Tentative Rulings for September 25, 2025
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.

23CECG01886 ***Ron & Lynn Sawl Living Trust v. Fresno County Private Security*** **is continued to Wednesday, October 29, 2025, at 3:30 p.m. in Department 501.**

23CECG03079 ***Yolanda Montes Paredes v. Crystal Negrete*** **is continued to Wednesday, October 29, 2025, at 3:30 p.m. in Department 501.**

24CECG03048 ***Frank Cruz v. Mortgage Default Services, LLC*** **is continued to Wednesday, October 29, 2025, at 3:30 p.m. in Department 501.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

Begin at the next page

(20)

Tentative Ruling

Re: ***L.A. Commercial Group, Inc. v. FRZ Electrical, Inc.***
Superior Court Case No. 22CECG01737

Hearing Date: September 25, 2025 (Dept. 501)

Motion: Default Hearing

Tentative Ruling:

To take the hearing off calendar, as no papers have been filed.

If oral argument is timely requested, such argument will be entertained on Monday, September 29, 2025, at 1:30 p.m. in Department 501.

Explanation:

Plaintiff's counsel reserved a hearing date for an unspecified default hearing, though default judgment has already been entered. The intended purpose of this hearing is unclear. Moving papers should have been filed 16 court days before the hearing (Code Civ. Proc., § 1005, subd. (b)), but nothing has been filed.

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: DTT on 9/22/2025 .
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Valley Strong Credit Union v. Garcia***
Superior Court Case No. 23CECG03047

Hearing Date: September 25, 2025 (Dept. 501)

Motion: by Plaintiff to Set Aside Dismissal and Enforce Settlement

Tentative Ruling:

To grant, setting aside the dismissal entered on October 26, 2023, and signing the proposed judgment.

If oral argument is timely requested, such argument will be entertained on Monday, September 29, 2025, at 1:30 p.m. in Department 501.

Explanation:

Code of Civil Procedure section 664.6 provides as follows: "If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court . . . for settlement of the case . . . the court, upon motion, may enter judgment pursuant to the terms of the settlement." It also provides that the parties may request that the court "retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement." (Code Civ. Proc. § 664.6.) Due to the summary nature of the statute authorizing judgment to enforce a settlement agreement, strict compliance with its requirements is prerequisite to invoking the power of the court to impose a settlement agreement. (*J.B.B. Investment Partners, Ltd. v. Fair* (2014) 232 Cal.App.4th 974, 984.)

Here, plaintiff Valley Strong Credit Union submits a writing, signed by the parties, made outside the presence of the court. The court agreed to retain jurisdiction pursuant to Code of Civil Procedure section 664.6. Subsequently, the case was dismissed. Plaintiff requests the dismissal be set aside in order to enter judgment pursuant to the terms of the settlement agreement.

The agreement contemplated the settlement of the action for the amount of $39,931.14, discounted to $23,616.00 conditioned upon defendant making monthly payments of $984.00 beginning October 28, 2023, and a final payment September 28, 2025. (D'Anna Decl., Ex. 1, ¶¶ 1, 5-6.) In the event of default in the payments the agreement provides for the entry of judgment against the settling defendant for the full amount of principal alleged in the action, $39,931.14, with credit given for any payments made before the default. (*Id*., ¶ 4, Ex. 1, ¶ 7.) Plaintiff submits that defendant made payments totaling $18,696..00 until his default in April 2025 and calculates $21,235.14 as the total judgment to be entered. (*Id*., ¶¶ 9-11, Ex. C.) No opposition was filed.

Based on the above, the court finds a valid written signed settlement agreement outside of the presence of the court, the dismissal entered October 26, 2023, will be set

aside and judgment will be entered in accordance with the terms of the written settlement agreement. (Code Civ. Proc. § 664.6, subd. (a).)

