Tentative Rulings for October 29, 2026
Department 503

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, the remote appearance will be conducted through Zoom. 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.***

24CECG05613 ***Galvan v. City of Clovis***

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

26CU02238 ***Mic-Bry8. LLC v. Valdez*** **is continued to Thursday, December 17, 2026, at 3:30 p.m. in Department 503.**

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Tentative Rulings for Department 503

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(46)

Tentative Ruling

Re: ***Francis Burris v. Foster Poultry Farms, LLC***
Superior Court Case No. 24CECG04664

Hearing Date: October 29, 2026 (Dept. 503)

Motion: by Plaintiff to Compel Initial Discovery Responses

Tentative Ruling:

To deny, as to the motions to compel initial responses to Form Interrogatories—Employment Law, Set One; and Request for Production of Documents, Set One.

To grant, as to the motion to compel initial responses to Form Interrogatories—General, Set One.

To award monetary sanctions against defendant, Foster Poultry Farms, LLC, in favor of plaintiff, Francis Burris, for defendant's failure to provide timely verified responses to the Form Interrogatories—General, Set One. Sanctions are in the amount of $855.00, and are to be paid within 30 calendar days from the date of service of the minute order by the clerk.

Explanation:

Legal Standard

Within 30 days of service of interrogatories, the party to whom the interrogatories are propounded shall serve the original of the response to them on the propounding party. (Code Civ. Proc., § 2030.260.) Within 30 days of service of a demand for inspection, the party to whom the demands are directed shall serve the original of the response to them on the propounding party. (Code Civ. Proc., § 2031.260.) If the responses are ones that require verification (i.e. substantive responses, with or without objections), the lack thereof is tantamount to no responses at all. (*Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, 636.) A party that fails to serve a timely response to a discovery request waives any objection to the request. (Code Civ. Proc., §§ 2030.290, subd. (a), 2031.300, subd. (a).) The propounding party may move for an order compelling a party to respond to the discovery request. (Code Civ. Proc., §§ 2030.290, subd. (b), 2031.300, subd. (b).)

Motion to Compel Initial Responses

Plaintiff served defendant with discovery requests consisting of Form Interrogatories—General, Set One; Form Interrogatories—Employment Law, Set One; and Request for Production of Documents, Set One on May 1, 2026. (Gilanians Decl., ¶ 3.) The parties extended defendant's time to respond to August 14, 2026. (Id., ¶ 9, Exh. C.) Defendant served "objection-only" responses to two of the three sets of discovery on July 14, 2026. (Id., ¶ 6, see Exh. B.) Defendant provided at least one substantive response to Form Interrogatories—General. (Ibid.)

It is appropriate for a party on whom discovery requests have been served to respond to the propounded discovery with either an answer *or* an objection. (Code Civ. Proc., §§ 2030.210 subd. (a), 2031.210 subd. (a).) A response with nothing other than objections does not need to be verified. (Id., §§ 2030.250 subd. (a), 2031.250 subd. (a), *Blue Ridge Ins. Co. v. Superior Court* (1988) 202 Cal.App.3d 339, 344.) The principle that an unverified response is tantamount to no response at all applies only where a substantive response has been given. (See *Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, 634, 636.) A motion to compel *further* responses would then be appropriate in response to objection-only responses. However, a combination of responses and objections must be verified. (*Golf & Tennis Pro Shop, Inc. v. Superior Court* (2022) 84 Cal.App.5th 127, 136.) Further, "objections themselves do not require a verification in order to be preserved." (*Food 4 Less Supermarkets, Inc. v. Superior Court* (1995) 40 Cal.App.4th 651, 656.) Objections made timely, whether or not verified, are not waived. (*Blue Ridge Ins. Co. v. Superior Court* (1988) 202 Cal.App.3d 339, 345.)

Here, defendant served objection-only responses to Form Interrogatories—Employment Law, Set One, and Request for Production of Documents, Set One. (See Gilanians Decls., ¶ 6, Exh. B.) Objections-only are an appropriate response to discovery requests, and do not require verification. Thus, initial responses (not requiring verification) were provided, and the motions to compel initial responses as to these two motions are denied.

