

Tentative Rulings for April 16, 2025  
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.*

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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.

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(Tentative Rulings begin at the next page)

## **Tentative Rulings for Department 502**

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(03)

**Tentative Ruling**

Re: ***Denise Hands v. Central California Faculty Medical Group, Inc.***  
Superior Court Case No. 22CECG00474

Hearing Date: April 16, 2025 (Dept. 502)

Motion: Plaintiff's Motion to Approve PAGA Settlement

**Tentative Ruling:**

To deny plaintiff's motion to approve PAGA settlement, without prejudice.

**Explanation:**

**1. Introduction**

Under Labor Code section 2699, "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to [PAGA]. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." (Lab. Code, § 2699, subd. (i)(2).)

The statute does not explain what exactly the trial court should consider when reviewing a proposed PAGA settlement. However, recently the Court of Appeal in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56 did provide some guidance. The court explained that "many federal district courts have applied the 'fair, reasonable, and adequate' standard from class action cases to evaluate PAGA settlements." (*Id.* at pp. 75–76, disapproved on other grounds by *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664.)

"Despite the fact that "'a representative action under PAGA is not a class action'", and is instead a 'type of qui tam action', a standard requiring the trial court to determine independently whether a PAGA settlement is fair and reasonable is appropriate. Class actions and PAGA representative actions have many differences, with one salient difference being that certain due process protections afforded to unnamed class members are not part of PAGA litigation because aggrieved employees do not own personal claims for PAGA civil penalties. Nonetheless, the trial court must 'review and approve' a PAGA settlement, and the Supreme Court has in dictum referred to this review as a 'safeguard[ ]'. The Supreme Court has also observed that trial court approval 'ensur[es] that any negotiated resolution is fair to those affected.' When trial court approval is required for certain settlements in other qui tam actions in this state, the statutory standard is whether the settlement is 'fair, adequate, and reasonable under all the circumstances.' Thus, while PAGA does not require the trial court to act as a fiduciary for aggrieved employees, adoption of a standard of review for settlements that prevents 'fraud, collusion or unfairness', and protects the interests of the public and the LWDA in the enforcement of state labor laws is warranted. Because many of the factors used to evaluate class action settlements bear on a settlement's fairness—including the strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount—these factors can be useful in evaluating the fairness of a PAGA settlement." (*Id.* at pp. 76–77, internal citations omitted.)

“Given PAGA's purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair in view of PAGA's purposes and policies. We therefore hold that a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.” (*Id.* at p. 77, internal citations and footnote omitted.)

On the other hand, “PAGA does not provide that aggrieved employees must be heard on the approval of PAGA settlements... PAGA provides no mechanism for aggrieved employees, including those pursuing PAGA lawsuits, to be heard in objection to another PAGA settlement. This concession is dispositive, and we will not read a requirement into a statute that does not appear therein.” (*Id.* at p. 79, internal citation omitted.)

## **2. Notice to LWDA**

Labor Code section 2699, subdivision (l)(2), states: “The superior court shall review and approve any settlement of any civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court.”

Here, plaintiff's counsel states that notice of the settlement was given to the LWDA on February 11, 2025. (Szilagyi decl., ¶ 17.) The LWDA has not objected to the settlement. Therefore, plaintiff has complied with the requirement to give notice of the settlement to the LWDA.

## **3. Is the Settlement Fair, Adequate, and Reasonable?**

As mentioned above, the Court of Appeal in *Moniz v. Adecco USA, Inc.*, *supra*, 72 Cal.App.5th 56 stated that the trial court should review PAGA settlements to determine whether they are fair, adequate and reasonable. (*Moniz, supra*, at pp. 75-77.) “Because many of the factors used to evaluate class action settlements bear on a settlement's fairness—including the strength of the plaintiff's case, the risk, the stage of the proceeding, the complexity and likely duration of further litigation, and the settlement amount—these factors can be useful in evaluating the fairness of a PAGA settlement.” (*Id.* at p. 77.)

