Tentative Rulings for September 17, 2026
Department 501

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.

24CECG04875 ***Laren Cyr Galpin v. Merced Hospice, Inc.*** **is continued to Thursday, September 24, 2026, at 3:30 p.m. in Department 501.**

25CECG02366 ***Pablo Garcia v. Ford Motor Company*** **is continued to Thursday, October 22, 2026, at 3:30 p.m. in Department 501.**

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Tentative Ruling

Re: ***Alexander C. Sherriffs v. Chrissy Burkett-Johnson***
Superior Court Case No. 24CECG04695

Hearing Date: September 17, 2026 (Dept. 501)

Motion: by Plaintiffs for Severance

Tentative Ruling:

To deny, without prejudice to the issue of separate trials being raised as a motion in limine.

Explanation:

Under Code of Civil Procedure section 1048, "The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any cause of action, including a cause of action asserted in a cross-complaint, or of any separate issue or of any number of causes of action or issues, preserving the right of trial by jury required by the Constitution or a statute of this state or of the United States." (Code Civ. Proc., § 1048, subd. (b).)

Here, plaintiffs have moved to sever the claims between defendants Chicago Title Company and Fidelity National Title Company ("Title Company Defendants") from the remaining causes of action against defendants Chrissy L. Burkett-Johnson, John T. Johnson, and JP Morgan Chase Bank, N.A.. Plaintiffs argue the first, second and third causes of action against the Johnsons and JP Morgan Chase Bank raise purely equitable issues that must be decided by the court whereas the fourth cause of action alleging negligence against the Title Company Defendants must be decided by a jury. Plaintiffs admit the causes of action share a common factual backdrop but argue that the trial of separate claims will be more efficient and prevent unnecessary delay of the resolution of the equitable claims. Plaintiffs additionally assert that until the equitable claims are resolved the damages in their negligence claim remain uncertain.

Chicago Title Company and Fidelity National Title Company oppose the motion arguing that severance is inefficient and plaintiffs' premise for the motion is inaccurate. Contrary to the representation in the moving papers, the Title Company Defendants are named in the first and third causes of action. Severance would require the Title Company Defendants to now defend two separate actions arising from the same nucleus of facts. Additionally, defendants argue severance would be prejudicial as the factfinder in the first action could make binding factual determinations on the parties in the subsequent proceeding. There is also a risk of inconsistent factual findings between the two actions.

In reply, plaintiffs concede that the first and third causes of action are also pleaded against Title Company Defendants and offer to cure the issue by dismissing them without prejudice. Plaintiffs additionally argue the interlocutory judgment[1] entered on September 15, 2025 against defaulted defendants Chrissy Burkett-Johnson and John Johnson resolved any issue to be tried regarding the intended conveyance.

The court finds that plaintiffs have not established that severance of the first, second, and third causes of action would further convenience or avoid prejudice. (Code Civ. Proc., § 1048(b); see *Grappo v. Coventry Fin. Corp*. (1991) 235 Cal.App.3d 496, 505; *McArthur v. Shaffer* (1943) 59 Cal.App.2d 724, 727.) Separate actions would seem to require duplication of efforts, increased costs, and possible prejudice to the opposing parties. Further, if the entry of the default interlocutory judgment resolved the issue of what was intended to be conveyed and all that is left is the "equitable clean-up of a lender's deed" then it would appear the first three causes of action are all but resolved once the Title Company Defendants are dismissed from these causes of action. Severance does not appear to serve any clear purpose if plaintiffs have resolved the equitable causes of action against the parties they intend to pursue and all that remains to be resolved is the fourth cause of action against the Title Company Defendants.

Accordingly, the motion is denied without prejudice to plaintiffs addressing the issue of separate trials as a motion in limine.

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: <u>KCK</u> on <u>09/16/26</u>.
(Judge's initials) (Date)

[1] Plaintiff's Request for Judicial Notice of the recorded interlocutory judgment is granted.

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Tentative Ruling

Re: ***Eduardo Velazquez v. Carlucci Transport Inc.***
Superior Court Case No. 22CECG03945

Hearing Date: September 17, 2026 (Dept. 501)

Motion: By Plaintiff for Approval of PAGA Settlement

Tentative Ruling:

To grant.

