Tentative Rulings for May 21, 2025
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)

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.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 403

Begin at the next page

(47)

Tentative Ruling

Re: Martinez v. Trujilio
Superior Court Case No. 24CECG04185

Hearing Date: May 21, 2025 (Dept. 403)

Motion: Petition to Compromise the Claim of Martinez v. Trujilio

If oral argument is timely requested, it will be entertained on Thursday, May 22, 2025, at 3:30 p.m. in Department 403.

Tentative Ruling:

To grant petition. Plaintiff is to submit amended orders where CEP America should receive $369.60 rather than $396.60.

Order signed. No appearance necessary. The court sets a status conference for Wednesday, August 27, 2025, at 3:30 p.m., in Department 502, for confirmation of deposit of the minors' funds into the blocked accounts. If Petitioner files the Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) at least five court days before the hearing, the status conference will come 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.

Explanation for Amending Orders:

The sum of medical expenses is $4,890.65 The proposed Order Approving Compromise provides that $396.60 should be paid to CEP America. The bill in the proposed order states that CEP America is owed $369.60.

This creates a discrepancy in costs, totaling $27.00.

Tentative Ruling
Issued By: lmg on 5-16-25.
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***Rodriguez v. Valleywide Farm Labor, Inc.***
Case No. 22CECG01009

Hearing Date: May 21, 2025 (Dept. 403)

Motion: Plaintiff's Motion for Preliminary Approval of Class and PAGA Settlement

If oral argument is timely requested, it will be entertained on Thursday, May 22, 2025, at 3:30 p.m. in Department 403.

Tentative Ruling:

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

Explanation:

1. Class Certification

a. Standards

First, the court must determine whether the proposed class meets the requirements for certification before it can grant preliminary approval of the proposed settlement. An agreement of the parties is not sufficient to establish a class for settlement purposes. There must be an independent assessment by a neutral court of evidence showing that a class action is proper. (*Luckey v. Superior Court* (2014) 228 Cal. App. 4th 81 (rev. denied); see also Newberg, *Newberg on Class Actions* (T.R. Westlaw, 2017) Section 7:3: "The parties' representation of an uncontested motion for class certification does not relieve the Court of the duty of determining whether certification is appropriate.")

"Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems for the proposal is that there will be no trial. But other specifications of the rule -- those designed to protect absentees by blocking unwarranted or overbroad class definitions -- demand undiluted, even heightened, attention in the settlement context." (*Amchem Prods., Inc. v. Windsor* (1997) 521 U.S. 591, 620, internal citation omitted.)

"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 defendants' 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 approximately 232 class members who worked for defendants during the class period. Therefore, the court intends to find 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 defendants 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 representative's claims, it does appear that Mr. Rodriguez's claims are typical of the rest of the class and that he seeks the same relief as the other class members based on his allegations and prayer for relief in the complaint. There is no evidence that he has any conflicts between his interests and the interests of the other class members that would make him unsuitable to represent their interests. Therefore, plaintiffs have shown that Mr. Rodriguez has claims typical of the other class members.

Plaintiff's counsel's declaration establishes that he and the other attorneys in his firm are experienced and qualified to represent the class. Counsel's declaration discusses his background, education, and experience in class action litigation, as well as the backgrounds of the other attorneys. Therefore, the declaration provides sufficient

evidence to support counsel's assertion that he and the rest of his firm are experienced and qualified to represent plaintiff 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 defendants 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, it does appear that class certification is the superior means of resolving the plaintiff's claims.

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

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 National Services, 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 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, plaintiff's 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.

Plaintiff estimates that defendant faced a maximum potential liability of $1,063,125 for meal and rest period violations, $106,312.50 for unpaid off-the-clock work, overtime and unpaid minimum wages, $76,550 for inaccurate wage statements, and $11,100 for unreimbursed business expenses. In addition, plaintiff estimates that the PAGA penalties would have been $436,050. However, there were substantial barriers to recovery, including defendants' contention that the claims were without merit and were not suitable for class certification. There was a risk that the court would deny certification. In addition, defendant Valleywide advised plaintiff's counsel that Valleywide has gone out of business, and that it does not have sufficient money to pay a large settlement or judgment. Thus, plaintiff substantially discounted the defendant's liability based on Valleywide's financial insolvency, as well as the inherent risks of the class claims.