However, the response to Form Interrogatories—General, Set One, contained at least one substantive response along with the defendant's objections. (See Gilanians Decl., ¶ 6, Exh. B.) As such, the response was not objections-only and verification was required. Without it, the unverified response is tantamount to no response at all.

Defendant has since provided additional substantive responses, but also without verification, and thus made "no response at all." While objections were preserved as they were timely served, plaintiff is entitled to an order compelling defendant to produce verified initial responses to the Form Interrogatories—General.

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).)

The court is not satisfied that defendant's failure to provide timely responses to the Form Interrogatories—General, Set One is substantially justifiable. Defendant asked for and received multiple extensions to provide substantive responses, and failed to conform to the deadlines that defendant itself proposed. Defendant has not provided substantial justification for its failure to obtain client verifications. Thus, sanctions will be imposed, but in a greatly reduced amount. This motion is fairly straightforward and without issue. The court grants sanctions in the amount of $795.00, as well as the $60.00 filing fee. Sanctions will not be awarded for the two denied motions.

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: JS on 10/27/2026.
(Judge's initials) (Date)

(49)

Tentative Ruling

Re: ***Torrez v. FCA US LLC***
Superior Court Case No. 24CECG01939

Hearing Date: October 29, 2026 (Dept. 503)

Motion: By Plaintiff A. Rosa Torrez to Compel Compliance with Defendant's Own Responses to Plaintiff's Requests for Production of Documents, Set One.

Tentative Ruling:

To grant plaintiff A. Rosa Torrez's motion to compel defendant FCA US LCLC's compliance with Defendant FCA US LLC's Response to Plaintiff A. Rosa Torrez's Requests for Production, Set One. Defendant FCA US LLC is ordered to produce all remaining outstanding documents defendant agreed to produce in their response within 30 days of the clerk's service of the minute order.

To impose monetary sanctions in favor of plaintiff A Rosa Torrez and against defendant FCA US LLC. (Code Civ. Proc., §§ 2023.010, subd. (d), 2031.430, subd. (b).) FCA US LLC is ordered to pay $800 in sanctions to Prestige Legal Solutions P.C., within 30 days of the clerk's service of the minute order.

Explanation:

Compel Responses

Plaintiff A. Rosa Torrez ("Plaintiff") moves to compel defendant FCA US LLC ("Defendant") to comply with Defendant's response to Plaintiff's Requests for Production, Set One ("Set One).

If a party files a response to a request for documents and subsequently fails to deliver responses, the demanding party may move for an order compelling compliance. (Code Civ. Proc., § 2031.320.)

On May 7, 2026, Plaintiff served Set One on Defendant. (Galdava Decl., ¶ 4.) On June 9, 2026, Defendant served written responses to Set One in which Defendant indicated they would comply and serve certain responsive documents. (Id., ¶¶ 5-6.) As of September 22, 2026, Defendant has not served all agreed upon documents. (Newell Decl., ¶ 5; Supplemental Galdava Decl., ¶¶ 8-9.)[1] Accordingly, the motion to compel is granted and Defendant is to serve Plaintiff with all remaining agreed upon documents in Defendant's response to Set One within 30 days of the clerk's service of the minute order.

[1] The court notes that Defendant's opposition was filed late but uses its discretion to consider the filing anyway.

Sanctions

When a motion to compel responses is filed, the court shall impose monetary sanctions against the losing party unless there was substantial justification. (Code Civ. Proc., §§ 2023.010, subd. (d), 2031.320, subd. (b).) The court may require a party who misuses the discovery process to "pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct." (*Id.*, § 2023.030, subd. (a).) Misuse of the discovery process includes failing to respond to discovery. (*Id.*, § 2023.010, subd. (d).)

On May 7, 2026, Plaintiff served Set One on Defendant, and on June 9, 2026, Defendant served written responses indicating Defendant would serve documents on Plaintiff. (Galdava Decl., ¶¶ 4-5.) Until September 17, 2026, no responses were served on Plaintiff. (Newell Decl., ¶ 5.) For over three months, Plaintiff received none of the discovery Defendant agreed to produce. Plaintiff only received partial responses after filing the present motion. (Newell Decl., ¶ 5; Supplemental Galdava Decl., ¶¶ 8-9.) Defendant filed a substitution of attorney on September 1, 2026. Defendant provides no substantial justification for the lack of responses during the three months before the substitution of attorney. Monetary sanctions are appropriate here.