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: DTT on 9/22/2025.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Correia v. The Board of Trustees of the California State University***
Superior Court Case No. 23CECG00658

Hearing Date: September 25, 2025 (Dept. 501)

Motion: by Plaintiff Calliope Correia for Leave to File an Amended Complaint

Tentative Ruling:

To grant. Plaintiff Calliope Correia may file the proposed amended complaint within 10 days of service of the order by the clerk. New allegations/language must be set in **boldface** type.

If oral argument is timely requested, such argument will be entertained on Monday, September 29, 2025, at 1:30 p.m. in Department 501.

Explanation:

Motions for leave to amend the pleadings are directed to the sound discretion of the court. "The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading . . . ." (Code Civ. Proc. § 473, subd. (a)(1); see also Code Civ. Proc. § 576.) Judicial policy favors resolution of cases on the merits, and thus the court's discretion as to allowing amendments will usually be exercised in favor of permitting amendments. This policy is so strong, that denial of a request to amend is rarely justified, particularly where, as here, "the motion to amend is timely made and the granting of the motion will not prejudice the opposing party." (*Morgan v. Superior Court* (1959) 172 Cal.App.2d 527, 530.) The validity of the proposed amended pleading is not considered in deciding whether to grant leave to amend. (*Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048.) Absent prejudice, it is an abuse of discretion to deny leave to amend. (*Higgins v. DelFaro* (1981) 123 Cal.App.3d 558, 564-65.) Here, plaintiff Calliope Correia has met the formalities required of a motion to amend the Complaint. No opposition has been filed.

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: DTT on 9/22/2025.
(Judge's initials) (Date)

(20)

Tentative Ruling

Re: ***Wheeler v. Spane et al.***
Superior Court Case No. 25CECG02378

Hearing Date: September 25, 2025 (Dept. 501)

Motions: Defendant Jessica Felmus' Demurrer and Motion to Strike

by Defendants Scott Anderson and Kristy Anderson to Expunge Lis Pendens

Tentative Ruling:

To take the demurrer and motion to strike off calendar for failure to meet and confer. (Code Civ. Proc., §§ 430.41 and 435.5.)

To grant the notion to expunge the lis pendens recorded by plaintiffs on June 10, 2025, and award Scott Anderson and Kristy Anderson attorney fees in the sum of $4,725, to be paid by plaintiffs to counsel for the Andersons within 30 days of service of the order by the clerk.

If oral argument is timely requested, such argument will be entertained on Monday, September 29, 2025, at 1:30 p.m. in Department 501.

Explanation:

Demurrer and Motion to Strike

A party demurring to or moving to strike a complaint is required to meet and confer, *in person, by telephone, or by video conference with* prior to filing the motion, and file and serve with the motion a declaration detailing the meet and confer efforts. (Code Civ. Proc., §§ 430.41, subd. (a), 435.5, subd. (a).) Felmus' meet and confer declaration makes clear that there was no telephonic, in person or video meet and confer. Nor in the correspondence exchanged was there any discussion of the issues raised in the motions. The court requires strict compliance with the meet and confer requirement. Additionally, plaintiff filed no points and authorities in support of the demurrer. Accordingly, the motions are taken off calendar. Plaintiff can challenge the FAC after meeting and conferring as required.

Motion to Expunge

"A party who asserts a claim to real property can record a notice of lis pendens, which serves as notice to prospective purchasers, encumbrancers and transferees that there is litigation pending that affects the property." (*Amalgamated Bank v. Superior Court* (2007) 149 Cal.App.4th 1003, 1011.) "A lis pendens acts as a cloud against the property, effectively preventing sale or encumbrance until the litigation is resolved or the lis pendens is expunged." (*Ibid.*) A lis pendens may be recorded by a party who asserts

a "real property claim." (Code Civ. Proc. § 405.20.) "'Real property claim'" as "the cause or causes of action in a pleading which would, if meritorious, affect … title to, or the right to possession of, specific real property...." (Code Civ. Proc., § 405.4.)

