

Tentative Rulings for October 16, 2025
Department 502

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.

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Tentative Rulings for Department 502

Begin at the next page

(03)

Tentative Ruling

Re: ***Pimentel v. Madrigal***
Case No. 24CECG00675

Hearing Date: October 16, 2025 (Dept. 502)

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

Tentative Ruling:

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

Explanation:

1. Class Certification

a. Standards

"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 is 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 983 class members who worked for defendant 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 defendant 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 the named plaintiff's claims are typical of the rest of the class and that she seeks the same relief as the other class members based on her allegations and prayer for relief in the complaint. There is no evidence that she has any conflicts between their interests and the interests of the other class members that would make her unsuitable to represent their interests. Therefore, plaintiff has shown that she has claims typical of the other class members.

Plaintiff's counsel has submitted declarations showing that they are experienced and qualified to represent the class. (Webb decl., ¶ 32; Nichols decl., ¶¶ 7-10.) The attorneys' declarations discuss their background, education, and experience in class action litigation. They clearly have extensive backgrounds and experience in class action litigation. There is no indication that they have any conflict of interest that would prevent them from being appointed as counsel for the class. Therefore, the declarations provide sufficient evidence to support counsels' assertion that they 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.) Also, the value of each individual class member's claim is relatively small, so it would not be worthwhile for them to bring their claims on an individual basis. On the other hand, if they bring their claims as a class, then they can recover substantially more money and hopefully deter defendant from committing future violations of the law. 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

“[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 some discussion of the risks, complexity, and duration of further litigation in an effort to show why the settlement is fair and reasonable in light of the risks of taking the case to trial. However, counsel has not explained how much their case was worth, how strong it was, or why they decided to accept \$285,000 to settle the claims even though they might potentially have recovered much more money if they prevailed at trial. Therefore, plaintiff has not met her burden of showing that the class action settlement is fair, reasonable, and adequate in light of the unique facts and legal issues raised by the plaintiff’s case.

c. Proposed Class Notice

The proposed notice appears to be adequate. The notices 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.

3. Attorney’s Fees and Costs

Plaintiffs' counsel seeks attorney's fees of \$95,000, which is 1/3 of the gross settlement. Plaintiff's counsel has provided two declarations to describe their education, skill, and experience, as well as the challenges presented in the litigation. (Webb decl., ¶ 32, Nichols decl., ¶¶ 7-10.) The declarations generally discuss the attorneys' background, education, skill, and experience. They rely on the fact that courts have chosen to allow attorneys in class and representative actions to recover fees based on a percentage of the common fund that they obtained for the class. Such fees are commonly in the range of one-third of the total recovery.

However, counsel has not provided any evidence regarding the amount of hours they spent on the case, their hourly rates of pay, and the tasks that they performed. They have also failed to submit any evidence showing that the time they spent on the case was reasonable and necessary for the litigation. They merely request fees of up to 1/3 of the gross settlement without any further explanation of why that amount is reasonable under the circumstances in light of the work done, the hourly rates of counsel, and the difficulty and complexity of the case.

While the court may award fees based on a percentage of the total recovery (i.e. the "common fund" method), it may also perform a lodestar cross-check to ensure that the requested amount of fees is reasonable. (*Laffitte v. Robert Half International, Inc.* (2016) 1 Cal.5th 480, 504.) Here, counsel has not provided the court with enough information to conduct a lodestar cross-check of the requested fees. Therefore, counsel has not shown that the requested fees are reasonable and necessary, and the court should not approve the fees at this time.

Also, while counsel requests up to \$10,000 for court costs, plaintiff's counsel has not provided a list of their itemized litigation costs. Therefore, plaintiff's counsel has not supported the request for court costs with any evidence, and the court cannot approve the requested costs.

4. Payment to Class Representatives

Plaintiffs seek preliminary approval of a \$5,000 service award to the named plaintiff. Plaintiff has provided her declaration, which supports the request for a service award, as she states that she worked closely with plaintiff's counsel, provided documents, answered questions, and participated in meetings about the case with counsel. The service award appears to be fair and reasonable in light of the work done by the named plaintiff. Therefore, the court intends to grant preliminary approval of the incentive award to the named plaintiff.

5. Payment to Class Administrator

Plaintiff's counsel states that the class administrator, Simpluris, Inc., will receive a maximum of up to \$9,000 to administer the settlement. (Nichols decl., p. 6.) Plaintiff's counsel also provides a copy of the bid letter from Simpluris to his declaration. However, there is no declaration from the settlement administrator, stating their qualifications and what they will do to earn their fees. Plaintiff needs to provide a declaration from a representative of the administrator stating how much it will cost to administer the settlement, as well as providing background information about the administrator's qualifications. At this time, plaintiff has not provided enough information to allow the court to grant preliminary approval of the administrator's fees.