The PAGA claim also carried substantial risks. The parties agreed that it was reasonable to allocate $7,500 to the PAGA claims, which is 6% of the gross settlement. This is well above the range that courts regularly approve in wage and hour class/PAGA settlements. The PAGA claims are subject to the same defenses and risks as the other claims, as well as defenses unique to PAGA, the risk that PAGA penalties would not be stacked, and the risk that the court might reduce the penalties in order to avoid duplicative, arbitrary, or oppressive penalties.

Therefore, plaintiff has now shown that the settlement is fair, reasonable, or adequate in light of the unique facts and legal issues raised by the plaintiff's case. Even though plaintiff has a strong case and defendant's liability is potentially much higher than $125,000, defendant has gone out of business and is unable to pay a large settlement or judgment. Demanding a higher amount in settlement would simply result in the class receiving nothing. As a result, the court intends to find that the settlement is fair, adequate and reasonable under the circumstances.

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 representatives. As a result, the court intends to find that the proposed class notice is adequate and it will grant preliminary approval of the class notice.

3. Attorney's Fees and Costs

Plaintiff's counsel seeks attorney's fees of $43,750. Plaintiff's counsel has provided a declaration which describes his education, skill, and experience, as well as the

background, education, and experience of the other attorneys in his firm. Counsel also provides information about his hourly rates and the rates of the other attorneys, which range from $350 per hour to $875 per hour depending on the experience of the attorney. However, counsel requests that the court apply a blended rate of $650 per hour for the work performed by the firm. He also states that the firm spent a total of 281.60 hours on the case. Based on the hours worked and the blended rate of $650 per hour, counsel states that the lodestar fees incurred in the case are $195,000 [*sic*, $183,040]. This does not include another estimated 52 hours of work that counsel will have to incur in order to finalize and administer the settlement. (See Jimenez decl., ¶¶ 113-118.) Counsel also argues that the requested fees are the equivalent of 35% of the gross settlement, which is in the range of fees commonly awarded by courts in class actions.

Therefore, plaintiff's counsel has provided the court with enough information to assess the reasonableness of her fees. It appears that the requested fees of $43,750 in the settlement are fair and reasonable, especially in light of the fact that the lodestar fees incurred to litigate the case are much higher than the requested fees. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 504.) The request for 35% of the gross settlement is also in line with what courts often award in class and PAGA cases. As a result, the court intends to grant preliminary approval of the requested fees.

In addition, counsel also seeks an award of up to $20,000 in costs. However, counsel has not provided any evidence about the costs actually incurred in the case, so the court does not have enough information to determine that the requested amount of costs is reasonable here. **As a result, the court cannot approve the request for an award of $20,000 in costs at this time.**

4. Payment to Class Representative

Plaintiff seeks preliminary approval of a $7,500 service award to the named plaintiff/class representative, Mr. Rodriguez. Mr. Rodriguez has provided a declaration which supports the request for a service award, as he states that he worked closely with plaintiff's counsel, provided documents, answered questions, and participated in meetings about the case with counsel. Therefore, the court intends to grant preliminary approval of the incentive award to the named plaintiff.

5. Payment to Class Administrator

The settlement provides that Phoenix Class Administration Solutions will receive up to $10,000 to administer the settlement. However, the declaration of Phoenix's representative includes an estimate for administration services of only $8,000. (Exhibit B to Lawrence decl.) Ms. Lawrence describes this as a "Will Not Exceed" breakdown, which implies that Phoenix has promised not to charge more than $8,000 to administer the settlement. (*Id*. at ¶ 16.) Therefore, it is unclear why plaintiff seeks approval of a payment of up to $10,000 if Phoenix has promised not to charge more than $8,000 to administer the settlement. **As a result, the court will not grant preliminary approval of the payment to the administrator at this time.**

6. PAGA Settlement

Plaintiff proposes to allocate $7,500 of the settlement 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 states that he gave notice of the

settlement to the LWDA on April 25,2025. (Jimenez decl., ¶ 128.) Therefore, plaintiff's counsel has shown that he complied with PAGA's requirement to give notice of the settlement to the LWDA. (See Labor Code, § 2699, subd. (s)(2).)