The allegations of the complaint determine whether a "real property claim" is involved; no independent evidence is required. (*Urez Corp. v. Superior Court* (1987) 190 Cal.App.3d 1141, 1149 [prior law].) "In making this determination, the court must engage in a demurrer-like analysis. (*Kirkeby v. Superior Court of Orange County* (2004) 33 Cal.4th 642, 647-48.) Where the owner claims the lis pendens is improper because the complaint does not include a "real property claim", the burden of proof is on the party opposing the motion to expunge to establish the existence of a "real property claim." (Code Civ. Proc., § 405.30.)

Initially the court notes that plaintiffs object that the motion to expunge was served a couple days late. However, plaintiffs have filed a lengthy and detailed opposition on the merits and show no prejudice, waiving any objection to insufficient notice. (See *Carlton v. Quint* (2000) 77 Cal.App.4th 690, 697.)

The motion to expunge is granted because there is no real property claim asserted against the Andersons, the parties moving to expunge the lis pendens. Though plaintiffs apparently *intended* to assert claims for negligence, trespass and injunctive relief against the Andersons in relation to a boundary dispute (the Andersons allegedly caused a fence to be placed a couple inches onto plaintiffs' property), the FAC asserts no claim or cause of action against the Andersons. They are only mentioned once in the Complaint, where they are identified as owners of the property at issue. No cause of action is asserted against the Andersons. Since they are not named as defendants to any cause of action, there is no claim against them, much less a real property claim, and plaintiffs have not even sought to amend the Complaint to state a claim against the Andersons.

Additionally, the Andersons were not properly served with the lis pendens. Prior to recordation of the notice, plaintiffs are required to "cause a copy of the notice to be mailed, by registered or certified mail, return receipt requested, to all known addresses of the parties to whom the real property claim is adverse and to all owners of record of the real property affected by the real property claim as shown by the latest county assessment roll." (Code Civ. Proc., § 405.22.) Plaintiffs admit that they did not mail the notice to the Andersons' property at 5902 Claridge Drive in Riverside.

"Any notice of pendency of action shall be void and invalid as to any adverse party or owner of record unless the requirements of Section 405.22 are met for that party or owner and a proof of service in the form and content specified in Section 1013a has been recorded with the notice of pendency of action." (Code Civ. Proc., § 405.23.) While strict compliance may apply (see *J&A Mash & Barrel, LLC v. Superior Court of Fresno County* (2022) 74 Cal.App.5th 1, 29), plaintiffs cite to no authority providing that there is substantial compliance where the notice was mailed to the wrong address.

Code of Civil Procedure section 405.38 provides that the court shall award to any party prevailing on an expungement motion its reasonable attorney fees and costs of making or opposing the motion, "unless the court finds the other party acted with substantial justification or that other circumstances make the imposition of attorney fees

and costs unjust." There is no justification for plaintiffs' failure to assert a real property claim against the Andersons, even after being apprised of this issue by letter dated 7/10/2025. The Andersons seek $5,850 in attorney fees, but that includes time spent preparing a cross-complaint. (See Cuttone Decl., ¶¶ 9-15.) Section 405.38 only authorizes attorney fees on the motion to expunge itself. The court therefore intends to award $4,725.

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: DTT on 9/22/2025 .
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Roberts v. Sally Beauty Holdings, Inc. et al.***
Superior Court Case No. 22CECG03470

Hearing Date: September 25, 2025 (Dept. 503)

Motion: by Plaintiff for Approval of PAGA Settlement

Tentative Ruling:

To grant the motion and approve the settlement, costs in the amount sought of $16,436.37, fees in the amount sought of $113,801.98, and an enhancement award to plaintiff in the reduced amount of $1,725.00.

To appoint ILYM Group, Inc., as settlement administrator and approve costs to the administer in the amount sought of $6,750.00.

Plaintiff is directed to submit a new proposed order with attention to Paragraphs 8, 10(b), and 10(d), within five days of service of the order by the clerk.

If oral argument is timely requested, such argument will be entertained on Monday, September 29, 2025, at 1:30 p.m. in Department 501.