“Given PAGA's purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair in view of PAGA's purposes and policies. We therefore hold that a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws.” (*Ibid.*, internal citations and footnote omitted.)

Here it does appear that the proposed settlement is fair, adequate and reasonable under the circumstances.

**A. Strength of Case:** Plaintiff's counsel states that the defendant's records and expert analysis revealed that there were an estimated 856 aggrieved employees, and that defendant's violations of the law led to an estimated 19,200 pay periods with violations. At a minimum of \$100 penalty per pay period, defendant would have

exposure of \$1,920,00. (Szilagyi decl., ¶ 22.) If the court stacked each violation, then defendant's exposure would potentially be much higher. (*Ibid.*) However, "Plaintiff Counsel's calculations assumed the Court would find multiple violations in every pay period based on Plaintiff's theories of liability, and agree with all of Plaintiff's arguments 13 and supporting evidence as to Defendant's exposure. The exposure was respectively reduced to consider the real risks that the Court would disagree with at least part of Plaintiff's position." (*Id.* at ¶ 23.) Defendant also raised several defenses that might have been successful. (*Id.* at ¶¶ 24-28.) The court also has discretion to reduce PAGA awards that it deems to be overly unjust, arbitrary, oppressive, and confiscatory. Thus, the court might have reduced the award even if plaintiff prevailed. (*Id.* at ¶ 30.)

Therefore, plaintiff has shown that her case was relatively strong, but entailed considerable risks as well, including the risk that she might not obtain anything at trial, or that, even if she did prevail, the award might be substantially reduced by the court. Also, plaintiff's evidence indicates that the gross settlement is over 25% of the total realistic recovery, which appears to be a good result under the circumstances. As a result, this factor weighs in favor of approving the settlement.

**B. Stage of the Proceeding:** A presumption of fairness exists where the settlement is reached through arm's length mediation between adversarial parties, where there has been investigation and discovery sufficient to allow counsel and the court to act intelligently, and where counsel is experienced in similar litigation. (*Dunk v. Ford Motor Company* (1996) 48 Cal. App 4th 1794, 1802.) Here, the case settled after the parties exchanged informal discovery and attended mediation. It appears that counsel obtained sufficient information to make an informed decision about settling the case. Plaintiff's counsel is also highly experienced in representative litigation. Therefore, this factor weighs in favor of approving the settlement.

**C. Risks of Litigating Case through Trial:** Plaintiff contends that, while the potential maximum recovery here was substantial, the defendant raised strong defenses and litigating the case through trial would have involved considerable risks for plaintiff. There would also have been substantial costs to both parties in trying the case. There was also the risk that the court would have reduced the amount of penalties substantially even if plaintiff prevailed at trial. In addition, it is likely that a judgment in favor of plaintiff would have been appealed by defendant, which would result in further expenses and delays, as well as raising the possibility that the judgment might be reversed. Therefore, this factor weighs in favor of approving the settlement.

**D. Amount of Settlement:** As discussed above, the \$500,000 gross settlement amount appears to be reasonable given defendant's strong defenses and the likelihood that plaintiff would not be able to recover the full amount of penalties she sought. There is also a risk that the trial court would exercise its discretion to reduce the amount of penalties even if plaintiff prevailed at trial. Given that the maximum amount of penalties realistically obtainable by plaintiff was \$1,920,000, her decision to settle for a gross amount of \$500,000 was reasonable under the circumstances. The gross settlement is over 25% of the amount that she might have realistically been likely to obtain if she prevailed at trial, which appears to be an excellent result. Therefore, plaintiff has adequately shown that the proposed settlement of her PAGA claims for \$500,000 is fair, reasonable, and adequate under the circumstances.

**E. Experience and Views of Counsel:** Plaintiff's counsel are highly experienced in class and representative litigation. They have stated that the settlement is fair, adequate and reasonable under the circumstances. Therefore, this factor weighs in favor of approval.