Plaintiff's counsel also states that he believes that paying $7,500 to settle the PAGA claim is fair, reasonable and adequate. He believes that, given the state of defendant's finances, it would not be possible to recover the full amount of potential penalties under PAGA, and that recovering $7,500 is reasonable under the circumstances. The PAGA portion of the settlement is also about 6% of the total gross settlement, which is actually more than many other PAGA allocations in other cases. There are also substantial risks in litigating the PAGA claims, including the risk that the court might reduce the penalties to avoid an unduly harsh result.

Therefore, plaintiff's counsel has adequately explained why settling the PAGA claims is fair, adequate and reasonable, and the court intends to grant preliminary approval of the PAGA portion of the settlement.

Conclusion: The court intends to deny the motion to preliminarily approve the class action and PAGA settlement, without prejudice. Counsel needs to provide the court with information about the costs incurred in the case, as well as explaining why the administrator's fees should be $10,000 rather than $8,000.

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 5-16-25.
(Judge's initials) (Date)

(41)

Tentative Ruling

Re: ***Juana Padilla v. General Motors, LLC***
Superior Court Case No. 25CECG00412

Hearing Date: May 21, 2025 (Dept. 403)

Motion: By Plaintiff to File Affidavit of Venue Subsequent to Filing of Complaint

If oral argument is timely requested, it will be entertained on Thursday, May 22, 2025, at 3:30 p.m. in Department 403.

Tentative Ruling:

To deny, without prejudice, plaintiff's motion to file an affidavit of venue subsequent to filing complaint.

Explanation:

Plaintiff, Juana Martinez Padilla (Plaintiff) makes a motion for an order allowing Plaintiff to file an "affidavit of venue" as required by Code of Civil Procedure section 2984.4, subdivision (c), subsequent to the filing of her complaint. The court notes defendant Prieto Automotive dba Chevrolet GMC of Sanger was personally served with Plaintiff's motion papers. But Plaintiff fails to file a proof of service for defendant General Motors LLC. Instead, Plaintiff's proof of electronic service lists a different case, in a different court, with a different defendant manufacturer, and a different attorney. California Rules of Court, rule 3.1300(c) provides "[p]roof of service of the moving papers must be filed no later than five court days before the time appointed for the hearing." Rule 3.1300(c) is mandatory. Therefore, the court denies Plaintiff's motion, 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: lmg on 5-16-25.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re:	***Paula Anderson v. Vallarta Supermarkets Inc. Store #49*** Superior Court Case No. 25CECG00329
Hearing Date:	May 21, 2025 (Dept. 403)
Motion:	Demurrer to Complaint and Motion to Strike Portions of Complaint, by defendants Corvel Corporation, Janira Nafarrate, and Eric Rinnert

If oral argument is timely requested, it will be entertained on Thursday, May 22, 2025, at 3:30 p.m. in Department 403.

Tentative Ruling:

To sustain the general and special demurrers to the Complaint, with plaintiff granted 30 days' leave to file a First Amended Complaint. (Code Civ. Proc., § 430.10, subd. (e), (f).) Plaintiff must include cause of action attachments for each cause of action if filing a Judicial Council form complaint. The time in which the complaint may be amended will run from service of the order by the clerk.

To deny the motion to strike the request for punitive damages. (Code Civ. Proc., § 435, subd. (b)(1).)

Explanation:

Legal Standard for Demurrer

On a demurrer, a court's function is limited to testing the legal sufficiency of the complaint. A demurrer is simply not the appropriate procedure for determining the truth of disputed facts. (*Fremont Indemnity Co. v. Fremont General Corp*. (2007) 148 Cal.App.4th 97, 113-114.) In determining a demurrer, the court assumes the truth of the facts alleged in the complaint and the reasonable inferences that may be drawn from those facts. (*Miklosy v. Regents of University of California* (2008) 44 Cal.4th 876, 883 [superseded by statute on other grounds].) The demurrer does not admit mere contentions, deductions or conclusions of fact or law. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) On general demurrer, the court determines if the essential facts of any valid cause of action have been stated. (*Gruenberg v. Aetna Ins. Co.* (1973) 9 Cal.3d 566, 572; Code Civ. Proc. § 430.10 subd. (e).) Leave to amend should be granted if there is a reasonable possibility that plaintiff could state a cause of action. (*Blank v. Kirwan*, supra, 39 Cal.3d at 318.)

