<u>Tentative Rulings for October 22, 2025</u> <u>Department 501</u>

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.
(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

Begin at the next page

(47)

Tentative Ruling

Re: Naman Titus v Ben Edwards

Superior Court Case No. 24CECG04938

Hearing Date: October 22, 2025 (Dept. 501)

Motion: by Plaintiff to Strike Defendant Universal Protection Service,

LP's Declaration in Support of Automatic Extension to File

Responsive Pleading

Tentative Ruling:

To take off calendar as moot.

Explanation:

A matter is moot "when a court ruling can have no practical impact or cannot provide the parties with effective relief." (Shaw v. Los Angeles Unified School Dist. (2023) 95 Cal.App.5th 740, 772 (citation omitted).) Here, plaintiff's motion seeks to strike defendant Universal Protection Service, LP's Declaration in Support of Automatic Extension to File Responsive Pleading ("the Declaration") "in its entirety and order Defendant to file its responsive pleading within five court days."

Ordering Universal to respond – the ultimate object of this motion – is moot, because Universal filed its demurrer and motion to strike on September 9, 2025.

Striking the Declaration is moot, because its only effect would be to render the demurrer and motion to strike untimely filed. A trial court may exercise its discretion to allow an answer to be filed late where the plaintiff has not effected the entry of default. (Bank of Haywards v. Kenyon (1917) 32 Cal.App. 635, 636–637.) This court's general practice is to allow such late filed responsive pleadings.

Tentative Ruling Issued By:	DTT	on	10/17/2025	
	(Judge's initials)		(Date)	

(37)

Tentative Ruling

Re: Garcia v. Nabarrete

Superior Court Case No. 25CECG00227

Hearing Date: October 22, 2025 (Dept. 501)

Motion: by Plaintiff Luis Garcia to Compel Defendant Gabriel

Nabarrete's Responses to Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Production of Documents (Set One); to Deem Admissions

Admitted; and for Monetary Sanctions

Tentative Ruling:

To grant plaintiff Luis Garcia's motions to compel for Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Production of Documents (Set One). Defendant Gabriel Nabarrete is ordered to serve appropriately executed (signed and dated) verifications, to defendant within 30 days of service of the minute order by the clerk.

To grant plaintiff Luis Garcia's request to deem Requests for Admissions admitted. The truth of the matters specified in the Requests for Admissions, Set One, are to be deemed admitted unless defendant Gabriel Nabarrete serves an appropriately executed (signed and dated) verification, before the hearing.

To grant monetary sanctions against defendant Gabriel Nabarrete in the total amount of \$1,440. Monetary sanctions are ordered to be paid within 30 calendar days from the date of service of the minute order by the clerk.

Explanation:

Motions to Compel

Here, cefendant was properly served discovery on June 27, 2025. As of the filing of the motions on August 12, 2025, no responses had been received. After the motions were filed, cefendant served responses, but the verifications are undated. Thus, the verifications are invalid. (Code Civ. Proc., § 2015.5.) Not having valid verifications is tantamount to having no responses. (Appleton v. Superior Court (1988) 206 Cal.App.3d 632, 636.) Defendant is to serve appropriately executed verifications, which are signed and dated.

Requests for Admissions

Failure to timely respond to requests for admissions results in a waiver of all objections to the requests, and upon proper motion the court shall deem them admitted. (Code Civ. Proc., § 2033.280.) The statutory language leaves no room for discretion. (Tobin v. Oris (1992) 3 Cal.App.4th 814, 828.) However, the court may relieve the party

who fails to file a timely response if, before entry of the order deeming the requested matters admitted, the party in default 1) moves for relief from waiver and shows that the failure to serve a timely response was due to "mistake, inadvertence or excusable neglect; and 2) the party has served a response in "substantial compliance with Code of Civil Procedure Section 2033.220. (Code Civ. Proc., § 2033.280(a)-(c); see *Brigante v. Huang* (1993) 20 Cal.App.4th 1569, 1584.) Here, responses were served after this motion was filed, but the verification was invalid. Defendant must serve an appropriately executed verification.

