

**Tentative Rulings for March 5, 2026**  
**Department 502**

**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)**

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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.*

24CECG04369      *Mathias Cantu v. Kurt Hebding* (Dept. 502)

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

21CECG02886      *Susan McDaniel v. Athenix Physicians Group, Inc.* is continued to Thursday, April 9, 2026, at 3:30 p.m. in Department 502.

24CECG02135      *Delta Sand, Gravel & Recycling Inc. v. Advanced General Constructions Inc.* is continued to Thursday, April 9, 2026, at 3:30 p.m. in Department 502.

24CECG05645      *Alina Khil v. The Regents of the University of California* is continued to Thursday, April 9, 2026, at 3:30 p.m. in Department 502.

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(Tentative Rulings begin at the next page)

# **Tentative Rulings for Department 502**

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(03)

**Tentative Ruling**

Re: ***Harris v. Reedley Community Hospital***  
Case No. 24CECG04865

Hearing Date: March 5, 2026 (Dept. 502)

Motion: Defendant's Motion to Compel Arbitration of Plaintiff's  
Individual PAGA Claims and to Stay Plaintiff's Representative  
PAGA Claims

**Tentative Ruling:**

To deny defendant's motion to compel plaintiff to arbitrate his individual PAGA claim. To deny the motion to stay the representative PAGA claim.

**Explanation:**

"[W]hen a petition to compel arbitration is filed and accompanied by prima facie evidence of a written agreement to arbitrate the controversy, the court itself must determine whether the agreement exists and, if any defense to its enforcement is raised, whether it is enforceable. Because 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. If the party opposing the petition raises a defense to enforcement - either fraud in the execution voiding the agreement, or a statutory defense of waiver or revocation (see § 1281.2, subds. (a), (b)) - that party bears the burden of producing evidence of, and proving by a preponderance of the evidence, any fact necessary to the defense." (*Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal. 4th 394, 413.) Thus, 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.)

In the present case, there is no dispute that plaintiff executed an agreement in which he agreed to submit all disputes related to or arising out of his employment with defendant to binding arbitration. However, the parties vigorously dispute whether the plaintiff has alleged both individual and representative claims under the Private Attorney General Act ("PAGA"), Labor Code section 2699, and whether plaintiff should be compelled to arbitrate his individual claim before the representative claim is resolved in court. Plaintiff contends that he has only alleged a representative claim under PAGA on behalf of himself and the other aggrieved employees of defendant, and thus he has not alleged an individual claim that is subject to arbitration. On the other hand, defendant argues that plaintiff's complaint alleges both individual and representative claims, and therefore plaintiff should be required to arbitrate his individual claims while his representative claims should be stayed.

In *Viking River v. Moriana* (2022) 596 U.S. 639, the United States Supreme Court drew a distinction between individual and representative PAGA claims, and found that individual PAGA claims could be compelled to arbitration. (*Id.* at p. 662). The court also

held that, “[u]nder PAGA’s standing requirement, a plaintiff can maintain non-individual PAGA claims in an action only by virtue of also maintaining an individual claim in that action. See Cal. Lab. Code Ann. §§ 2699(a), (c).” (*Id.* at p. 663.)

However, after *Viking River* was decided, the California Supreme Court in *Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104 concluded that “[a]rbitrating a PAGA plaintiff’s individual claim does not nullify the fact of the violation or extinguish the plaintiff’s status as an aggrieved employee....” (*Id.* at p. 1121.) Accordingly, “where a plaintiff has filed a PAGA action comprised of individual and non-individual claims, an order compelling arbitration of individual claims does not strip the plaintiff of standing to litigate non-individual claims in court.” (*Id.* at p. 1123.)