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. (i)(2).)

'"'A representative action under PAGA is not a class action'"', and is instead a 'type of qui tam action', a standard requiring the trial court to determine independently whether a PAGA settlement is fair and reasonable is appropriate. Class actions and PAGA representative actions have many differences, with one salient difference being that certain due process protections afforded to unnamed class members are not part of PAGA litigation because aggrieved employees do not own personal claims for PAGA civil penalties. Nonetheless, the trial court must 'review and approve' a PAGA settlement, and the Supreme Court has in dictum referred to this review as a 'safeguard[ ].' The Supreme Court has also observed that trial court approval 'ensur[es] that any negotiated resolution is fair to those affected.' When trial court approval is required for certain settlements in other qui tam actions in this state, the statutory standard is whether the settlement is 'fair, adequate, and reasonable under all the circumstances.' 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', 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 v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 76-77, internal citations omitted.)

"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." (*Moniz v. Adecco USA, Inc.*, *supra*, 72 Cal.App.5th 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." (*Moniz v. Adecco USA, Inc.*, *supra*, 72 Cal.App.5th at p. 79, internal citation omitted.)

2. Notice to Labor and Workforce Development Agency

Labor Code section 2699, subdivision (l)(2), states: "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."

Here, counsel for plaintiff Kelly Roberts ("plaintiff") states that notice of the settlement was given to the Labor and Workforce Development Agency ("LWDA") on September 3, 2025. (Bradley Decl., ¶ 33.) Therefore, plaintiff has complied with the requirement to give notice of the settlement to the LWDA.

3. Is the Settlement Fair, Adequate and Reasonable?

As mentioned above, the Court of Appeal in *Moniz v. Adecco USA, Inc.,* stated that the trial court should review PAGA settlements to determine whether they are fair, adequate and reasonable. (*Moniz v. Adecco USA, Inc.*, *supra*, 72 Cal.App.5th 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.)

Here, it appears that the proposed settlement is fair, adequate and reasonable under the circumstances.

A. Strength of Case: Plaintiff notes that, while the raised claims for violations related to applicable wage orders that might have allowed for penalties up to $1,896,700 in concert based on 18,976 estimated pay periods at issue across the 563 aggrieved members. Defendant Sally Beauty Holdings, Inc. and Beauty Systems Group LLC (together "defendants") raised many defenses to the claims. Also, there is a real chance that, even if plaintiff prevailed at trial, the court would substantially reduce the amount of the penalties. Therefore, the proposed settlement of Plaintiffs' claims for $341,406.00 appears to be reasonable given the relative strengths and weaknesses of Plaintiffs' claims, at 18 percent of the theoretical maximum recovery.

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 exchanged substantial informal discovery and attended mediation. It appears that counsel obtained sufficient information to make an informed decision about settling the case. Plaintiff's counsel are also experienced in representative litigation. Therefore, this factor weighs in favor of approving the settlement.

C. Risks of Litigating Case through Trial: As discussed above, defendants raised defenses, and litigating the case through trial would have involved considerable risks for Plaintiffs. There would also have been substantial costs to both parties in trying the case. Therefore, the risks of litigating the case were substantial, and this factor weighs in favor of approving the settlement.

D. Amount of Settlement: As discussed above, the amount of the settlement appears to be reasonable given defendants' defenses and the likelihood that plaintiff would not be able to recover the full amount of penalties sought. There is also a risk that the trial court would exercise its discretion to reduce the amount of penalties even if plaintiff prevailed at trial. Therefore, the amount of the settlement appears to be fair, adequate, and reasonable under the circumstances.

E. Experience and Views of Counsel: Plaintiff's counsel are 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: Plaintiff's counsel seek $113,801.98 in attorney's fees, plus costs in the amount of $16,436.37. The fees are the equivalent of 1/3 of the total gross recovery.

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.)