6. PAGA Settlement

Plaintiffs propose to allocate \$14,250 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. Plaintiffs' counsel states that he will give notice of the settlement to the LWDA at the same time that he files and serves the motion for preliminary approval of the settlement. (Nichols decl., p. 6, ¶ 1.) However, plaintiff's counsel does not include a proof of service showing that he served the LWDA, and his statement that he "will serve" the notice is too vague and uncertain to show that the LWDA was ever actually served with notice of the settlement. Therefore, plaintiff has not satisfied the requirement to serve notice of the settlement on the LWDA.

Also, plaintiff's counsel has not adequately discussed the reasons why they allocated \$14,250 of the total settlement to the PAGA claim. The points and authorities brief does not discuss what the PAGA claim is potentially worth or why it was fair, adequate or reasonable to settle the claim for \$14,250. Counsel's declaration also does not include a detailed discussion of the PAGA claim, how it was valued, what the risks of litigating the claim were, and why it was reasonable to settle it for \$14,250. Counsel does briefly mention that the claim was potentially worth as much as \$1.627 million, but does not describe how he arrived at this number. (Nichols decl., ¶ 15.) Therefore, the court finds that counsel has not adequately explained why it was fair, adequate and reasonable to settle the PAGA claim for only \$14,250.

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 10/14/25
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: **Jackson v. Mananian**
Superior Court Case No. 25CECG02600

Hearing Date: October 16, 2025 (Dept. 502)

Motion: Defendant's Demurrer to the Complaint

Tentative Ruling:

To sustain the demurrer to the Complaint. Plaintiff is granted 30 days' leave to file the First Amended Complaint, which will run from service by the clerk of the minute order.

Explanation:

Here, Plaintiff has utilized the Judicial Council form complaint. Use of the Judicial Council form complaint requires the use of attachments for alleging the causes 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. Having failed to include any cause of action attachments, the complaint fails to state facts sufficient to state any cause of action. (Code Civ. Proc., § 430.10, subd. (e).)

As Defendant notes, Plaintiff has attached a Traffic Collision Report to the complaint. However, this document is insufficient to establish a cause of action as to Defendant. While it does contain some information, it does not address all of the elements needed to state a cause of action, particularly damages. Plaintiff should utilize the complaint attachments if he intends to utilize the form 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 10/14/25
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: **New Age AG Service, LLC v. Westway Feed Products, LLC**
Superior Court Case No. 25CECG03035

Hearing Date: October 16, 2025 (Dept. 502)

Motion: by Defendant to Compel Arbitration

Tentative Ruling:

To deny without prejudice.

Explanation:

In moving to compel arbitration, a party must prove by a preponderance of evidence the existence of the arbitration agreement and that the dispute is covered by the agreement. The party opposing the motion must then prove by a preponderance of evidence that a ground for denial of the motion exists (e.g., fraud, unconscionability, etc.). (*Rosenthal v. Great Western Fin'l Securities Corp.* (1996) 14 Cal.4th 394, 413-414; *Hotels Nevada v. L.A. Pacific Ctr., Inc.* (2006) 144 Cal.App.4th 754, 758; *Villacreses v. Molinari* (2005) 132 Cal.App.4th 1223, 1230.)

In the case at bench, defendant moves to compel arbitration pursuant to a clause within the purchase agreement at issue in the complaint. Defendant has only for the first instance produced the purported agreement as evidence in the reply. Plaintiff objects to the new evidence and new arguments introduced in the reply. Although in a motion to compel arbitration it is acceptable to introduce additional evidence to authenticate an arbitration agreement, the reply should not be the first introduction of the agreement. The court will sustain the objection to the new evidence and arguments on reply. In the absence of evidence of the agreement to arbitrate, the court finds defendant has not met its burden to prove the existence of an agreement to arbitrate. Accordingly, the motion is denied without prejudice.

The court also notes that plaintiffs have not produced evidence in support of their opposition. "Evidence received at a law and motion hearing must be by declaration" (Cal. Rules of Court, rule 3.1306(a).) Plaintiffs' do not include a copy of the National Grain and Feed Association Arbitration Rules plaintiffs argue are unconscionable or evidence to support finding the imposition of these rules is unconscionable as would be necessary to carry their burden in opposing the motion.

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