Plaintiff is asking for $1600 in monetary sanctions based on four hours of attorney work at $400 an hour with three hours of actual work and one hour anticipated for drafting a reply. The request for monetary sanctions is adjusted to an amount more commensurate with community billing practices. Accordingly, Plaintiff's request for sanctions is granted but reduced. Defendant is ordered to pay $800 in sanctions to Prestige Legal Solutions, P.C. within 30 days of service of the minute order.

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: JS on 10/27/2026.
(Judge's initials) (Date)

(36)

Tentative Ruling

Re: ***Premier Valley Bank v. SJE Trans Inc.***
Superior Court Case No. 24CECG04130

Hearing Date: October 29, 2026 (Dept. 503)

Motion: by Plaintiff Premier Valley Bank to Vacate Dismissal

Tentative Ruling:

To grant. The dismissal entered on October 6, 2025, is vacated on the ground that the judgment is void. (Code Civ. Proc., § 473, subd. (d).) A Case Management Conference hearing is set for Wednesday, January 27, 2027, at 3:00 p.m. in Department 97E.

Explanation:

"The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed, and may, on motion of either party after notice to the other party, set aside any void judgment or order." (Code Civ. Proc., § 473, subd. (d).)

Here, plaintiff's counsel, Troy Ewell indicates that he mistakenly filed a request to dismiss the action at a time when he lacked the authority to do so. Mr. Ewell indicates that plaintiff commenced the instant lawsuit on September 20, 2024, for breach of contract based upon two loan contracts entered into by defendant SJE Trans, Inc., and personally guaranteed by defendant Baljinder Sahota. (Ewell Decl., ¶ 2.) In February 2025, plaintiff sold its interests in the two loans giving rise to the action to Cadles of West Virginia LLC ("Cadles"). (*Id*. at ¶ 5.) Plaintiff did not inform counsel of the sale, but instructed counsel to stop any further work on this case. (*Id.* at ¶ 4.) As a result, Mr. Ewell filed a request to dismiss the action without prejudice on October 6, 2025. (*Id.* at ¶ 7.) At the time of the filing of the dismissal on October 6, 2025, the subject loans were owned by Cadles. (*Id*. at ¶ 8.)

There is sufficient evidence to conclude that Mr. Ewell's dismissal of the action was without authorization of its client, plaintiff Premier Valley Bank. Although plaintiff instructed counsel to stop working on the matter, plaintiff did not instruct Mr. Ewell to dismiss the action. "[D]ismissal of a cause of action by an attorney acting without any authority from his client is an act beyond the scope of his authority which, on proper proof, may be vacated *at any time*." (*Romadka v. Hoge* (1991) 232 Cal.App.3d 1231, 1236, internal quotations and citations omitted.)

Furthermore, at the time the request for dismissal was filed, plaintiff lacked standing to prosecute the case. Plaintiff assigned its interest of the two loans giving rise to the action to Cadles in February 2025. "An assignment carries with it all the rights of the assignor. The assignment merely transfers the interest of the assignor. The assignee 'stands

in the shoes' of the assignor, taking his rights and remedies, subject to any defenses which the obligor has against the assignor prior to notice of the assignment. Once a claim has been assigned, the assignee is the owner and has the right to sue on it. In fact, once the transfer has been made, the assignor lacks standing to sue on the claim." (*Searles Valley Minerals Operations Inc. v. Ralph M. Parsons Service Co.* (2011) 191 Cal.App.4th 1394, 1402, internal quotations and citations omitted.)

Thus, the dismissal is void and the motion is granted.

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: JS on 10/27/2026.
(Judge's initials) (Date)

(41)

Tentative Ruling

Re: ***Chooljian Brothers Packing Company, Inc. v. The McClatchy Company, LLC., et al***
Superior Court Case No. 26CU01184

Hearing Date: October 29, 2026 (Dept. 503)

Motion: By Defendants to Strike (Anti-SLAPP) Plaintiff's Complaint

Tentative Ruling:

To deny defendants' special motion to strike plaintiff's complaint. (Code Civ. Proc., § 425.16.)