Once a lodestar is fixed, the court may increase or decrease that amount by a multiplier, taking into account a variety of factors, including the quality of representation, the novelty and complexity of the issues, the results obtained, and the contingent risk presented. (*Id.*, at p. 489.)

Here, counsel's fees are about 1/3 of the total gross settlement. Counsel collectively submit to having performed 154.8 hours of work on the case, billing at rates from $200.00 to $1,050.00 per hour. (Bradley Decl., p. 17:19-18:9[1]; Gaines Decl., ¶¶ 15-18.) Aggregating the fees sought, counsel suggests that the lodestar be set at $121,570.00, resulting in a hypothetical lodestar multiplier of 0.94.

The reasonable hourly rate is that prevailing in the community for similar work. (*PCLM Group v. Drexler* (2000) 22 Cal.4th 1085, 1095.) The court finds the rates submitted by Bradley/Grombacher, LLP far exceed the prevailing rates in the community for similar work. (Bradley Decl., p. 11:8-16:17.) The court additionally finds that the rates submitted by Gaines and Gains, in comparison to the prevailing rates in the community for similar work, are high. (Gaines Decl., ¶¶ 15-18.)

As to Bradley/Grombacher LLP, while time entries are not required, it remains plaintiff's burden to prove the reasonableness of the number of hours they devote to this action. (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1325.) A trial court may not rubberstamp a request for attorney fees, and must determine the number of hours reasonably expended. (*Donahue v. Donahue* (2010) 182 Cal.App.4th 259, 271.) Here, only time was stated without regard to any identification of the associated tasks. Ordinarily, this showing would not meet the burden of demonstrating reasonableness of the hours expended.

In spite of the above, based on the totality of the hours, and considering the evidence presented, the court is satisfied that though counsels' rates are high, or in the case of the rate of $1,050 per hour, excessive, and the entries of billed time as to Bradley/Grombacher LLP are nebulous, sufficient information has been provided to evaluate whether the interest of the public and the LWDA are protected. Moreover, the court acknowledges the identification of tasks by Gaines and Gaines. (Gaines Decl., Ex. C.) The court finds that a fee award of 1/3 of the total gross settlement under the present circumstances, without approving the rates submitted, is reasonable and approves the request of $113,801.98. The court further finds that the costs sought in the amount of $16,436.37 are reasonable, and approves them.

H. Payment to Named Plaintiff: Plaintiff seeks an enhancement award of $10,00.00. Nothing in PAGA specifically authorizes an "enhancement 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, subd. (i).) Plaintiffs cite no authority to the contrary. This court is only aware of one federal decision, which at best suggests that incentive awards may be proper for plaintiffs who are willing to act as a private attorney general. (*See Rodriguez v. West Publishing Corp*. (9th Cir. 2009) 563 F.3d 948, 958-959.) The court notes however that the comments by the Ninth Circuit Court of Appeals are dicta as it pertained to the issues considered by the Ninth Circuit Court of

[1] Paragraph numbers reset halfway through the declaration. For clarity, page numbers are used.

Appeals. Nevertheless, the court finds that approving an enhancement award under these circumstances works to protect the public interest under PAGA's stated purpose by encouraging aggrieved employees to file actions.

Here, plaintiff submits that she took on the risk if the claim was not successful; that she sought to enforce the penalties imposed by the Labor Code to the benefit of all aggrieved employees; that she actively participated in the litigation by explaining practices and procedures, spending time to gather, organize and review documentation in support of the claim, and communicating with counsel throughout the course of litigation. Plaintiff further submits that she spent approximately 35 hours working on this case.

The court finds that plaintiff is entitled to a reasonable enhancement award for the time spent on behalf of all aggrieved employees. However, counsel has indicated that the average payout of the settlement across 563 employees will be $86.33. (Bradley Decl., p. 4:10-13 [citations omitted].) Thus, an enhancement award of $10,000.00 constitutes a portion in excess of 115 times the average recovery. Over the course of 35 hours of work, the court finds that this is neither fair nor reasonable. (*See Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-805 [discussing fair and reasonableness in the context of a class representative].) Based on the work performed, the court approves an enhancement award in the lesser amount of $1,725.