Failure to State a Cause of Action

A judicial council form complaint is subject to demurrer just as any other complaint that fails to meet essential pleading requirements to state a cause of action. (*People ex rel. Dept. of Transportation v. Superior Court* (1992) 5 Cal.App.4th 1480, 1486.) Judicial

council form complaints are designed to have the individual causes of action appended as attachments – for example, general negligence is PLD-PI-001(2), intentional tort is PLD-PI-001(3), and premises liability is PLD-PI-001(4). Without these attachments, it is difficult to state a cause of action.

Paragraph 10 of the form pleading states, "[t]he following causes of action are attached and the statements above apply to each *(each complaint must have one or more causes of action attached)*: …" The plaintiff is to check the boxes indicating the causes of action being alleged, and add to the form complaint attachments alleging the elements and facts pertinent to each cause of action.

Here, plaintiff Paula Anderson ("plaintiff") indicated in her complaint that she would be raising causes of action for general negligence, intentional tort, premises liability, and "actual financial losses." (Compl., ¶ 10.) However, she did not provide any attachments detailing her causes of action. Her "personal letter" and subsequent attachments comprise her factual allegations without discussing any legal theories. No recognizable causes of action with their constituent elements are present. For example, the elements of a cause of action for negligence are duty, breach of duty, legal cause, and damages. (*Friedman v. Merck & Co*. (2003) 107 Cal.App.4th 454, 463.) Here, there are no allegations as to a duty owed by defendants Corvel Corporation, Janira Nafarrate, and Eric Rinnert ("defendants") to plaintiff and the breach of that duty. Plaintiff has not adequately pled causation of the damages by defendants. The same type of issues arise with her other marked causes of action.

Having failed to include any cause of action attachments, the complaint fails to state facts sufficient to state any cause of action. The court intends to sustain the general demurrer, with leave to amend. (Code Civ. Proc., § 430.10, subd. (e).)

Uncertainty

Moreover, a party may object by demurrer to any pleading on the ground that it is uncertain. (Code Civ. Proc., § 430.10, subd. (f).) As used in this subdivision, 'uncertain' includes ambiguous and unintelligible." Demurrers for uncertainty are disfavored. (*Khoury v. Maly's of California, Inc*. (1993) 14 Cal.App.4th 612, 616.) A demurrer for uncertainty may be sustained when the complaint is drafted in a manner that is so vague or uncertain that the defendant cannot reasonably respond, e.g., the defendant cannot determine what issues must be admitted or denied, or what causes of action are directed against the defendant. (*Ibid*.) Demurrers for uncertainty are appropriately overruled where "ambiguities can reasonably be clarified under modern rules of discovery." (*Ibid*.)

Here, no facts are pled to support the minimally identified causes of action alleged in order to allow the defendants to determine what issues must be admitted or denied. It is unclear which causes of action are directed at the moving defendants. Accordingly, the complaint is uncertain and the court intends to sustain the special demurrer, with leave to amend. (Code Civ. Proc. § 430.10, subd. (f).)

Motion to Strike

Defendants also move to strike the prayer for punitive damages from the complaint. However, while a demurrer and motion to strike may be concurrently filed and heard, there are still applicable procedures and rules of court that must be complied with. For instance, the notice of motion does not set forth the portions of the complaint subject to defendants' motion to strike. The defendants also did not meet and confer regarding the motion to strike – the letter memorializing the parties' telephonic meet and confer only references the issues on demurrer as those that were discussed, and does not establish that the specific allegations subject to being stricken were identified to plaintiff. (Code Civ. Proc. § 435.5 subd. (a).) The court intends to deny the motion to strike the prayer for punitives damages.

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 5-20-25.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re:	***Santiago Lugo v. Hall Management Corp. et al.*** Superior Court Case No. 24CECG05212/COMPLEX
Hearing Date:	May 21, 2025 (Dept. 403)
Motion:	By Defendant Valley Garlic, LLC to Compel Arbitration; to Dismiss Class Claims; and Request for Stay

Tentative Ruling:

To grant and compel plaintiff Rosalina Santiago Lugo to arbitrate her individual claims against defendant Valley Garlic, LLC. To dismiss the class claims. To stay the action pending final outcome of arbitration. (9 U.S.C. § 3.)