Explanation:

On May 5, 2023, Eduardo Velazquez filed his first amended complaint against his former employer, Carlucci Transport, Inc. alleging violations of the Labor Code as the basis of a representative PAGA action. The parties reached a settlement of the PAGA claim for which they seek court approval.

> Because an aggrieved employee's action under the [PAGA] functions as a substitute for an action brought by the government itself, a judgment in that action binds all those, including nonparty aggrieved employees, who would be bound by a judgment in an action brought by the government. The act authorizes a representative action only for the purpose of seeking statutory penalties for Labor Code violations (Lab.Code, section 2699, subds. (a), (g)), and an action to recover civil penalties 'is fundamentally a law enforcement action designed to protect the public and not to benefit private parties.

(*Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348, 381.)

> A PAGA representative action is therefore a type of *qui tam* action. Traditionally, the requirements for enforcement by a citizen in a qui tam action have been (1) that the statute exacts a penalty; (2) that part of the penalty be paid to the informer; and (3) that, in some way, the informer be authorized to bring suit to recover the penalty. The PAGA conforms to these traditional criteria, except that a portion of the penalty goes not only to the citizen bringing the suit but to all employees affected by the Labor Code violation. The government entity on whose behalf the plaintiff files suit is always the real party in interest in the suit.

(*Id.* at 382, internal citation omitted.)

"PAGA settlements are subject to trial court review and approval, ensuring that any negotiated resolution is fair to those affected." (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 549, citing Labor Code section 2699(l)(2): "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.")

> [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. (See *Williams*, *supra*, 3 Cal.5th at p. 546, 220 Cal.Rptr.3d 472, 398 P.3d 69 [PAGA "sought to remediate present violations and deter future ones"]; *Arias*, *supra*, 46 Cal.4th at p. 980, 95 Cal.Rptr.3d 588, 209 P.3d 923 [the declared purpose of PAGA was to augment state enforcement efforts to achieve maximum compliance with labor laws].)

(*Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77.)

> "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' " ' " (*Dunk*, *supra*, 48 Cal.App.4th at pp. 1800–1801, 56 Cal.Rptr.2d 483), 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."

(*Moniz, supra,* (2021) 72 Cal.App.5th 56, 77.)

Under the general provisions of the PAGA scheme, 75% of the civil penalties recovered goes to the state while the remaining amount is given to the aggrieved employees. (Lab. Code, § 2699, subd. (i).) Here, 75% of the settlement amount, *after deduction of attorney fees, costs, administration expenses and incentive payment,* is to be paid to the LWDA.

1. Notice to LWDA

The moving party has given notice of the settlement to the LWDA, so it may address the court regarding it, if it so chooses. (Lab. Code, § 2966, subd. (l)(2); see Kim Decl., Exhs. 2-4.)

2. Fairness of the settlement amount

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

Plaintiff's action was initiated as a wage and hour class action with the PAGA cause of action added in the First Amended Complaint.

Plaintiff argues the settlement is reasonable and will redress the alleged civil code violations experienced by approximately 375 PAGA members. Defendant provided time and payroll data representing a sample of the PAGA members which was in turn analyzed by plaintiff's counsel who determined the potential maximum exposure for defendant was $1,542,700. This figure is said to represent the assessment of a $100 penalty and 15,427 pay periods. Defendant has provided a declaration clarifying that there are 283 aggrieved employees and 15,247 pay periods. (Martin Decl., ¶ 4.) While the number of employees is less than estimated, the number of pay periods remains the same.

Regarding weaknesses of the claims, plaintiff notes the court's discretion to reduce the civil penalties and defendant's defenses. Defendant asserted a clerical error omitting pay period end dates on less than 6% of the pay periods at issue and contends this was corrected prior to receiving notice of the lawsuit. The moving papers note that defendant continues to deny the allegations of the complaint and the settlement is not to be construed as an admission of the merits of the claims. Defendant also asserts that the Motor Carrier Safety Act preempts the overtime and meal and rest period claims.

The court finds there is sufficient evidence to support the figures presented in the moving papers and to find that the settlement figure is reasonable.

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 is highly experienced in representative litigation.