I. Administration Costs: Plaintiff nominates ILYM Group, Inc., for appointment as administrators to the settlement. Plaintiff submits the declaration of Lisa Mullins, President for ILYM Group, Inc. The court finds that ILYM Group, Inc., is well qualified, and appoints ILYM Group, Inc., as settlement administrator. The court further finds that the costs to administer the settlement is reasonable, and approves the settlement costs of $6,750.00.

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: DTT on 9/22/2025.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re:	***Cynthia Davila v. Torella McAlister-Minor*** Superior Court Case No. 25CECG00808
Hearing Date:	September 25, 2025 (Dept. 501)
Motion:	by Defendant Torella McAlister-Minor to Dismiss Plaintiff's PAGA Claim

Tentative Ruling:

To deny.

If oral argument is timely requested, such argument will be entertained on Monday, September 29, 2025, at 1:30 p.m. in Department 501.

Explanation:

Torella McAlister-Minor ("defendant") moves for a court order dismissing Cynthia Davila's ("plaintiff") Private Attorneys General Act ("PAGA") claim. Defendant asserts that plaintiff failed to exhaust administrative remedies pursuant to California Labor Code section 2699.3 subdivision (a), prior to bringing the claim.

"Before bringing a PAGA claim, a plaintiff must comply with administrative procedures outlined in section 2699.3, requiring notice to the [Labor and Workforce Development Agency] and allowing the employer an opportunity to cure unspecified violations not listed in section 2699.5." (*Lopez v. Friant & Associates, LLC* (2017) 15 Cal.App.5th 773, 785.) Our Supreme Court has explained that: "[a]s a condition of suit, an aggrieved employee acting on behalf of the state and other current or former employees must provide notice to the employer and the responsible state agency 'of the specific provisions of [the Labor Code] alleged to have been violated, including the facts and theories to support the alleged violation.' " (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 545.) However, the "facts and theories" need not "satisfy a particular threshold of weightiness." (*Ibid*.) The pleading standard at the PAGA complaint stage is a low bar, as any heightened pleading standard would " 'undercut the clear legislative purposes [PAGA] was designed to serve.' " (*Rojas-Cifuentes v. Superior Court* (2020) 58 Cal.App.5th 1051, 1060 [quoting *Williams v. Superior Court* (2017) 3 Cal.5th 531, 546.].) Evidence has previously been limited to the notice letter itself in determining whether the letter provided sufficient facts and theories as required by Labor Code section 2699.3 subdivision (a)(1)(A). (See *Gunther v. Alaska Airlines, Inc.* (2021) 72 Cal.App.5th 334, 349-351; *Rojas-Cifuentes v. Superior Court* (2020) 58 Cal.App.5th 1051, 1058-1059.)

Plaintiff has demonstrated that she sent notice to both the Labor and Workforce Development Agency ("LWDA") and her employer in compliance with section 2699.3, subdivision (a)(1)(A). (Yost Decl., ¶¶ 3-7, see Exhs. A-D.) Notice was appropriately given to the LWDA and the employer. In the case at bench, the notice letter has a section titled "FACTS" and the section that follows is titled "VIOLATIONS OF THE LABOR CODE

EXPERIENCED BY CLAIMANT AND SIMILARLY SITUATED EMPLOYEES." (*Id*., ¶¶ 3, 5, 6, Exh. A.) Each of the Labor Code violations raised in the notice includes a brief recitation of facts specific to each Labor Code violation cited that form a basis of those violations. Given the low bar for sufficiently notifying the employer and LWDA of the general basis of the claim, the notice letter is sufficient.

The aggrieved employee may commence a civil action if within 65 calendar days of the postmarked notice letter the LWDA has either (1) notified the employer and employee that it does not intend to investigate the alleged violations, or (2) if no notice is provided in response to the letter. (Lab. Code § 2699.3 subd. (a)(2)(A).)