If oral argument is timely requested, it will be entertained on Thursday, May 22, 2025, at 3:30 p.m. in Department 403.

Explanation:

Plaintiff Rosalina Santiago Lugo ("Plaintiff") filed an action for ten causes of action for various violations of the Labor Code, one cause of action for unfair competition, and one cause of action under the Private Attorney General Act ("PAGA") as defined by Labor Code section 2698 *et seq*., on behalf of herself and all aggrieved employees. Defendant Valley Garlic, LLC ("Defendant") now seeks an order compelling Plaintiff to private arbitration of her individual claims, to dismiss the class action components, and to stay the representative portion of the PAGA claim.

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.) Presumptions are to be made in favor of arbitrability. (*Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 971-972.)

Unless there is a dispute over authenticity, the mere recitation of the terms is sufficient for a party to move to compel arbitration. (*Sprunk v. Prisma LLC* (2017) 14 Cal.App.5th 785, 793.) Here, Defendant submits a written agreement to arbitrate with

Plaintiff, from 2021. (Flores Decl., ¶ 6, and Ex. A, B thereto.)[1] Defendant additional submits a second written agreement to arbitrate with Plaintiff, from 2023. (Cabrera Decl., ¶ 6, and Ex. A.)[2]

Plaintiff disputes the writings. Plaintiff submits that she does not recognize the documents, and she does not recall signing the documents. (Santiago Lugo Decl., ¶¶ 6, 9.)[3] However, she does not dispute that the signature appears to be hers. (*Ibid.*) Plaintiff's recollection of receiving, reviewing or signing the document does not alter the apparent fact that this document bears her signature. The surrounding documents appear to bear the same signature, in the same style of handwriting consistent with all documents that purportedly bear her handwriting or signature. Plaintiff does not dispute that the signature on the employee handbook is not hers. (*Id.*, ¶ 11.) With all reasonable inferences in favor of arbitrability, the court finds that there is a valid written agreement to arbitrate. The burden therefore shifts to Plaintiff for defenses to enforcement.

Plaintiff submits that her claims are not subject to arbitration under California law. (*E.g.*, Lab. Code § 229.) An individual arbitration agreement does not apply to an action to enforce statutes governing collection of unpaid wages, which may be maintained without regard to any private agreement to arbitrate. (*Ibid.*) The intent is to assure a judicial forum where there exists a dispute as to wages, notwithstanding the strong public policy favoring arbitration. (*Ware v. Merrill Lynch, Pierce, Fenner & Smith, Inc.* (1972) 24 Cal.App.3d 35, 43.) An exception to that general rule occurs when there is federal preemption by the Federal Arbitration Act ("FAA"), as applied to contracts evidencing interstate commerce. (*Perry v. Thomas* (1987) 482 U.S. 483, 490.) Where the FAA applies, state law that outright prohibits arbitration is displaced by federal law. (*AT&T Mobility, LLC v. Concepcion* (2011) 563 U.S. 333, 341.)

Plaintiff submits that the FAA does not apply here because the FAA only to those contracts that involve interstate commerce. The FAA applies to a contract evidencing a transaction involving commerce. (9 U.S.C. § 2; *Lagatree v. Luce, Forward, Hamilton & Scripps* (1999) 74 Cal.App.4th 1105, 1120.) Commerce is defined in Title 9 of the United States Code, section 1 as:

> commerce among the several States or with foreign nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation, but nothing herein contained shall apply to contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce. (9 U.S.C. § 1.)

[1] Plaintiff's Objections to the Declaration of Octavio Flores are overruled in their entirety.
[2] Plaintiff's Objections to the Declaration of Rosaura Cabrera are overruled in their entirety.
[3] Defendant's Objections to the Declaration of Rosalina Santiago Luna are overruled in their entirety.