Explanation:

This matter arises under the anti-SLAPP (Strategic Litigation Against Public Participation) statute, Code of Civil Procedure section 425.16 (Section 425.16). The defendants, The McClatchy Company, LLC, and Robert Rodriguez (together, Defendants) move under Section 425.16 to strike the complaint filed by the plaintiff, Chooljian Brothers Packing Company, Inc. (Chooljian or Plaintiff), and/or each cause of action therein.

Anti-SLAPP Motion

The anti-SLAPP statute provides a procedural remedy to dismiss nonmeritorious litigation brought "primarily to chill the valid exercise of constitutional rights of freedom of speech and petition for redress of grievances." (§ 425.16, subd. (a).) The statute "allows defendants to seek early dismissal of unmeritorious claims arising from protected speech and petitioning activities." (*Bonni v. St. Joseph Health System* (2021) 11 Cal.5th 995, 1004 (*Bonni*).) Historically, the effect of an anti-SLAPP motion permits a defendant to challenge certain pleading defects that cannot be challenged by demurrer. (*Baral v. Schnitt* (2016) 1 Cal.5th 376, 388, (*Baral*).) Section 425.16 was enacted to address "litigation of a harassing nature, brought to challenge the exercise of protected free speech rights." (*Fahlen v. Sutter Central Valley Hospitals* (2014) 58 Cal.4th 655, 665, fn. 3.)

A defendant may invoke the statute to challenge suits based on four different categories of protected activity:

(1) The defendant's statements made before a legislative, executive, judicial, or other official proceeding;
(2) The defendant's statements made in connection with an issue being considered by a legislative, executive, or judicial body;
(3) The defendant's statements made in a public forum or in connection with an issue of public interest; or

> (4) The defendant's "other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech, in connection with a public issue or an issue of public interest [the 'catchall provision']."

(§ 425.16, subd. (e).) Categories (1) and (2) are not limited to issues of public interest, while categories (3) and (4) are limited to issues of public interest. (*Ibid*; *Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal.4th 1106, 1109 [a defendant moving to strike under categories (1) or (2) need not demonstrate separately that a statement concerns an issue of public significance].)

The California Supreme Court has established a two-step process to litigate an anti-SLAPP motion:

> First, the moving defendant bears the burden of establishing that the challenged allegations or claims arise from protected activity in which the defendant has engaged. Second, for each claim that does arise from protected activity, the plaintiff must show the claim has at least minimal merit. If the plaintiff cannot make this showing, the court will strike the claim.

(*Bonni, supra,* 11 Cal.5th at p. 1009, internal quotation marks and citations omitted.) The court must broadly construe the anti-SLAPP statute. (§ 425.16, subd. (a).) "The anti-SLAPP statute does not insulate defendants from *any* liability for claims arising from the protected rights of petition or speech. It only provides a procedure for weeding out, at an early stage, *meritless* claims arising from protected activity." (*Baral, supra,* at p. 384, italics original [holding court may strike portions of a "mixed" cause of action arising from protected and unprotected activities].)

First Prong—Threshold Burden

The first prong requires the moving defendant to make a prima facie showing that the challenged cause of action arises from the defendant's constitutionally-protected free speech or petition activity. In the complaint, Plaintiff alleges two causes of action against Defendants: (1) libel, and (2) republication of slanderous and libelous defamation.

The California Supreme Court succinctly summarized the first prong in an anti-SLAPP motion as follows:

> Again, a claim is subject to an anti-SLAPP motion to strike if its elements arise from protected activity. (*Park* [*v. Board of Trustees of California State University* (2017)] 2 Cal.5th 1057,] 1063 [*Park*].) Courts deciding an anti-SLAPP motion thus must consider the claim's elements, the actions alleged to establish those elements, and whether those actions are protected. (*Ibid*.)

(*Bonni, supra,* 11 Cal.5th at p. 1015.)

In its complaint, Plaintiff alleges that starting on September 7, 2025, Defendants published in print and online versions of the Fresno Bee, the Sacramento Bee, and the Merced Sun-Star:

> [F]alse, defamatory and libelous statements about Chooljian, including that raisin growers were accusing Chooljian of "ripping them off," that Chooljian was ripping off their raisin growers, that a raisin grower who had delivered a $1.6M crop to Chooljian in 2017 "still had not been paid in full," that Chooljian owed raisin grower Tony Panoo $55,000, that Chooljian is non-responsive to their growers, leaving them in the dark as to when they will be paid, and that there was a pending breach of contract suit against Chooljian brought by a raisin grower seeking $1.6M.