Plaintiff submitted her PAGA notice to the LWDA on December 17, 2024. (Yost Decl., ¶¶ 3-4, Exh. B.) She received no response from the LWDA within the statutory waiting period. (*Id*., ¶ 9.) Plaintiff has complied with the requirements of Labor Code section 2699.3, subdivision (a)(2)(A).

For the foregoing reasons, the motion to dismiss plaintiff's PAGA claim 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: DTT on 9/23/2025.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re:	***Sophia Aguilar v. Crescent View South, Inc.*** Superior Court Case No. 25CECG00968
Hearing Date:	September 25, 2025 (Dept. 501)
Motion:	by Plaintiff Sophia Aguilar to Compel Initial Responses to Demand for Production of Documents and Request for Monetary Sanctions

Tentative Ruling:

To deny plaintiff Sophia Aguilar's motion to compel initial responses to the Demand for Production of Documents, Set One, as defendant Crescent View South, Inc., has now served initial responses and the motion is therefore moot.

To grant monetary sanctions against defendant Crescent View South, Inc., for its failure to provide verified responses to the demand until after the motion to compel had been filed. Sanctions are in the amount of $660.00 and are to be paid within 20 calendar days from the date of service of the minute order by the clerk.

If oral argument is timely requested, such argument will be entertained on Monday, September 29, 2025, at 1:30 p.m. in Department 501.

Explanation:

Motion to Compel

A motion to compel initial responses must show that the discovery was properly served on the opposing party, that the time to respond has expired, and that no response of any kind has been served. (*Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 905-06, *see Sinaiko Healthcare Consulting, Inc. v. PacificHealthcare Consultants* (2007) 148 Cal.App.4th 390, 404.) Failing to respond to discovery within the 30-day time limit waives objections to the discovery, including claims of privilege and work product protection. (Code Civ. Proc., § 2031.300 subd. (a).) Responses to initial discovery requests must be signed under oath by the party to whom the discovery was directed. (Code Civ. Proc., § 2031.250 subd. (a).) Unsworn responses are tantamount to no responses at all. (*Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, 636.) Where a response has been made, but the demanding party is not satisfied with it, the remedy is a motion to compel further responses. (Code Civ. Proc., § 2031.310.)

In the present case, plaintiff Sophia Aguilar ("plaintiff") propounded discovery on defendant Crescent View South, Inc., ("defendant") on April 29, 2025. (Fox Decl., ¶ 2.) When plaintiff received no response, objections, or production of documents, plaintiff filed this motion on July 25, 2025. (*Id*., ¶ 4.) Plaintiff concedes that defendant has since served responses to the Demand for Production of Documents, Set One, on September 12, 2025. (Fox Suppl. Decl., ¶ 2, Exh. E.) While untimely, the received responses were

verified (*ibid*), and the motion to compel initial responses is therefore moot. Plaintiff is not satisfied with defendant's responses and now seeks further supplemental responses. This requires a separate motion that has its own particular procedural requirements. (See Code Civ. Proc., § 2031.310, Super. Ct. Fresno County, Local Rules, rule 2.1.17.)

Defendant briefly includes a section in its opposition stating: "Alternatively, the Court Should Relieve any Waiver Under Code of Civil Procedure Section 2031.300(a)." (Opp. 3:22.) However, section 2031.300, subdivision (a), reads: "The court, on motion, may relieve that party from this waiver…" (Code Civ. Proc., § 2031.300 subd. (a), emphasis added.) Defendant will need to bring a separate motion for relief from waiver of objections due to its untimely response.

Request for Monetary Sanctions

Sanctions are mandatory unless the court finds that the party acted "with substantial justification" or other circumstances that would render sanctions "unjust." (Code Civ. Proc. § 2031.300, subd. (c).) Accompanying the defendant's opposition is a declaration by defense counsel, Ryan L. Eddings, who asserts that the untimely responses are a result of his move between firms and the process of transferring active case files. (Eddings Decl., ¶ 2.) The court does not find this to be a circumstance that would render the mandatory sanctions unjust, particularly since defense counsel was aware of the response deadline, even requested an extension to respond to June 30, 2025, and still did not timely respond. (Fox Decl., ¶¶ 3-4, Exhs. C and D.)