In sum, commerce includes commerce among the several States, and has been interpreted broadly within the United States Congress' authority under the Commerce Clause. (*Citizens Bank v. Alafabco, Inc.* (2003) 593 U.S. 52, 56.) These words cover more than only persons or activities within the flow of interstate commerce. (*Allied-Bruce Terminix Cos. V. Dobson* (1995) 513 U.S. 265, 273.) They cover transactions that involve interstate commerce, even if the parties did not contemplate an interstate commerce connection. (*Id.* at p. 281.) A party seeking to enforce an arbitration agreement has the burden of showing FAA preemption. (*Lane v. Francis Capital Management LLC* (2014) 224 Cal.App.4th 676, 687.) In effect, the party seeking to compel arbitration must show that the subject matter of the agreement involves interstate commerce. (*Id.* at pp. 687-688.)

Here, Defendant submitted in its moving papers that the FAA applies. The 2021 agreement references both the FAA and the CAA in a contradicting manner:

> I acknowledge that the Employer's business and the nature of my employment in that business affects interstate commerce. I agree that the arbitration and this Agreement shall be controlled by the Federal Arbitration Act, in conformity with the procedures of the California Arbitration Act… I agree that arbitration may be controlled, solely if applicable as imposed by law, by the California Arbitration Act. (Flores Decl., Ex. B.)

The 2023 Agreement on the other hand, clearly states the engagement of the FAA. (Cabrera Decl., Ex. A.) Presumptions in favor of arbitration, it appears that both agreements dictate that the FAA shall govern to the extent applicable. Defendant further submitted that its business is involved in interstate commerce. (*E.g.*, McDonald Decl., ¶ 7.) It is not materially contested that Defendant's business operates in interstate commerce. Rather, Plaintiff submits that her portion was not in the flow of interstate commerce.

Flow of interstate commerce does not affect the applicability of the FAA in this action. As noted above, the FAA applies to contracts involving interstate commerce. (*E.g.*, *Southland v. Keating* (1984) 461 U.S. 1, 14-15.) However, as Plaintiff appears to argue, the FAA does not apply to "contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce." (9 U.S.C. § 1; *Nieto v. Fresno Beverage Co., Inc.* (2019) 33 Cal.App.5th 274, 282.) This exemption historically has been defined as contracts of employment of transportation workers, and not generally all workers engaged in interstate commerce. (*Circuit City Stores, Inc. v. Adams* (2001) 532 U.S. 105, 119.) The Supreme Court of the United States thereafter refused to adopt an industry-wide approach, finding that the language of the statute referred to workers who were engaged in commerce. (*Southwest Airlines Co. v. Saxon* (2022) 596 U.S. 450, 456 ["*Saxon*"].) Accordingly, the inquiry is on what the worker does, not what the employer does. (*Ibid*.) Specifically, the exemption to section 1 of Title 9 of the United States Code applies to those workers who play a direct and necessary role in the free flow of goods, that the worker must be actively engaged in transportation of those goods across borders via the channels of foreign or interstate commerce. (*Id.* at p. 458.)

The opposition falls short in demonstrating how Plaintiff's duties played a direct and necessary role in the free flow of goods. Rather, nothing in Plaintiff's declaration refutes the evidence presented by Defendant, that Plaintiff worked as a sorter, removing debris, skin, and non-conforming product from the product line. (Flores Decl., ¶ 3.) Sorters are not the final step prior to interstate commerce, and the product continues to other portions of the plant for further processing. (*Ibid.*) Accordingly, Plaintiff is not in the flow of interstate commerce such that she would be exempt from the application of the FAA. The court finds that Defendant has demonstrated that the arbitration agreements are subject to the FAA.

Plaintiff further submits that the arbitration agreements are unconscionable. If the court finds as a matter of law that a contract or any portion of it was unconscionable at the time it was made, the court may refuse to enforce it, or may enforce the contract without the unconscionable provisions, or limit their application to avoid any unconscionable result. (Civ. Code § 1670.5, subd. (a).) There are two prongs considered in this analysis: procedural unconscionability and substantive unconscionability. Both must be present for a court to exercise its discretion to refuse to enforce an arbitration agreement under the doctrine of unconscionability. (*Armendariz v. Foundation Health Psychcare Services., Inc.* (2000) 24 Cal.4th 83, 113.) They need not be present in equal amounts; essentially a sliding scale is used, and where there is substantive unconscionability, less procedural unconscionable need be shown. (*Id.* at pp. 113-114.)