(Comp., ¶ 6, pp. 2:26-3:4.) Plaintiff alleges Mr. Rodriguez authored the original version of the articles, which have been published and re-published on numerous occasions. (Comp., ¶ 6.)

Defendants contend Plaintiff's claims are subject to an anti-SLAPP motion under three of the four categories set forth in subdivision (e) of Section 425.16: first, under the catchall provision, the claims arise from conduct in furtherance of the exercise of free speech in connection with an issue of public interest (§ 426.16, subd. (e)(4)); second, the challenged statements were made in a qualifying public forum and relate to issues of public interest (§ 426.16, subd. (e)(3)); and third, the challenged statements were made in connection with an issue under consideration or review by a judicial body (§ 426.16, subd. (e)(2)). Plaintiff contends the published articles do not qualify for protection under any of the four categories of Section 425.16, subdivision (e).

Assuming, without deciding, that both causes of action arise from protected activity, for the second prong, Plaintiff must show that its causes of action have minimal merit. If Plaintiff makes the necessary showing, the court must deny Defendants' anti-SLAPP motion.

Second Prong—Probability of Success on the Merits

To satisfy its burden to show the complaint has minimal merit, Plaintiff may not merely rely on the allegations in the complaint or evidence that would be inadmissible at trial. (*Lee v. Silveira* (2016) 6 Cal.App.5th 527, 546 [reversing trial court's order denying anti-SLAPP motion to strike plaintiffs' declaratory relief cause of action].)

Although the term "cause of action" can have various meanings, Section 425.16 refers to both a "cause of action" and a "claim" in the same sentence. Specifically, subdivision (b)(1) provides:

> A *cause of action* against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the *claim*.

(*Ibid.*, italics added; see *Baral, supra,* 1 Cal.5th at pp. 381-383 [discussing statutory and ordinary meaning of "cause of action" and "claim" and explaining "[t]o avoid confusion, we refer to the proper subject of a special motion to strike as a "claim"].)

In *Baral,* the California Supreme Court settled a question that had "perplexed" the appellate courts—it determined that a moving party, may, but need not, target an entire cause of action as pleaded in the complaint:

> When the Legislature declared that a "cause of action" arising from activity furthering the rights of petition or free speech may be stricken unless the plaintiff establishes a probability of prevailing, it had in mind *allegations of protected activity that are asserted as grounds for relief*. The targeted claim must amount to a "cause of action" in the sense that it is alleged to justify a remedy. By referring to a "cause of action against a person arising from *any act* of that person in furtherance of" the protected rights of petition and speech, the Legislature indicated that *particular* alleged acts giving rise to a claim for relief may be the object of an anti-SLAPP motion.

(*Baral, supra,* 1 Cal.5th at pp. 395, italics original.)

The high court then restated the required analysis for the second prong when the moving party challenges part of a pleading:

> For the benefit of litigants and courts involved in this sometimes difficult area of pretrial procedure, we provide a brief summary of the showings and findings required by section 425.16(b). At the first step, the moving defendant bears the burden of identifying all allegations of protected activity, and the claims for relief supported by them. When relief is sought based on allegations of both protected and unprotected activity, the unprotected activity is disregarded at this stage. If the court determines that relief is sought based on allegations arising from activity protected by the statute, the second step is reached. There, the burden shifts to the plaintiff to demonstrate that each challenged claim based on protected activity is legally sufficient and factually substantiated. The court, without resolving evidentiary conflicts, must determine whether the plaintiff's showing, if accepted by the trier of fact, would be sufficient to sustain a favorable judgment. If not, the claim is stricken. Allegations of protected activity supporting the stricken claim are eliminated from the complaint, unless they also support a distinct claim on which the plaintiff has shown a probability of prevailing.

(*Baral, supra,* 1 Cal.5th at p. 396.)