In *Balderas v. Fresh Start Harvesting, Inc.* (2024) 101 Cal.App.5th 533, the Court of Appeal held that “an employee who does not bring an individual claim against her employer may nevertheless bring a PAGA action for herself and other employees of the company.” (*Id.* at p. 536) “The statutory goal [of PAGA] is furthered by extending broad standing to aggrieved employees who do not depend on the viability or strength of a plaintiff’s individual PAGA claim. The inability for an employee to pursue an individual PAGA claim does not prevent that employee from filing a representative PAGA action. California courts have consistently held that “[p]aring away the plaintiff’s individual claims” for one reason or another, “does not deprive the plaintiff of standing to pursue representative claims under PAGA.”” (*Id.* at p. 537, quoting *Adolph v. Uber Technologies, Inc.*, *supra*, 14 Cal.5th at p.1122.) The *Balderas* court found that plaintiff’s complaint adequately alleged standing even though it alleged that “ ‘Ms. Balderas is not suing in her individual capacity; she is proceeding herein solely under the PAGA, on behalf of the State of California for all aggrieved employees, including herself and other aggrieved employees’ of Fresh Start.” (*Id.* at p. 538.)

In *Leeper v. Shipt, Inc.* (2024) 107 Cal.App.5th 1001, the trial court denied the employer’s motion to compel arbitration, finding that plaintiff had only alleged representative claims under PAGA and therefore there was no individual cause of action that could be compelled to arbitration. (*Id.* at p. 1006.) The Court of Appeal, Second District, Division 1, reversed. The Court of Appeal held that the plaintiff’s complaint necessarily alleged both individual and representative PAGA claims, despite her contention that she was not alleging an individual claim, and therefore the individual claim could be severed from the representative claim and sent to arbitration. (*Id.* at p. 1012.) However, the California Supreme Court has accepted review of *Leeper*, so that decision is not binding authority, and may merely be cited as persuasive authority at this time. (*Leeper v. Shipt, Inc.* (2025) 566 P.3d 234; Cal. Rules of Court, rule 8.1115(e)(1).)

The Fourth District Court of Appeal in *Rodriguez v. Packers Sanitation Services, Ltd., LLC* (2025) 109 Cal.App.5th 69 also recently addressed the issue of whether a plaintiff can allege only a representative PAGA claim and thus avoid having to go to arbitration. The Court of Appeal held that, since the plaintiff was not seeking individual PAGA relief and the representative PAGA claim was not subject to arbitration, therefore the trial court properly denied the employer’s motion to compel arbitration. “[W]e are of the view that where, as here, the defendant brings a motion to compel arbitration and the parties dispute whether the complaint includes arbitrable individual PAGA claims, the court should resolve the dispute by examining the complaint... Therefore, if on a motion to compel arbitration the court examines the complaint and determines it does not allege

an individual PAGA claim, the court should decline to compel any such claim to arbitration." (*Ibid*, citations omitted.) Again, however, the California Supreme Court has accepted review of *Rodriguez*, so *Rodriguez* is not binding authority at this time and may merely be cited as persuasive. (*Rodriguez v. Packers Sanitation Services, Ltd.* (2025) 567 P.3d 1272, Cal. Rules of Court, rule 8.1115(e)(1).)

Therefore, the issue of whether a plaintiff can allege only a representative PAGA claim without also alleging an individual claim has not yet been finally resolved. The *Leeper* and *Rodriguez* courts have reached opposite conclusions on the issue. At this time, the court must resolve the issue without the benefit of the California Supreme Court's wisdom.

Here, the court intends to follow the reasoning of the *Rodriguez* decision, as the court believes that allowing a plaintiff to allege a representative-only PAGA claim would advance the objectives of PAGA by allowing the plaintiff to bring suit on behalf of all aggrieved employees without having to first go to arbitration of an individual claim that he has not sought to bring. Also, the *Leeper* court's conclusion that all PAGA actions necessarily have both individual and representative claims appears to be questionable, especially in light of the *Balderas* court's holding that a plaintiff may bring a PAGA action solely on behalf of the aggrieved employees without seeking individual relief for himself. (*Balderas, supra*, 101 Cal.App.5<sup>th</sup> at p. 536.) The goals of PAGA would also be promoted by allowing such "headless" representative-only actions, as the representative claim should not have to rely on the strength or viability of the individual claim. (*Id.* at p. 537.)

