Tentative Rulings for July 23, 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)

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.

25CECG03207 ***Reyna Duran v. Ryan A Dunlop, D.M.D, Inc*** **is continued to Thursday, September 3, 2026, at 3:30 p.m. in Department 403.**

(Tentative Rulings begin at the next page)

<u>Tentative Rulings for Department 403</u>

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(20) **Tentative Ruling**

Re: ***Hedrington v. Woolman et al.***
Superior Court Case No. 25CECG01717

Hearing Date: July 23, 2026 (Dept. 403)

Motion: By Plaintiff to Vacate Order for Fee and Under CCP & 473(d) & 473 (d) 2014 Judgment and Request for Evidentiary Hearing

Tentative Ruling:

To deny. (Code Civ. Proc., §§ 473, 1008.)

Explanation:

Though the motion is extremly vague and difficult to understand, it appears that plaintiff is seeking to vacate the order granting defendant William Woolman's Code of Civil Procedure section 425.16 special motion to strike the Complaint ("anti-SLAPP motion"). The anti-SLAPP motion was granted on 11/5/2025. Plaintiff filed the instant motion to vacate the order on 1/28/25. The basis for the motion to vacate appears to be that the anti-SLAPP motion was not timely filed under Code of Civil Procedure section 425.16, subdivision (f), which provides, "The special motion may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms it deems proper."

Plaintiff argued in opposition to the anti-SLAPP motion that the motion was untimely, and the court rejected this argument in the 11/5/2025 order, finding that the motion was timely filed. The issue has already been argued, considered, and ruled upon. Accordingly, this is simply an improper and untimely motion for reconsideration of the 11/5/2025 order.

A party may bring a motion to reconsider, and have a different order entered, if the motion is:

1. brought before the same judge that made the order;
2. made within 10 days after service upon the party of notice of the entry of the order;
3. based on new or different facts, circumstances, or law; and
4. made and decided before entry of judgment.

(Code Civ. Proc., § 1008, subd. (a), (b).)

The motion filed on 1/28/2026 is clearly untimely, filed well after 10 days of service of the order, and is denied for that reason. Furthermore, there is no showing of new or different facts, circumstances or law.

The motion is styled as a motion for relief under Code of Civil Procedure section 473, subdivision (d), which provides, "The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed, and may, on motion of either party after notice to the other party, set aside any void judgment or order." Plaintiff identifies no clerical mistake in any judgment, but instead seeks a new ruling on matters that have already been briefed and ruled upon. The motion is denied.

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: SMC on July 22, 2026 .
(Judge's initials) (Date)

(37)

<u>Tentative Ruling</u>

Re: ***Mendez v. Fresno's Chaffee Zoo Corporation***
Case No. 23CECG04628

Hearing Date: July 23, 2026 (Dept. 403)

Motion: Plaintiff's Motion for Approval of PAGA Settlement

Tentative Ruling:

To deny without prejudice. (Lab. Code, §§ 2698 et seq.)

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. (s)(2).)

The statute does not explain what exactly the trial court should consider when reviewing a proposed PAGA settlement. However, in *Moniz v. Adecco USA, Inc*. (2021) 72 Cal.App.5th 56, the Court of Appeal 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.) "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 (s)(2), states: "The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." Plaintiff's counsel has shown that notice of the settlement was provided to the LWDA. (Moon Decl., Exhs. 2-3.)

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.)

a. Strength of the Case

The operative pleading, the First Amended Complaint, alleges a sole cause of action for penalties pursuant to PAGA, based on various Labor Code violations. Plaintiff argues the settlement is reasonable and will redress the alleged civil code violations experienced by the 474 PAGA members. (Moon Decl., ¶ 22.) Defendant provided time and payroll data representing an 18% sample of the PAGA members which was in turn analyzed by plaintiff's counsel who determined the realistic exposure for defendant was $320,000. (Moon Decl., ¶ 32.)