Plaintiff implies argue that the arbitration agreement is procedurally unconscionable because the arbitration agreement is a contract of adhesion. A contract of adhesion is one imposed and drafted by the party of superior bargaining strength, and relegates to the subscribing party only the opportunity to adhere to the contract or reject it. (*Mission Viejo Emergency Medical Associates v. Beta Healthcare Group* (2011) 197 Cal.App.4th 1146, 1159.) Specifically, Plaintiff argues that she was not allowed to take the documents home for review, and Plaintiff did not understand the documents. The failure to read or understand an arbitration agreement is generally no defense to enforcement. (*Bolanos v. Khalatian* (1991) 231 Cal.App.3d 1586, 1589-1590 [finding that the respondent, having declared an equivalent education to a fifth grader, did not read English, read Spanish with substantial difficulty, did not recall signing the document, recalled only receiving several documents at once, and did not receive an explanation of the documents, knowingly signed an arbitration agreement].)

Moreover, adhesion does not *per se* render the arbitration agreement unenforceable, since such contracts "are an inevitable fact of life for all citizens, businessman and consumer alike." (*Graham v. Scissor-Tail, Inc.* (1981) 28 Cal.3d 807, 817-818.) A finding of procedural unconscionability does not mean that a contract will not be enforced, but rather that courts will scrutinize the substantive terms of the contract to ensure they are not manifestly unfair or one-sided. (*Baltazar v. Forever 21, Inc.* (2016) 62 Cal.4th 1237, 1244.) In other words, there must also be substantive unconscionability. (*Armendariz*, *supra*, 24 Cal.4th at p. 114.)

The substantive inquiry considers whether the overall bargain is overly harsh or unreasonably one sided. (*Armendariz*, *supra*, 24 Cal.4th at p. 114.) California courts have stated the standard variously, defining it as, for example: so one sided as to shock the conscience (*Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US), LLC*

(2012) 55 Cal.4th 223, 246,); unduly oppressive (*Perdue v. Crocker National Bank* (1985) 38 Cal.3d 913, 925); and unfairly one sided (*Little v. Auto Stiegler, Inc.* (2003) 29 Cal.4th 1064, 1071). The California Supreme Court has acknowledged these variations and has clarified the differing formulations mean the same thing. (*Sanchez v. Valencia Holding Co., LLC* (2015) 61 Cal.4th 899, 911.)

Plaintiff argues that the agreements are unconscionable because they have a confidentiality clause. Plaintiff submits no authority in support of the conclusion that confidentiality is overly harsh or unreasonably one-sided. The confidential nature of the proceeding would be equally applicable to Defendant as it would to Plaintiff.

Plaintiff next argues that she would not be allowed attorney's fees upon prevailing, which would otherwise be afforded to her by law. Plaintiff submits that the agreement fails to require the arbitrator to guarantee fees to a prevailing plaintiff. However, the agreement expressly requires the arbitrator to follow the substantive law of the state in which the claim arose. (Flores Decl., Ex. D, Section 4(c).)

Plaintiff next argues that the agreement does not provide for judicial review. As with the issue on fees, the arbitrator is mandated to follow state law in rendering decisions. State law provides limited review of arbitrator decisions through confirmation, correction, or vacation of award motions. (Code Civ. Proc. § 1285 *et seq.*)

Plaintiff argues that a PAGA waiver is unlawful. As a rule, "an employee's right to bring a PAGA action is unwaivable." (*Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348, 383 ("*Iskanian*"), overruled in part by *Viking River Cruises, Inc. v. Moriana* (2022) 596 U.S. 639 ("*Viking River*").) Until recently, an agreement to separately arbitrate or litigate individual PAGA claims was invalid. (*Iskanian*, *supra*, 59 Cal.4th at pp. 383-384.) That holding in *Iskanian* was overturned by the U.S. Supreme Court in *Viking River*, *supra*, 596 U.S. at p. 661-662.)[4] Thus, although an employee is always entitled to state a PAGA claim, his or her individual claim may be compelled to arbitration. (*Ibid.*)

Plaintiff argues that the language of the agreements improperly calls for the wholesale waiver of any PAGA claim, and therefore is invalid under the upheld portion of *Iskanian*.