**F. Government Participation:** No government entity participated in the case, so this factor does not favor either approval or disapproval of the settlement.

**G. Attorney's Fees and Costs:** Plaintiff's counsel seeks \$166,666.67 in attorney's fees, plus up to \$35,000 in court costs. The fees are the equivalent of 1/3 of the total gross recovery.

Courts have approved awards of fees in class actions that are based on a percentage of the total common fund recovery. (*Laffitte v. Robert Half Internat.* (2016) 1 Cal.5th 480, 503.) It appears that the same reasoning would apply to PAGA settlements, which bear similarities to class actions. However, the court may also perform a lodestar calculation to double check the reasonableness of the fee request. (*Laffitte, supra*, at pp. 504-506.)

Here, counsel's fees are about 1/3 of the total gross settlement, which does not appear to be unreasonable. Also, counsel claims to have done 244.30 hours of work on the case, billing at rates from \$550 to \$950 per hour. (Szilagyi decl., ¶¶ 45-46.) Counsel claims to have billed \$177,560 in work on the case. (*Ibid.*) The hours incurred appear to be reasonable. The hourly rates are high in comparison to the rates charged by Fresno attorneys, but they do appear to be in line with what other Southern California attorneys of similar background and experience charge. Therefore, the court intends to find that the hourly rates charged by plaintiff's counsel are reasonable.

The requested fees are actually somewhat lower than the lodestar fees incurred on the case, which also tends to show that the requested fees are reasonable here. Therefore, the court intends to find that the requested fees are reasonable under the circumstances.

Likewise, the request for \$35,000 in costs is reasonable, as counsel states that they incurred \$27,808.420 in costs over the course of the litigation, and they anticipate incurring more costs before the case is finished. Any costs that are not incurred in the case will revert back to the net settlement amount. (Szilagyi decl., ¶ 48.) Therefore, the court intends to approve the request for \$35,000 in costs.

**H. Administration Costs:** The settlement administrator, Phoenix Settlement Administrators will receive up to \$8,750 to cover administration costs. Phoenix has now provided a declaration from one of its representatives to explain why it should receive \$8,750 for administration costs. (See decl. of Jodey Lawrence.) As Ms. Lawrence explains, Phoenix has provided an invoice which estimates that it will cost \$8,750 to administer the settlement. (*Id.* at ¶¶ 14-16, and Exhibit B thereto.) These costs for administering the settlement appear to be reasonable. Therefore, plaintiff has now shown that the requested amount of administration costs is reasonable here.

**I. Incentive Award to Named Plaintiff:** The settlement also provides that the named plaintiff will receive an incentive award of \$15,000. This amount will compensate her for her work on the case, as well as for the release of her individual claims. Plaintiff has now provided her own declaration, in which she discusses the amount of work she has done

**J. Dismissal of Class Claims:** The settlement also provides for a release of the class claims. However, counsel still does not explain why the class claims should be dismissed here without any additional compensation over the PAGA settlement. Counsel's declaration only discusses the reasonableness of the PAGA settlement, without addressing the value and risks of the class claims, or why they should be dismissed without any additional payment.

Plaintiff's counsel has not provided any explanation for the decision to dismiss the class action claims and settle only the PAGA claims. Therefore, plaintiff has failed to show that the settlement with regard to the class claims is fair, reasonable, or adequate.

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

Issued By: KCK on 04/11/25  
(Judge's initials) (Date)

(46)

**Tentative Ruling**

Re: ***Danny Williams v. The testate and intestate successors of  
Bernice H. Flowers***  
Superior Court Case No. 24CECG01936

Hearing Date: April 16, 2025 (Dept. 502)

Motion: Application for Default Judgment

**Tentative Ruling:**

To deny without prejudice. (Code Civ. Proc. § 764.010.)