Regarding weaknesses of the claims, plaintiff notes the court's discretion to reduce the civil penalties and defendant's defenses. Plaintiff's counsel details his assessment of the merits and risks of each violation alleged based upon his experience prosecuting such claims. (Moon Decl., ¶¶ 25-41.)

Insufficient evidence was provided for the estimated number of PAGA members. Additionally, insufficient evidence was provided for the number of pay periods at issue.

The discussion of the strengths and weaknesses of the case is adequate. However, there is insufficient evidence to support the estimated number of PAGA members and pay periods at issue. These are foundational to any assessment here.

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 attended mediation. Plaintiff's counsel are highly experienced in representative litigation.

Plaintiff attests to the settlement as a product of arm's-length negotiations facilitated by mediator Tripper Ortman. (Moon Decl. ¶ 13.) The mediation on February 18, 2025 resulted in the settlement now before the court. (Ibid.) Regarding pre-settlement discovery, counsel states that defendant provided an 18% sample of time and payroll records for PAGA members and that these records were analyzed by counsel for use in settlement negotiations. (Moon Decl., ¶ 12.)

This factor weighs in favor of approval.

c. *Risks of Litigating Case through Trial*

Counsel notes that the parties both recognized the cost, time, inconvenience, and delay in the continued litigation PAGA claim.

d. *Amount of Settlement*

The gross settlement is $285,000, and to assess the reasonableness of this amount, the court needs a good valuation of the total potential penalties. No foundation for the number of employees and pay periods has been provided.

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. *Scope of the release*

> … PAGA's statutory scheme and the principles of preclusion allow, or "authorize," a PAGA plaintiff to bind the state to a judgment through litigation that could extinguish PAGA claims that were not specifically listed in the PAGA notice where those claims involve the same primary right litigated. Because a PAGA plaintiff is authorized to settle a PAGA representative action with court approval (§ 2699, (*l*)(2)), it logically follows that he or she is authorized to bind the state to a settlement releasing claims commensurate with those that would be barred by res judicata in a subsequent suit had the settling suit been litigated to judgment by the state.

(*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 83.)

Here, the settlement agreement provides that the following claims would be released:

> "…all claims, transactions, or occurrences related to their employment including all claims alleged in the Action, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Complaint and the PAGA Notice, including but not limited to claims for meal and rest period penalties, Labor Code section 203 (waiting time penalties) and Labor Code section 226 (wage statements)."

(Moon Decl., Exh. 1, PAGA Settlement Agreement, Section 5.)

This is consistent with the Notice sent by plaintiff. (Moon Decl., Exh. 2.) The scope of the release appears to be appropriately limited to the PAGA claims of which the LWDA was given notice and those supported by the allegations of the complaint.

4. Attorney's Fees and Costs

Plaintiffs' attorneys seek an award of $85,500 in attorneys' fees (30% of the gross settlement), and up to $25,000 in costs.

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. (*Id.* at pp. 504-506.)

A court assessing attorney's fees begins with a touchstone or lodestar figure, based on the 'careful compilation of the time spent and reasonable hourly compensation of each attorney … involved in the presentation of the case." (*Serrano v. Priest* (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.)

Here, the billing rates of $950 and $850 are excessive and unrealistic in the local market. Additionally, there is no discussion from plaintiff whether he attempted to obtain local counsel.

5. Administration Costs

The settlement agreement provides that settlement administrator Phoenix Class Action Administration Solutions will receive $5,750 to cover administration costs. The court intends to approve the settlement administration costs to Phoenix.

6. Incentive Award to Named Plaintiffs

The settlement also provides that the plaintiff will receive an incentive award of $10,000. There is nothing in PAGA that specifically authorizes an incentive payment to the named plaintiff. PAGA only authorizes awards of penalties to aggrieved employees based on actual violations of the Labor Code. (Labor Code § 2699(i).) The court is not inclined to award plaintiff an incentive award.

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: **SMC** **on** **July 22, 2026** .
(Judge's initials) (Date)