policies, or practices constituting the alleged violations or the estimated number of class members and workweeks used in her calculations. In short, there is no evidence to support the potential exposure value calculated.

Additionally, counsel has not demonstrated she is qualified to make such calculations based on a sample of the defendant’s time records and payroll data. **A declaration by an expert is required to rely on a sample to determine damages issues such as those before the Court here.** “When using surveys or other forms of random sampling, it is crucial to utilize a properly credentialed expert who will be able to explain to the court the methods used to arrive at his or her conclusions and persuade the court concerning the soundness of the methodology.” (Chin, Wiseman et al. Employment Litigation (TRG, 2017) section 19:975.3.)

The essence of the science of inferential statistics is that one may confidently draw inferences about the whole from a representative sample of the whole. Whether such inferences are supportable, however, depends on how representative the sample is. Inferences from the part to the whole are justified [only] when the sample is representative. Several considerations determine whether a sample is sufficiently representative to fairly support inferences about the underlying population.

(Duran v. U.S. Bank National Ass'n. (2014) 59 Cal.4th 1, 38.)

Those considerations include variability in the population, whether size of the sample is appropriate, whether the sample is random or infected by selection bias, and whether the margin of error in the statistical analysis is reasonable. (*Id.* at pp. 38–46.)

Further, the declaration provides only an estimated number of class members during the period. The estimate from plaintiff's counsel is hearsay. There is no discussion of the average hours worked, hourly wages of the class members or any other discussion of the evidence supporting the figures used by the parties to arrive at the settlement before the court. Plaintiff has not submitted an expert declaration or provided any discussion or analysis as to how the information submitted supports plaintiff's counsel's damages estimates.

Plaintiff points out that the settlement was reached after arm's length mediation, and that counsel conducted informal discovery and document exchange to investigate the claims and learn the strengths and weaknesses of the case. Counsel also appear to have experience in wage and hour litigation. These factors generally weigh in favor of finding that the settlement is fair, adequate, and reasonable. However, the evidence of the strength of plaintiff's case and risk of maintaining through litigation is limited to counsel's declaration and opinion. There is insufficient evidence to support finding the settlement is fair, adequate, and reasonable.

c. Proposed Class Notice

The proposed notice procedures described within the settlement agreement appears to be adequate. A copy of the proposed notice itself, although identified as an exhibit attached to the Settlement Agreement, is not included for the court's review. (See Blanchard Decl., Ex. 3, Settlement Agreement, ¶ 28a.) The notification procedure is designed to provide the greatest likelihood that each class member will receive the settlement notification. The notices should provide the class members with information regarding their time to opt out, object, or challenge the number of workweeks, the nature and amount of the settlement, the amount to be received by the class member, 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. The notice should also advise PAGA group members they may opt-out of the class settlement but cannot exclude themselves from the PAGA claims and will receive a PAGA penalty payment. Due to the inability to review the proposed class notice, the court is unable to find that the proposed class notice is adequate.

3. ATTORNEYS' FEES AND COSTS

Plaintiff's counsel seeks a fee award of 35% of the gross settlement. There has been considerable debate in the Courts of Appeal as to whether a percentage fee should be permitted in class action settlements, or whether the courts should employ the lodestar fee calculation method. However, the California Supreme Court has determined that a percentage fee method is allowable where there is a common fund settlement.

“Whatever doubts may have been created by *Serrano III* [citation], or the Court of Appeal cases that followed, we clarify today that use of the percentage method to calculate a fee in a common fund case, where the award serves to spread the attorney fee among all the beneficiaries of the fund, does not in itself constitute an abuse of discretion. We join the overwhelming majority of federal and state courts in holding that when class action litigation establishes a monetary fund for the benefit of the class members, and the trial court in its equitable powers awards class counsel a fee out of that fund, the court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created.” (*Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 503.)

However, the Supreme Court also observed that the trial court has discretion to double-check a proposed fee percentage award by using the lodestar method. “Nor do we perceive an abuse of discretion in the court's decision to double check the reasonableness of the percentage fee through a lodestar calculation. As noted earlier, ‘[t]he lodestar method better accounts for the amount of work done, while the percentage of the fund method more accurately reflects the results achieved.’ [Citation.] A lodestar cross-check thus provides a mechanism for bringing an objective measure of the work performed into the calculation of a reasonable attorney fee. If a comparison between the percentage and lodestar calculations produces an imputed multiplier far outside the normal range, indicating that the percentage fee will reward counsel for their services at an extraordinary rate even accounting for the factors customarily used to enhance a lodestar fee, the trial court will have reason to reexamine its choice of a percentage. [Citation.]” (*Id.* at p. 504.)

Here, is seeking preliminary approval of \$650,000.00 in attorney fees, representing 35% of the gross settlement and actual litigation costs of up to \$30,000.00. Plaintiff's counsel has provided a brief summary of the qualifications of the attorneys within the Blackstone Law, APC law firm but has failed to provide any evidence of the hours worked or billing rates of the attorneys.

Although the court may ultimately approve the requested fees and litigation costs, counsel is expected to provide some evidentiary basis for the requested fees and costs when requesting preliminary approval of the settlement.

4. PAYMENT TO CLASS ADMINISTRATOR

The settlement provides that the settlement administrator ILYM Group, Inc. will be paid up to \$10,000. The declaration of Lisa Mullins summarizes the qualifications and experience of the firm and provides an itemized estimate to support the proposed amount for their services. (Mullins Decl., Ex. C.) The evidence provided adequately supports the requested amount from the settlement.