Sanctions

Regarding the interrogatories, where a party seeks monetary sanctions, the court "shall" impose such a sanction against the unsuccessful party, unless the court finds that party acted with substantial justification or other circumstances would render such sanctions as unjust. (Code Civ. Proc., § 2030.290, subd. (c).) Sanctions are mandatory against a party whose failure to respond timely necessitates a motion to deem admitted. (Code Civ. Proc., § 2033.280, subd. (c).) Here, counsel's assertion that he was in trial for four weeks in Sacramento, for which the dates are unspecified, is insufficient to demonstrate justification for the tardy discovery responses. No notice of unavailability was filed in this matter. Additionally, there was a span of six weeks between the service of the discovery and the motions to compel and nearly seven weeks between the filing of the motions and eventual service of responses. Four weeks of trial do not account for this delay. The sanction amount awarded allows \$240 in motions fees. The court finds it reasonable to allow for a total of three hours for preparation of the substantially similar motions at the hourly rate of \$300 provided by counsel and one hour for the reply. Therefore, the amount in sanctions is \$1,440. In the event a hearing is necessary, the court will consider the fees and costs incurred as a result.

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Issued By:	DTT	on	10/20/2025	
,	(Judge's initials)		(Date)	_

(37)

Tentative Ruling

Re: Stevens v. Delray Tire & Retreading, Inc.

Superior Court Case No. 23CECG02097

Hearing Date: October 22, 2025 (Dept. 501)

Motion: For Preliminary Approval of Class Settlement

Tentative Ruling:

To deny, without prejudice.

Explanation:

1. Class Certification

Settlements preceding class certification are scrutinized more carefully to make sure that absent class members' rights are adequately protected, although there is less scrutiny of manageability issues. (Wershba v. Apple Computer, Inc. (2001) 91 Cal.App.4th 224, 240; see Dunk v. Ford Motor Co. (1996) 48 Cal.App.4th 1794, 1803, fn. 9.) The trial court has a "fiduciary responsibility" as the guardian of the absentee class members' rights to decide whether to approve a settlement of a class action. (Luckey v. Superior Court (2014) 228 Cal.App.4th 81, 95.)

A precertification settlement may stipulate that a defined class be conditionally certified for settlement purposes. The court may make an order approving or denying certification of a provisional settlement class after the preliminary settlement hearing. (Cal. Rules of Court, rule 3.769(d).) Before the court may approve the settlement, however, the settlement class must satisfy the normal prerequisites for a class action. (Amchem Products, Inc. v. Windsor (1997) 521 US 591, 625-627.)

"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.)

Plaintiffs bear the burden of establishing the propriety of class treatment with admissible evidence. (Richmond v. Dart Industries, Inc. (1981) 29 Cal.3d 462, 470 [trial court's ruling on certification supported by substantial evidence generally not disturbed on appeal]; Lockheed Martin Corp. v. Superior Court (2003) 29 Cal.4th 1096, 1107-1108 [plaintiff's burden to produce substantial evidence].)

Here, the class members are current and former non-exempt employees who worked for Delray Tire & Retreading, Inc., in the State of California from December 3, 2018, through January 23, 2025. Class members can be ascertained from defendants' records. The putative class consists of an estimated 116 members. (Yslas Decl., ¶ 6.) The numerosity and ascertainability criteria are satisfied.

Under the community of interest requirement, the class representative must be able to represent the class adequately. (Caro v. Procter & Gamble (1993) 18 Cal.App.4th 644, 669.) "[I]t has never been the law in California that the class representative must have identical interests with the class members . . . 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.)

Usually, in wage and hour class actions, the distinctive feature that permits class certification is that the employees have the same job title or perform similar jobs, and the employer treats all in that discrete group in the same allegedly unlawful fashion. In *Brinker Restaurant v. Superior Court* (2012) 53 Cal.4th 1004, 1017, "no evidence of common policies or means of proof was supplied, and the trial court therefore erred in certifying a subclass."

Common questions in this class include that defendant failed to pay minimum and straight time wages, failed to pay overtime wages, failed to provide meal and rest periods, failed to timely pay final wages at termination, failed to provide accurate and itemized wage statements, failed to indemnify employees for expenditures, and unfair business practices. (Yslas Decl., ¶ 3.) The motion is supported by declarations from plaintiff and counsel. However, plaintiff's declaration is insufficient. Plaintiff does not describe his job title, tasks he performed, or establish a basis for his belief that other employees had similar experiences.