Plaintiff attests to the settlement as a product of arm's-length negotiations occurring thought out the litigation and resulting in a settlement amount that reflects the best feasible recovery. (Kim Decl. ¶¶ 10-14.)

Regarding pre-settlement discovery, counsel states that formal and informal discovery exchange occurred. (Kim Decl., ¶ 10.) Further, Berger Consulting Group assisted in quantifying defendant's exposure. (Id. at ¶ 12.)

The case settled after a mediation session, and plaintiff's counsel are also highly experienced in representative litigation such as this. 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 $225,000, and to assess the reasonableness of this amount, the court needs a good valuation of the total potential penalties. Here, counsel states that the settlement represents 80% of the realistic potential exposure, which represents a good result in light of the defenses. This factor weighs in favor of approval.

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

The settlement agreement provides that plaintiff's counsel would get up to $75,000 (1/3 of the total gross recovery) in attorney's fees, plus costs of up to $15,000. Plaintiff's actual costs are $8,58.63. (Kim Decl., Exh. 5.)

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.) Labor Code section 2699, subdivision (g)(1) states that the prevailing employee "shall be entitled to an award of reasonable attorney's fees and costs."

Records by counsel of the time actually spent on a matter are the starting point for any lodestar determination. (*Horsford v. Board of Trustees* (2005) 132 Cal. App. 4th 359, 394.) 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* (*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.)

Here, counsel have billing rates ranging between $400 and $950 per hour. Plaintiff provides a declaration by Kevin Schwin to support the requested fees. Schwin is a local attorney who practices in employment law with an asserted hourly rate of $850. (Schwin Decl., ¶¶ 11-14.) The court would note that this declaration is not persuasive as Schwin attests to performing contingency-fee based work. (Ibid.)

The court would be inclined to reduce the billing rates as follows: David Yeremian at $650 per hour, Roman Shkodnik at $500 per hour, Enoch Kim at $450 per hour, Robert Payaslyan at $300 per hour, Norayr Zakaryn at $300 per hour, Emma Geesaman at $375 per hour, Antonia McKee at $350 per hour, Amanda Fazio at $325 per hour, Mason Doidge at $325 per hour, and Bradford Smith at $325 per hour. After reducing the billing rates, the lodestar would be $110,097.50. The lodestar exceeds the attorney's fees requested. The court approves the requested $75,000.

The court's approval of the actual costs of $8,583.63 is requested. Exhibit 5 supports this amount.

The court intends to approve the settlement administration costs to Phoenix Class Action Administration Solutions as requested. (Lawrence Decl., ¶ 16.)

h. 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:

> Upon entry of judgment, all Aggrieved Employees will be bound by the judgment and are deemed to release, on behalf of themselves and their

> respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice and ascertained in the course of the Action, including but not limited to, civil penalties pursuant to PAGA for or related to alleged violations of Labor Code §§ 226 & 226.6 (Wage Statements); Labor Code §§ 510 & 1194 (Overtime); Labor Code § 226.7 (Rest Periods); Labor Code § 512 (Meal Periods); Labor Code §§ 204, 210, 226.2, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 1670.5 (Pay All Hours Worked); Labor Code §§ 201-203 (Waiting Time); declaratory relief as it relates to the claims listed above, penalties recoverable pursuant to the claims listed above, interest, fees, costs, as well as all other claims and allegations alleged in the Action, throughout the PAGA Period ("Released PAGA Claims").

(Kim Decl., Exh. 1, PAGA Settlement Agreement, Section 5.2.)

The notice of Labor Code violations sent on behalf of plaintiff includes allegations of failure to pay minimum wages (Lab. Code, § 1197); failure to pay wages and overtime (Lab. Code, § 510); meal-period liability (Lab. Code, § 226.7); rest-break liability (Lab. Code, § 226.7); failure to issue accurate and itemized wage statements (Lab. Code, § 226); failure to issue semi-monthly payments (Lab. Code, § 204); failure to keep records (Lab. Code, § 1174); waiting time penalties (Lab. Code, § 203); and unfair competition (Bus. & Prof. Code, §§ 17200, et seq.). 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.

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 09/16/26 .
(Judge's initials) (Date)