The court is inclined to reduce the amount of sanctions to $600, at a rate of $300/hour for 2 hours of work. Plaintiff may also recover $60.00 in filing fees. Sanctions are awarded in favor of plaintiff Sophia Aguilar. The sanctions imposed total to $660.00 against defendant Crescent View South, Inc.

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: DTT on 9/23/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Michael Turner v. Wyndham Hotels & Resorts, Inc.***
Superior Court Case No. 23CECG00058

Hearing Date: September 25, 2025 (Dept. 501)

Motion: by Defendants to Augment Their Expert Witness Information

Tentative Ruling:

To deny.

If oral argument is timely requested, such argument will be entertained on Monday, September 29, 2025, at 1:30 p.m. in Department 501.

Explanation:

A party who has engaged in a timely exchange of expert witness information may move the court for leave to: "(1) Augment that party's expert witness list and declaration by adding the name and address of any expert witness whom that party has subsequently retained. [¶] (2) Amend that party's expert witness declaration with respect to the general substance of the testimony that an expert previously designated is expected to give." (Code Civ. Proc., § 2034.610, subd. (a).) The motion must be made in sufficient time in advance of the completion of discovery. (Code Civ. Proc., § 2034.610, subd. (b).)

In order to be granted relief, the moving party must show "… that in the exercise of reasonable diligence such party could not determine to call the omitted witness or to offer additional or testimony or failed to determine to call the expert witness or offer further testimony 'as a result of mistake, inadvertence, surprise or excusable neglect.'" (*Zellerino v. Brown* (1991) 235 Cal.App.3d 1097, 1106.)

On April 28, 2025, defendants served a demand for the exchange of expert witness information. (Jackson, ¶ 2.) On May 19, 2025, plaintiff and defendants exchanged expert witness information. (Id. at ¶ 3.) Plaintiff designated 1) Dr. David Fractor, a forensic economics expert and 2) Mr. Ivan Insua, an architecture expert. (Ibid.) Defendants designated 1) Dr. John Kaufman, an expert in the field of orthopedic surgery, 2) Dr. Philip Stenquist, a neuropsychologist expert, 3) Dr. Paul Kaloostian, an expert in the field of neurosurgery, and 4) Mr. Laurence Neuman, an expert in the fields of accident reconstruction and civil engineering. (Ibid.) On May 21, 2025, plaintiff supplemented his disclosures to add Dr. David Lechuga, a board-certified neuropsychologist. (Id. at ¶ 4.) Defendants did not supplement their disclosures. (Ibid.)

Defendants seek to augment their expert witness designation to add: 1) Dr. Omid Komari, a mechanical and biomechanical engineering expert, 2) Richard Brand, AIA, CPM, PMP, NCARB, an architecture and construction expert, and 3) Michael Seid, an expert on franchisor and franchisee relationships and agreements. Defendants assert

that former counsel must have made a mistake in failing to designate these experts. Defense counsel contends that this motion was brought promptly following their substitution into this matter. Defendants assert that the three experts will be made immediately available for deposition. Plaintiff opposes the motion, arguing that new counsel has not demonstrated that the failure to include these experts amounted to a mistake, inadvertence, surprise or excusable neglect and asserts that he would be prejudiced by such addition.

Defendants have failed to demonstrate the failure to include these three witnesses was due to a mistake, inadvertence, surprise or excusable neglect. Former counsel did designate Mr. Neuman, an expert in accident reconstruction and civil engineering, along with three doctors. Defendants have presented insufficient information to demonstrate any mistake here. As such, the court denies the motion to augment the expert witness information.

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: DTT on 9/23/2025.
(Judge's initials) (Date)