

Tentative Rulings for June 4, 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.

24CECG04001      *Raymond Ghermezian APLC v. Comprehensive Pain Management Center, Inc.* is continued to Thursday, July 16, 2026 at 3:30 p.m. in **Department 502**

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# **Tentative Rulings for Department 403**

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(34)

**Tentative Ruling**

Re: **Nares v. Penny Newman Grain Co.**  
Superior Court Case No. 24CECG00430

Hearing Date: June 4, 2026 (Dept. 403)

Motion: by Defendant to Compel Arbitration

**Tentative Ruling:**

To grant the defendant's motion to compel arbitration in part and deny in part. To compel arbitration of plaintiff Ivan Vazquez's individual PAGA claim stated in the eighth cause of action. To deny the motion to compel arbitration of the other claims, as well as the eighth cause of action to the extent that it states a representative claim under PAGA. To stay the court action as to the remaining claims until the arbitration has been resolved.

**Explanation:**

Pursuant to California Code of Civil Procedure section 1281.2, "On petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party thereto refuses to arbitrate such controversy, the court shall order the petitioner and the respondent to arbitrate the controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that: (a) The right to compel arbitration has been waived by the petitioner; or (b) Grounds exist for the revocation of the agreement. (c) A party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of the same transaction or series of related transactions and there is a possibility of conflicting rulings on a common issue of law or fact." (Cal. Civ. Proc. Code § 1281.2, paragraph breaks omitted.)

"[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.)

Here, defendant presents evidence that plaintiff Ivan Vasquez signed an agreement to "resolve all claims, disputes or controversies arising out of or relating to

[Vasquez's] employment and/or the cessation of employment exclusively by final and binding arbitration to the extent permitted by law." (Hamamjian Decl., Ex. C, "Agreement to Arbitrate Employment Disputes." Plaintiff does not deny the existence of the agreement but argues it is not enforceable with respect to the wage and hour class action claims and PAGA claim of the First Amended Complaint.

The arbitration agreement does not include an explicit waiver of the employee's ability to bring a claim on a representative basis but does state the employee and employer agree to arbitrate their disputes by binding arbitration to the extent permitted by law. As such, defendant is moving to dismiss the class claims and compel plaintiff to arbitrate his causes of action on an individual basis.

Plaintiff argues that defendant has waived its ability to compel arbitration pursuant to CAA because it has primarily argued arbitration should be compelled pursuant to the FAA. Given the court was directed specifically to determine whether the CAA compels arbitration of plaintiff's claims the argument is not persuasive.

Plaintiff next argues under *Gentry v. Superior Court* (2007) 42 Cal.4th 443, the class claims should not be dismissed in favor of individual arbitration. *Gentry* requires a party opposing the enforcement of a class waiver to make a factual showing for the trial court to consider: (1) "the modest size of the potential individual recovery"; (2) "the potential for retaliation against members of the class"; (3) "the fact that absent members of the class may be ill informed about their rights"; and (4) "other real world obstacles to the vindication of class members' rights ... through individual arbitration." (*Id.* at pp. 453, 463.)

Where, as here, the FAA is not applicable the *Gentry* analysis is the appropriate test to determine whether a class waiver is enforceable. (*Muro v. Cornerstone Staffing Solutions, Inc.* (2018) 20 Cal.App.5th 785, 792 (*Muro*)). Although there is no explicit class action waiver, the language requiring arbitration of claims between the employee and employer can be interpreted as not permitting class arbitration and subject to the *Gentry* analysis. (*Nelsen v. Legacy Partners Residential, Inc.* (2012) 207 Cal.App.4th 1115, 1127, 1131.)

Plaintiff has presented evidence to support invalidating the implicit waiver of class claims pursuant to *Gentry*. Plaintiff's maximum recovery is approximately \$12,997.36 (Lam Decl., ¶ 3, Ex. 1, Vazquez Decl., ¶¶ 2, 4-5.) This figure is consistent with other amounts found to be modest. (*Muro, supra*, 20 Cal.App.5th, at p. 793.) Plaintiff attests to being afraid of retaliation for initiating a lawsuit while still employed with defendant. (Vazquez Decl., ¶ 5.) Similar attestations as to the parties own concerns of retaliation have been determined to be sufficient to establish this element. (*Muro, supra*, at p. 794.) Plaintiff attests to his own lack of understanding of his rights under the law, which has been found sufficient to infer the putative class members may not have been informed of their rights. (Vazquez Decl., ¶ 3; *Muro, supra*, at pp. 794-795.) As for the final element, plaintiff argues multiple, individual arbitrations are inefficient in wage and hour actions, which is why wage and hour actions are particularly well-suited for resolution on a class-wide basis. (*Gentry, supra*, 42 Cal.4th a p. 459.) The court finds class proceedings as to the class claims of the First Amended Complaint, specifically causes of action 1 through 7 and 9, are the more effective way to allow the putative class of employees to enforce their rights. The court finds such an outcome is also consistent with the arbitration agreement