The adequacy of representation component of the community of interest requirement for class certification comes into play when the party opposing certification brings forth evidence indicating widespread antagonism to the class suit. "'The adequacy inquiry ... serves to uncover conflicts of interest between named parties and the class they seek to represent.' [Citation.] '... To assure "adequate" representation, the class representative's personal claim must not be inconsistent with the claims of other members of the class. [Citation.]' [Citation.]" (J.P. Morgan & Co., Inc. v. Superior Court (2003) 113 Cal.App.4th 195, 212.)

"[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.) Counsel has shown that the law firm is experienced and that the firm has successfully litigated other class actions. (Yslas Decl., ¶¶ 16-28.) Therefore, it does appear that class counsel has shown that the firm is adequate to represent the interests of the class. Additionally, the declaration from plaintiff indicates there are no conflicts of interest. However, the issue remains that plaintiff's declaration is insufficient to establish a community of interest here.

The community of interest element is not satisfied.

2. Settlement Approval

"[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." (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.)

In support of the proposed settlement amounts, counsel has provided counsel's declaration. The declaration states that counsel reviewed the records and received input from an unnamed expert. (Yslas Decl., \P 5.) A sampling of records was provided by defendant. (Ibid.) A declaration by an expert is required to rely on a sample to determine damages issues such as those before the Court here. "When using surveys or other forms of random sampling, it is crucial to utilize a properly credentialed expert who will be able to explain to the court the methods used to arrive at his or her conclusions and persuade the court concerning the soundness of the methodology." (Chin, Wiseman et al. Employment Litigation (TRG, 2017) section 19:975.3.)

"The essence of the science of inferential statistics is that one may confidently draw inferences about the whole from a representative sample of the whole. Whether such inferences are supportable, however, depends on how representative the sample is. Inferences from the part to the whole are justified [only] when the sample is representative. Several considerations determine whether a sample is sufficiently representative to fairly support inferences about the underlying population."

(Duran v. U.S. Bank National Ass'n. (2014) 59 Cal.4th 1, 38.)

Those considerations include variability in the population, whether size of the sample is appropriate, whether the sample is random or infected by selection bias, and whether the margin of error in the statistical analysis is reasonable. (*Id.* at pp. 38–46.)

In the case at bench, the declaration provides only an approximation that there are 116 class members. There is no discussion of the average hours worked, hourly wages of the class members and limited discussion of the evidence supporting the figures used by the parties to arrive at the settlement before the court. Plaintiff has not submitted an expert declaration or provided any discussion or analysis as to how the information submitted supports plaintiff's counsel's damages estimates. Additionally, while counsel indicates that an expert was consulted, no information is provided about this unnamed expert's qualifications.

Plaintiffs' counsel seeks a fee award based on 1/3 of the gross settlement. While it is true that courts have found fee awards based on a percentage of the common fund are reasonable, the California Supreme Court has also found that the trial court has discretion to conduct a lodestar "cross-check" to double check the reasonableness of the requested fees. (Laffitte v. Robert Half Intern. Inc. (2016) 1 Cal.5th 480, 503-504 [although class counsel may obtain fees based on a percentage of the class settlement, courts may also perform a lodestar cross-check to ensure that the fees are reasonable in light of the number of hours worked and the attorneys' reasonable hourly rates].) Here, plaintiff's counsel has not provided any information about the amount of work done on the case, the hourly rates charged, or whether a lodestar multiplier is sought. Plaintiff's counsel simply seeks a percentage of the total gross settlement as fees without any evidence linking that number to the actual work done in the case. Failure to provide such information makes it impossible for the court to double check the requested fees against some objective evidence of the work done in the case. With any final approval motion, counsel shall submit a full lodestar analysis, supported by full and complete billing records and evidence supporting the hourly rates claimed.

The motion seeks preliminary approval of a \$7,500 "service award" to the plaintiff. This award is in addition to plaintiff's share of the settlement fund as a class member. There is no "presumption of fairness" in review of an incentive fee award. (*Clark v. Residential Services LLC* (2009) 175 Cal.App.4th 785, 806.) Preliminary approval of this amount may be granted at this time, though a lower amount may be awarded at final approval, as there is limited evidence indicating any substantive contributions by the plaintiff during the period of time between the case being filed and ultimately settled, neither is there evidence of any real risk to plaintiff in being named in a representative action apart from the theoretical.

The parties agreed to use Phoenix Settlement Administrators as settlement administrator. The motion represents that the cost of administration will not exceed \$6,750. A declaration from a representative at Phoenix Settlement Administrators was not included to address what costs are anticipated by the settlement administrator. Therefore, the court has insufficient information to assess the appropriateness of the proposed amount.