**Explanation:**

Where a cause of action is stated in the complaint, plaintiff merely needs to introduce evidence establishing a prima facie case for damages. (*Johnson v. Stanhiser* (1999) 72 Cal.App.4th 357, 361.) A defaulting defendant admits only facts well pleaded in the complaint. (*Molen v. Friedman* (1998) 64 Cal.App.4th 1149, 1153-1154.) It is erroneous to grant a default judgment where the complaint fails to state a cause of action. (*Rose v. Lawton* (1963) 215 Cal.App.2d 18, 19-20; *Williams v. Foss* (1924) 69 Cal. App. 705, 707-708.)

A complaint to quiet title must be verified and must include: (1) a description of the property including both its legal description and its street address or common designation; (2) plaintiff's title and the basis upon which it is asserted; (3) the adverse claims as against which a determination is sought; (4) the date as of which a determination is sought and, if other than the date the complaint is filed, a statement why the determination is sought as of that date; and (5) a prayer for determination of plaintiff's title against the adverse claims. (Code Civ. Proc., § 761.020.)

Plaintiff's verified complaint includes allegations describing the property at issue, however does not include the street address of the property. (Compl., ¶ 6.) This is later presented in the application for default judgment. The complaint also includes allegations that the determination is sought as of the date of the filing of the complaint (*Id.*, ¶ 10) and a prayer for the determination of plaintiff's title against any adverse claims, establishing him as owner in fee simple. (Prayer, ¶ 1.) There are presently no identified adverse claims. (Compl., ¶ 9.)

The complaint further alleges the basis of the plaintiff's title as the property being part of the estate of his great-aunt, then his mother's estate, then left to him. (Compl., ¶ 7.) However, while it is alleged that his great-aunt had the ability to leave the property in the first place, this is not demonstrated. No deed identifying the original owner or establishing that his great-aunt owned it at any time was provided. With the application for default judgment, plaintiff provides a copy of an "Executor's Deed" that was recorded in Fresno County on April 18, 2001, granting plaintiff an undivided one-half interest in the property, subject to a court order – a copy of which was not provided.



Without knowing why, the court granted plaintiff only one-half interest in the property following probate of his mother's estate, and with insufficient evidence of whether plaintiff's great-aunt originally owned the property at all, it has not been established that plaintiff has a right to the remaining one-half.

## Tentative Ruling

9

(46)

**Tentative Ruling**

Re: **Guadalupe Valdez v. Gilbert Valdez**  
Superior Court Case No. 23CECG04455

Hearing Date: April 16, 2025 (Dept. 502)

Motion: by Plaintiff for Substitution of Party

**Tentative Ruling:**

To deny the motion. (Code Civ. Proc., § 377.31.) To grant defendant Gilbert Valdez's request for judicial notice, but only to the extent that such records exist and not for their truth. (*Garcia v. Sterling* (1985) 176 Cal.App.3d 17, 22.)

**Explanation:**

Code of Civil Procedure section 377.31 provides that "[o]n motion, the court shall allow a pending action or proceeding against the decedent that does not abate to be continued against the decedent's personal representative, or to the extent provided by statute, against the decedent's successor in interest...."

Probate Code section 58 defines a personal representative as an "executor, administrator, administrator with the will annexed, special administrator, successor personal representative, public administrator acting pursuant to Section 7660, or a person who performs substantially the same function under the law of another jurisdiction governing the person's status." Code of Civil Procedure section 377.11 defines a successor-in interest as follows: "For the purposes of this chapter, 'decedent's successor in interest' means the beneficiary of the decedent's estate or other successor in interest who succeeds to a cause of action or to a particular item of the property that is the subject of a cause of action."

The moving party, Emilia Valdez-Rodriguez ("Emilia"), submits a declaration under penalty of perjury pursuant to Code of Civil Procedure section 377.32, addressing most of the requirements for this type of motion. However, importantly, the affiant must state that he or she is the successor in interest within the meaning of section 377.11, and provide facts supporting that the affiant succeeds to the decedent's interest in the action. (Code Civ. Proc., § 377.32, subd. (5)(A).)

