

**Tentative Rulings for April 28, 2026**  
**Department 403**

**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.

23CECG05182      *Ms. Cindy Tomik v. Albertsons Companies, Inc.* is continued to Tuesday, May 19, 2026, at 3:30 p.m. in Department 403.

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(Tentative Rulings begin at the next page)

# **Tentative Rulings for Department 403**

Begin at the next page

(20)

**Tentative Ruling**

Re: ***Diaz v. Sun-Maid Growers of California***  
Superior Court Case No. 18CECG04501

Hearing Date: April 28, 2026 (Dept. 403)

Motion: Plaintiff's Motion for Final Approval of Class Action Settlement

**Tentative Ruling:**

To grant.

**Explanation:**

"Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement." (Cal. Rules of Court, rule 3.769(g).) "The trial court has broad discretion to determine whether a class action settlement is fair. It should consider 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." (*Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 336.)

The court has already considered these factors and found the settlement to be fair and reasonable.

The court's primary concern in granting final approval has been the efforts by plaintiff's counsel and the settlement administrator to obtain addresses and social security numbers of the putative class in order to give notice and send the class members payments. Counsel and the administrator have detailed their efforts since this issue came to light. It does not appear that anything more can be done to obtain this information. (See Crist and Mitzner Declarations.) As many class members as possible have been given notice and will receive settlement payments.

That leaves the issues of allocation of the settlement to attorney fees, costs, settlement administration, and incentive payment to plaintiff.

As a general rule, the lodestar method is the primary method for calculating the amount of class counsel's attorney's fees; however, the percentage-of-the benefit approach may be proper when there is a common fund. In some cases, it may be appropriate, when the monetary value of the class benefit can be determined with a reasonable degree of certainty, such as this one, for the judge to cross-check or adjust the lodestar amount in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation. (See *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 488–497; *Roos v. Honewell Int'l, Inc.* (2015) 241 Cal.App.4th 1472, 1490–1494; *In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.)

The lodestar analysis is based on a "careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case." (*Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25, 48.) As our Supreme Court has repeatedly made clear, the lodestar consists of "the number of hours *reasonably expended* multiplied by the *reasonable* hourly rate. . . ." (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095, italics added; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1134.)

Reasonable hourly compensation is the "hourly prevailing rate for private attorneys in the community conducting noncontingent litigation of the same type" (*Ketchum v. Moses, supra*, 24 Cal.4th at p. 1133, emphasis added.)

As of 10/1/2024 when final approval was first requested, the lodestar came to \$1,566,110, using the claimed billing rates for the various attorneys and employees that worked on the matter. While these billing rates are somewhat high, the billing rates claimed will be approved in order to compensate counsel for the contingent nature of the representation and risk of not being paid.

Class counsel asks the court to utilize a \$700 blended hourly rate. The court does not see any justification for using a high blended hourly rate in this case, which would have the result of shifting hundreds of thousands of dollars from the class members to class counsel. Moreover, a substantial number of hours for which counsel seeks compensation were worked by non-attorney personnel, including law clerks, litigation support staff and paralegals. No justification is proffered for compensating class counsel for work done by non-attorney staff at such exorbitant rates. As the court explained in the tentative ruling for the 10/1/2024 hearing, the court will approve an allocation of \$1,566,110 to attorneys' fees as of that date.

Class counsel claims to have spent an additional 501.85 hours on the case since 10/1/2024, primarily addressing issues with addresses and social security numbers. This time claimed is excessive. At the court's request, counsel provided somewhat more information about the time expended. The court requested a breakdown of tasks by biller. Counsel did this in part, but did not identify the non-attorney staff who billed about half of the post-10/1/2024 hours. Having reviewed the additional information provided, the court finds that the time claimed to have been spent on the matter finding social security numbers and addresses is excessive, and a substantial portion of the time was spent on clerical tasks not needing attorney attention. Accordingly, the court will award additional attorney fees of \$100,400 (251 hours, half at \$650 attorney rate, and half at \$150 clerk/assistant rate), for a total attorneys' fee award of \$1,666,510.

Counsel has documented the actual litigation costs incurred in the sum of \$274,307.42, which is less than the \$300,000 provided for in the settlement agreement. This will be approved. Settlement administration costs as incurred and paid are also approved.

Plaintiff requests a \$20,000 enhancement payment. In light of the extensive litigation activities of this case and plaintiff's extensive services to the class, this may be approved.