Plaintiff has not provided sufficient information to establish whether there is a community of interest in this matter. Also, plaintiff's counsel has not presented sufficient evidence for the determination of whether the settlement agreement is fair or for the settlement administrator's fees. Therefore, the court denies the motion for preliminary approval of the class action settlement agreement, without prejudice.

Tentative Rulin	g			
Issued By:	DTT	on	10/20/2025	
-	(Judge's initials)		(Date)	

(36)

Tentative Ruling

Re: Reich v. Srabian, et al.

Superior Court Case No. 21CECG02078

Hearing Date: October 22, 2025 (Dept. 501)

Motion: Prove-Up Hearing

Tentative Ruling:

To continue the prove-up hearing so that it may be heard simultaneously with the motion to set aside default on December 30, 2025, in Department 501, at 3:30 p.m.

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Issued By:	DTT	on	10/20/2025	
-	(Judge's initials)		(Date)	•

(35)

<u>Tentative Ruling</u>

Re: Pallares Torres v. Farmers Insurance Exchange

Superior Court Case No. 25CECG00368

Hearing Date: October 22, 2025 (Dept. 501)

Motion: by Defendant Farmers Insurance Exchange to

Compel Further Responses to Special Interrogatories, Set One, Form Interrogatories, Set One, and Request for Production of Documents, Set One; and Request for

Sanctions

Tentative Ruling:

To grant in part and compel plaintiff Jose de Jesus Pallares Torres to provide further verified responses to Special Interrogatories, Set One, No. 1, 4, 7, 8, 9, 15, 16, 21, and 32; Form Interrogatories, Set One, No. 1, 7.1, and 9.1; and Request for Production, Set One, Nos. 12 and 13, and produce all relevant documents, within 20 days of service of the order by the clerk. To deny in part as to Special Interrogatories, No. 11 and 23.

To impose monetary sanctions in the total amount of \$1,300 against plaintiff Jose de Jesus Pallares Torres, in favor of defendant Farmers Insurance Exchange. Within 30 days of service of the order by the clerk, plaintiff Jose de Jesus Pallares Torres shall pay sanctions to defendant Farmers Insurance Exchange's counsel.

Defendant Farmers Insurance Exchange is directed to remit \$120 in filing costs within 10 days of service of the order by the clerk, for consideration of the two additional motions.

Explanation:

Further Responses

Defendant Farmers Insurance Exchange ("defendant") seeks to compel further responses to discovery propounded on plaintiff Jose de Jesus Pallares Torres ("plaintiff"). Though defendant failed to obtained leave to file the instant motion pursuant to Local Rules, Rule 2.1.17, defendant substantially followed the procedure of the Local Rules, and the court proceeds.

Defendant submits that on May 7, 2025, it propounded discovery by way of Special Interrogatories, Set One; Form Interrogatories, Set One; and Request for Production of Documents, Set One. (Putnam Decl., ¶¶ 3, 5, 7.) On June 27, 2025, plaintiff served responses. (Id., ¶¶ 4, 6, 8.) Defendant now seeks to compel further responses to Special Interrogatories Nos. 1, 4, 7, 8, 9, 11, 15, 16, 21, 23 and 32; Form Interrogatories Nos. 1, 7.1 and 9.1; and Request for Production Nos. 12 and 13. On review of the discovery in question, the court finds good cause to seek responses to the interrogatories and requests propounded. (E.g., Putnam Decl., Ex. A, Special Interrogatory No. 7 ["Describe how the

INCIDENT occurred."], 11 ["IDENTIFY all PERSONS you spoke to, excluding YOUR attorneys, about the INCIDENT."]) The burden shifts to Plaintiff to justify the objections lodged. (Coy v. Superior Court of Contra Costa County (1962) 58 Cal.2d 210, 220 [referring to the longestablished procedural rule that "he who asserts the affirmative of an issue has the burden of proving it"].) Plaintiff did not oppose. Accordingly, the motion to compel a further response is granted as to Special Interrogatories Nos. 1, 4, 15, 16, 21 and 32; and Request for Production Nos. 12 and 13.