In support of her position that she is the successor in interest, Emilia attaches an instrument titled "Will of Guadalupe Valdez" executed on November 21, 2024. (Valdez-Rodriguez Decl., ¶ 5, Exh. B.) Emilia argues that since she is the only beneficiary under this instrument, she is the only possible successor in interest. However, defendant Gilbert Valdez strongly opposes this position and argues instead that, pursuant to Code of Civil Procedure section 377.31, the action may be continued by decedent's successor in interest only if there is no personal representative, and because the proffered instrument names an executor (which falls under the Probate Code's definition of a personal representative) who is not Emilia, she cannot be the one allowed to substitute for plaintiff,

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

**Issued By:** KCK **on** 04/14/25  
(Judge's initials) (Date)

(35)

**Tentative Ruling**

Re: ***Esmeralda Garcia v. Kaira22 Express, Inc.***  
Superior Court Case No. 23CECG04496

Hearing Date: April 16, 2025 (Dept. 502)

Motions: (1) By Defendants Kaira22 Express, Inc. and Vishal Kaira for an Order Compelling Initial Responses to Form Interrogatories, Set One from Plaintiff Esmeralda Garcia, and Request for Sanctions  
(2) By Defendants Kaira22 Express, Inc. and Vishal Kaira for an Order Compelling Initial Responses to Special Interrogatories, Set One from Plaintiff Esmeralda Garcia, and Request for Sanctions  
(3) By Defendants Kaira22 Express, Inc. and Vishal Kaira for an Order Compelling Initial Responses to Request for Production of Documents, Set One from Plaintiff Esmeralda Garcia, and Request for Sanctions

**Tentative Ruling:**

To grant each of the motions to compel initial responses to form and special interrogatories, and request for production of documents, as to plaintiff Esmeralda Garcia. Within ten (10) days of service of the order by the clerk, plaintiff Esmeralda Garcia shall serve verified responses, without objections, to Form Interrogatories, Set One; Special Interrogatories, Set One; and Request for Production, Set One, and produce all documents responsive to the Request for Production of Documents.

To impose monetary sanctions in the total amount of \$490 against plaintiff Esmeralda Garcia, in favor of defendants Kaira22 Express, Inc. and Vishal Kaira. Within thirty (30) days of service of the order by the clerk, plaintiff Esmeralda Garcia shall pay sanctions to defendants Kaira22 Express, Inc. and Vishal Kaira's counsel.

**Explanation:**

On August 26, 2024, defendants Kaira22 Express, Inc. and Vishal Kaira (collectively "Defendants") served the discovery at issue on plaintiff Esmeralda Garcia ("Plaintiff"). (Denno Decl., ¶ 4.) As of the preparation date for this motion of March 7, 2025, no responses have been served. (*Id.*, ¶ 6.) No opposition was filed.

Within 30 days of service of interrogatories, the party to whom the interrogatories are propounded shall serve the original of the response to them on the propounding party. (Code Civ. Proc. § 2030.260.) Within 30 days of service of a demand for inspection, the party to whom the requests are propounded shall serve the original of the response to them on the propounding party. (Code Civ. Proc. § 2031.260.) To date, Defendants have received no response to interrogatories and demands for inspection. Accordingly, an order compelling initial responses is warranted. (Code Civ. Proc. § 2030.290, subd. (b), 2031.300 subd. (b).) All objections are waived. (*Id.*, §§ 2030.290, subd. (a), 2031.300, subd. (a).)

## Sanctions

Sanctions are mandatory unless the court finds that the party acted “with substantial justification” or other circumstances that would render sanctions “unjust.” (*Id.*, §§ 2030.290, subd. (c), 2031.300, subd. (c).) As no opposition was filed, the court finds no circumstances that would render the mandatory sanctions unjust. The court imposes monetary sanctions in the amount sought of \$490, inclusive of the \$60 sought as filing costs.

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

## Tentative Ruling

Issued By: KCK on 04/14/25.  
(Judge's initials) (Date)