Thus, the court intends to follow the *Rodriguez* court's guidance and look to the actual allegations of the complaint to determine whether a representative-only claim has been alleged, rather than concluding that a PAGA plaintiff necessarily alleges both individual and representative claims, as *Leeper* concluded. If the plaintiff has alleged a representative-only claim, then the motion to compel arbitration should be denied. (*Rodriguez, supra*, at pp. 79-80.)

Here, while the allegations of the complaint are slightly ambiguous, it does appear that plaintiff is seeking to bring a representative-only PAGA claim. He alleges that he "brings this action against defendant Reedley Community Hospital (referred to as "DEFENDANT") seeking only to recover PAGA civil penalties on behalf of all current and former aggrieved employees that worked for DEFENDANT. PLAINTIFF does **not seek to recover anything other than penalties as permitted by California Labor Code § 2699.** To the extent that statutory violations are mentioned for wage violations, PLAINTIFF does not seek underlying general and/or special damages for those violations, but simply the civil penalties permitted by California Labor Code § 2699." (Complaint, ¶ 1, emphasis in original.) "PLAINTIFF is not suing in his individual capacity; he is proceeding herein solely under the PAGA, on behalf of the State of California for all aggrieved employees, including himself and other aggrieved employees. Nothing in this complaint should be construed as PLAINTIFF suing in his individual capacity." (*Id.* at ¶ 4.)

"PLAINTIFF, and such persons that may be added from time to time who satisfy the requirements and exhaust the administrative procedures under the Private Attorney General Act, brings this Representative Action on behalf of the State of California with respect to himself and all individuals who are or previously were employed by DEFENDANT in California..." (*Id.* at ¶ 8.) "PLAINTIFF, on behalf of himself and all AGGRIEVED EMPLOYEES presently or formerly employed by DEFENDANT during the PAGA PERIOD, brings this representative action pursuant to Labor Code § 2699, et seq. seeking fixed civil



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**Tentative Ruling**

Re: **Joseph Molina v. Qassim Muffah**  
Superior Court Case No. 25CECG00896

Hearing Date: March 5, 2025 (Dept. 502)

Motion: Federated Mutual Insurance Company's Motion to Intervene on behalf of defendant Central Valley Wholesale, Inc.

**Tentative Ruling:**

To grant. (Code of Civ. Proc. § 387, subd. (d)(1)(B).) Nonparty Federated Mutual Insurance Company shall serve and file its proposed answer in intervention within 10 days of the clerk's service of the minute order.

**Explanation:**

Proposed Intervenor Federated Mutual Insurance Company ("Federated") seeks leave to intervene in this action on behalf of its insured and defendant in this action, Central Valley Wholesale, Inc. ("CVW.") Federated asserts CVW is a suspended corporation and thus cannot legally appear on its own behalf.

Code of Civil Procedure, section 387, subdivision (d) provides that:

The court shall, upon timely application, permit a nonparty to intervene in the action or proceeding if either of the following conditions is satisfied ... [¶] (B) The person seeking intervention claims an interest relating to the property or transaction that is the subject of the action and that person is so situated that the disposition of the action may impair or impede that person's ability to protect that interest, unless that person's interest is adequately represented by one or more of the existing parties. (Code Civ. Proc. § 387, subd. (d)(1)(B).)

Exposure to direct liability is sufficient to create a basis for insurer intervention in a third party action against the insured. (*Western Heritage Ins. Co. v. Superior Court* (2011) 199 Cal.App.4th 1196, 1205.) Intervention may be allowed in the insurance context, where third party claimants are involved, when the insurer is allowed to take over in litigation if its insured is not defending an action, to avoid harm to the insurer. (*Id.* at p. 1205.) Intervention is appropriate where the nonparty has a direct and immediate interest in the litigation; the intervention will not enlarge the issues in the case; and the reasons for intervention outweigh any opposition by the existing parties. (*Truck Ins. Exch. V. Superior Court* (1997) 60 Cal.App.4th 342, 346.)

Here Federated seeks leave to file its proposed answer-in-intervention because its insured has indicated it cannot defend the action, where it was suspended by the Secretary of State after receiving notice of a deficiency from the Franchise Tax Board.