Remaining are Special Interrogatories Nos. 7, 8, 9, 11 and 23; and Form Interrogatories Nos. 1, 7.1 and 9.1. As to Special Interrogatories Nos. 7, 8 and 9, plaintiff appears to have elected to make a production in response to the interrogatory. This is generally allowed. (Code Civ. Proc., § 2030.230.) However, a compliant response not only refers to produced documents, but must specify the writings from which the answer may be derived or ascertained, in sufficient detail to permit the propounding party to locate and to identify, as readily as the responding party can, the documents from which the answer may be ascertained. (*Ibid.*) The motion is further granted as to Special Interrogatories Nos. 7, 8 and 9.

Special Interrogatories Nos. 11 and 23, and Form Interrogatories Nos. 1, 7.1 and 9.1 appear to have narrative responses. Defendant contends as to No. 11, seeking identification of all persons to whom plaintiff spoke about the allegations of the Complaint, plaintiff failed to make a complete responses. Specifically, defendant submits that plaintiff failed to identify even his attorneys of record. However, a review of No. 11 shows the interrogatory expressly excluded attorneys from the identification. Defendant submits no other basis to seek a further response. The motion is denied as to Special Interrogatory No. 11.

As to Special Interrogatory No. 23, the interrogatory states "If YOUR answer to the prior interrogatory is yes, state each fact which supports YOUR contention that YOU are entitled to Brandt fees." Plaintiff responded with the general fact allegations of the Complaint. Defendant contends that it is entitled to discovery all facts supporting plaintiff's claim for attorney fees, including the amount of fees, and computations thereof. Regardless of the merits of that argument, the interrogatory did not seek information on the amount of fees requested or computations thereof. The interrogatory sought facts to support entitlement to fees. The motion is denied as to Special Interrogatory No. 23.

As to Form Interrogatory No. 1, which seeks information of persons who helped prepare the responses, defendant contends that the response is incomplete because plaintiff did not identify himself. Implicit in the language of the Form Interrogatory, which asks for the name, address, telephone number, "and relationship to you", is the conclusion that the person against whom the Form Interrogatory was propounded, is excluded. Moreover, it appears from defendant's papers that there is no confusion whether plaintiff, who verified the responses, was involved in their preparation. Nevertheless, the interrogatory seeks identification of each person who prepared or assisted in preparing the responses. The motion is granted as to Form Interrogatory No. 1 for plaintiff to identify himself.

As to Form Interrogatory No. 7.1, which seeks information regarding attribution of loss or damages to property due to the incident, defendant submits that the response is incomplete because it does not provide facts supporting the claim to property damage. A review of the form interrogatory shows that the question asks, for each item or property; (a) a description; (b) the nature and location of the damage to the property; (c) the amount of damage claimed for each property and how it was calculated; and (d) if the property was sold, related details thereon. Plaintiff's response indicates that the (a) the roof of certain real property was damaged; (b) the damage was caused by heavy rain and strong winds compromising the integrity of the roof, resulting in water leakage and additional damage to "various parts of the interior of the home"; (c) the damages amount to \$62,518.99, which was an estimate prepared by Global Estimate LLC; and (d) the property has not been sold. Though defendant vaguely argues that plaintiff failed to provide a response to all four subparts, the response appears generally complete. Nevertheless, "various parts of the interior of the home" may warrant a further response as to each item of property. To the extent that interior items are part of plaintiff's action, the motion is granted for a further response to Form Interrogatory No. 7.1. To the extent that no other item of property comprises plaintiff's claim aside from the roof, plaintiff's further response may so designate.

Finally, as to Form Interrogatory No. 9.1, which seeks information regarding any other damages sought, defendant contends that the response is incomplete because it fails to identify the date in which the other damages occurred. A review of the response reveals no indication as to the date of loss. The nature and amount of damage is otherwise stated. The response does not suggest that obligations are owed. Thus, in all other respects, the response appears to answer the call of the interrogatory. The motion is granted as to Form Interrogatory No. 9.1 to state a date of loss.

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., §§ 2030.290, subd. (c), 2031.300, subd. (c).) As no opposition was filed, the court finds no circumstances that would render the mandatory sanctions unjust. Counsel seeks 10 hours based on the omnibus motion, at a rate of \$280 per hour, as well as \$60 in filing costs.¹ The court finds the hourly rate as reasonable, and imposes sanctions in the reduced amount of \$1,300, inclusive of costs.

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Issued By:	DTT	on	10/21/2025	
-	(Judge's initials)		(Date)	

¹ Defendant is directed to remit \$120 for the two additional motions considered.