Defendant does not contest, nor does it seek to enforce the representative action waiver, nor could they.[5] Rather, Defendant seeks only to enforce the agreements as it

[4] The U.S. Supreme Court concluded that, because the rule against separating individual from representative claims under PAGA was incompatible with the goals of the Federal Arbitration Act, the Federal Arbitration Act preempted the rule. (*Viking River*, *supra*, 596 U.S. at p. 661-662.) The Supreme Court found that, under this particular rule, parties who otherwise agreed to arbitrate their claims were impermissibly coerced into withholding those claims because PAGA allows an individual to magnify the scope of the claims beyond that which the parties agreed. (*Id.* at pp. 647, 662-663 ["An employee who alleges he or she suffered a single violation is entitled to use that violation as a gateway to assert a potentially limitless number of other violations as predicates for liability."])

[5] A plain reading of the provision shows a wholesale waiver of representative actions. A PAGA claim is a representative action. (*Viking River*, *supra*, 596 U.S. at pp. 661-662 [finding that PAGA creates a freeform joinder "allows plaintiffs to unite a massive number of claims in a single-

pertains to Plaintiff's individual claims, and to dismiss the class claims. Defendant seeks to stay the representative portion of the PAGA claim.

As Defendant notes, *Viking River* held that an individual's PAGA claim may be separated from a representative proceeding. Accordingly, Plaintiff's individual claims here are not subject to an invalid waiver, and are subject to arbitration.

Our California Supreme Court has evaluated California law to define the scope of the U.S. Supreme Court decision. (*Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104.) The California Supreme Court 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.) The court finds *Adolph v. Uber Technologies, Inc.* applicable to the present matter.

Plaintiff finally argues that the agreements are overbroad and curtails enforcement through state agencies. However, as Defendant notes, a plain reading of the agreements shows that Plaintiff was not precluded from exercising her rights with state and federal agencies. (Flores Decl., Ex. D, Section 3(b).)

Based on the above, the court finds that Plaintiff fails to demonstrate substantive unconscionability. Accordingly, Plaintiff fails to demonstrate a defense to enforcement. Plaintiff's individual claims are ordered to arbitration per the terms of the agreements. As no argument was made in opposition to the waiver of class actions, the class claims are dismissed.[6] The balance of the action is stayed pending final disposition of the arbitration. (9 U.S.C. § 3.)[7]

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 5-20-25.
(Judge's initials) (Date)

package suit."]) Wholesale waivers of a PAGA claim are invalid. (*Id.* at pp. 662-663; *Iskanian*, *supra*, 59 Cal.4th at p. 384.)

[6] Flores Decl., Ex. D, Section 9 states that the parties bilaterally agree to arbitrate only on an individual basis.

[7] The remaining objections were not material to the disposition of the motion, and no rulings are issued as to those objections.

(27)

Tentative Ruling

Re: ***Elijah Barajas v. CA Freight Xpress, Inc.***
Superior Court Case No. 23CECG02961

Hearing Date: May 21, 2025 (Dept. 403)

Motion: Attorney to be Relieved as Counsel (Two motions)

If oral argument is timely requested, it will be entertained on Thursday, May 22, 2025, at 3:30 p.m. in Department 403.

Tentative Ruling:

To deny, without prejudice.

Explanation:

According to the court's record, moving counsel (or someone from that office) calendared the subject two hearings on April 25, 2025. However, only one motion was actually filed. In addition, the one filed motion seeks relief for an attorney named Megan Koster, yet the motion and declaration are signed by a different attorney named Lane Friedman. Lastly, the motion papers do not inform the client of the upcoming motion to compel on July 1, 2025, the proof of electronic service does not specify an email address for the client, and the proposed order contains multiple substantive omissions.

In light the uncertainties detailed above, this court exercises its discretion such that both motions are denied, but without prejudice, to the extent the defects can be cured in a future filing(s). (*Manfredi & Levine v. Superior Court* (1998) 66 Cal.App.4th 1128, 1133 ["The determination whether to grant or deny a motion to withdraw as counsel lies within the sound discretion of the trial court."]

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 5-20-25.
(Judge's initials) (Date)