(41)

**Tentative Ruling**

Re: **Vickie Grayson v. County of Fresno**  
Superior Court Case No. 22CECG01628

Hearing Date: April 28, 2026 (Dept. 403)

Motions: 1. Demurrer to Cross-complaint by Jordan Beshore, D.O., and Brandon Kuang, M.D.;  
2. Demurrer to Cross-complaint by Fresno Community Hospital and Medical Center dba Community Regional Medical Center (CCMC);  
3. Motion to Strike by CCMC.

**Tentative Ruling:**

To take the hearings off calendar; cross-complainants timely filed an amended pleading, which renders cross-defendants' demurrers and motion to strike moot.


**Explanation:**

A party may amend its pleading any time after a demurrer or motion to strike is filed but before the demurrer or motion to strike is heard if the amended pleading is filed and served no later than the date for filing an opposition. (Code Civ. Proc., § 472, subd. (a).) Furthermore, the court has discretion to shorten the filing period upon its own motion. (Code Civ. Proc., § 1005, subd. (b); Cal. Rules of Court, rule 3.1300(b).)

In this case, the cross-complainants timely filed their first amended cross-complaint on April 14, 2024—at least nine court days before the hearing, as required by Code of Civil Procedure section 1005, subdivision (b). The timely filing of the first amended cross-complaint renders a demurrer to the original cross-complaint moot, since an amended pleading supersedes the original one, which no longer performs any function as a pleading. (*Foreman & Clark Corp. v. Fallon* (1971) 3 Cal.3d 875, 884; *Sylmar Air Conditioning v. Pueblo Contracting Services, Inc.* (2004) 122 Cal.App.4th 1049, 1054 [filing amended complaint renders moot demurrer to original complaint].) The court finds cross-complainants exercised their right to file an amended pleading in lieu of an opposition, and finds the present demurrers and motion to strike are moot. Accordingly, the court takes the demurrer and motion to strike off calendar.

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

**Tentative Ruling**

Issued By:                                          on                     4-27-26                    .

(Judge's initials)

(Date)

(20)

**Tentative Ruling**

Re: **Sanchez, Jr. v. Jim Crawford Construction Company, Inc.**  
Superior Court Case No. 24CECG01421

Hearing Date: April 28, 2026 (Dept. 403)

Motion: Plaintiff's Motion for Final Approval of Class Action Settlement

**Tentative Ruling:**

To grant final approval of the settlement and certification of the class, as set forth in the proposed Order and Judgment submitted. The court will sign the proposed judgment, corrected accordingly.

To set a hearing at April 28, 2027, at 3:30 p.m. in Department 403 as a hearing date for an Amended Judgment pursuant to Code of Civil Procedure section 384. A verified report of payouts of settlement funds and a proposed amended judgment shall be submitted no later than April 14, 2027.

**Explanation:**

"Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement." (Cal. Rules of Court, rule 3.769(g).) "The trial court has broad discretion to determine whether a class action settlement is fair. It should consider 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." (*Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 336.)

The court has already considered these factors and found the settlement to be fair and reasonable.

As a general rule, the lodestar method is the primary method for calculating the amount of class counsel's attorney's fees; however, the percentage-of-the benefit approach may be proper when there is a common fund. In some cases, it may be appropriate, when the monetary value of the class benefit can be determined with a reasonable degree of certainty, such as this one, for the judge to cross-check or adjust the lodestar amount in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation. (See *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 488–497; *Roos v. Honewell Int'l, Inc.* (2015) 241 Cal.App.4th 1472, 1490–1494; *In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.)

The lodestar analysis is based on a "careful compilation of the time spent and reasonable hourly compensation of each attorney ... involved in the presentation of the case." (*Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25, 48.) As our Supreme Court has

repeatedly made clear, the lodestar consists of "the number of hours *reasonably expended* multiplied by the *reasonable* hourly rate. . . ." (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095, italics added; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1134.)

Reasonable hourly compensation is the "hourly prevailing rate for private attorneys in the community conducting noncontingent litigation of the same type." (*Ketchum v. Moses, supra*, 24 Cal.4th at p. 1133, emphasis added.)


Class counsel submit evidence that their lodestar comes to \$97,740, based on 239.1 hours expended at hourly rates ranging from \$300 - \$500. (Rose Decl., ¶ 28.) The court finds the \$108,333.33 requested to be reasonable, considering the contingent nature of the representation. Actual litigation costs of \$28,724.49 are also approved.

The court finds that \$5,000 would generously compensate plaintiff for her efforts and time expended, and risks taken in pursuing this action, and awards as much as an incentive payment.

Finally, the court approves the \$5,990 in administration 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:**          **on**     4-27-26    .  
(Judge's initials) (Date)