In their notice, Defendants move to strike the entire complaint and "all causes of action." Although Defendants identify six "claims" in their moving memorandum (but not in their notice), they confirm that they "now specially move to strike Plaintiff's complaint and/or each cause of action therein[.]" (Memo., p. 5:16-17.) Based on Defendants' notice and the substance of Plaintiff's allegations in the complaint, the court finds Plaintiff's

defamation "claims" here are based on a set, comprised of the six alleged statements as they appear together in various articles. As explained below, to determine if the identified statements are defamatory, the court must consider the context of each statement and the totality of the circumstances. Therefore, to determine if Plaintiff meets its burden on step two, the court will consider the impact and meaning of the statements alleged in the complaint together and in context as one "claim" for purposes of section 425.16. (This case does not involve a "mixed cause of action," wherein a plaintiff includes allegations arising from non-protected conduct under Section 425.16, in a preemptive attempt to defeat an anti-SLAPP motion.)

Plaintiff cites *Issa v. Applegate* (2019) 31 Cal.App.5th 689, involving a public-figure political plaintiff, where the court explained a defamation plaintiff's burden to establish a probability of prevailing, in part, as follows:

> The burden of establishing a probability of prevailing is not high: We do not weigh credibility, nor do we evaluate the weight of the evidence. Instead, we accept as true all evidence favorable to the plaintiff and assess the defendant's evidence only to determine if it defeats the plaintiff's submission as a matter of law.
>
> [The plaintiff] asserts claims for defamation. The elements of a defamation claim are (1) a publication that is (2) false, (3) defamatory, (4) unprivileged, and (5) has a natural tendency to injure or causes special damage. A statement is defamatory when it tends directly to injure [a person] in respect to [that person's] office, profession, trade or business, either by imputing to [the person] general disqualification in those respects which the office or other occupation peculiarly requires, or by imputing something with reference to [the person's] office, profession, trade, or business that has a natural tendency to lessen its profits. . . .
>
> Though mere opinions are generally not actionable, a statement of opinion that implies a false assertion of fact is actionable. . . . An opinion ... is actionable only if it could reasonably be understood as declaring or implying actual facts capable of being proved true or false.
>
> . . . . Further, it is not the literal truth or falsity of each word or detail used in a statement which determines whether or not it is defamatory; rather, the determinative question is whether the 'gist or sting' of the statement is true or false, benign or defamatory, in substance.
>
> In determining whether a statement is libelous we look to what is explicitly stated as well as what insinuation and implication can be reasonably drawn from the communication. *[I]f the defendant juxtaposes [a] series of facts so as to imply a defamatory connection between them, or [otherwise] creates a defamatory implication ... he may be held responsible for the defamatory implication, ... even though the particular facts are correct. The pertinent question is whether a reasonable fact finder could conclude that the statements as a whole, or any of its parts, directly*

made or sufficiently implied a false assertion of defamatory fact that tended to injure plaintiff's reputation.

> We apply a totality of the circumstances test to determine whether a statement is fact or opinion, and whether a statement declares or implies a provably false factual assertion; that is, courts look to the words of the statement itself and the context in which the statement was made. Under the totality of the circumstances test, '[f]irst, the language of the statement is examined. For words to be defamatory, they must be understood in a defamatory sense.... [¶] Next, the context in which the statement was made must be considered.

(*Id.* at pp. 702–703, citations and internal quotation marks omitted.)

Defendants cite *Beilenson v. Superior Court* (1996) 44 Cal.App.4th 944 (*Beilenson*), where the court found the phrase that a candidate "ripped off" California taxpayers by practicing law for private clients while also employed by the state, published by an opponent in a mailer, was a "colorful epithet, when taken in context with the other information contained in the mailer, [and] was rhetorical hyperbole that is common in political debate. [Citation.] As such, the term "rip-off" was not defamatory." (*Id*. at pp. 951–952.)

One of the cases distinguishing *Beilenson* reiterates that the context of a statement and the totality of the circumstances must be considered to determine if a statement is defamatory:

> Unlike mere opinions, a statement that suggests or implies a false assertion of fact is actionable. The dispositive question in such a case is whether a reasonable fact finder could conclude the published statement declares or implies a provably false assertion of fact. This is ordinarily a question of law for the court, *unless the statement is susceptible of both an innocent and a libelous meaning, in which case the jury must decide how the statement was understood*.
>
> In determining whether the disputed statement communicates or implies a provably false assertion of fact, we look at the totality of the circumstances, looking first to the language of the statement and whether it was understood in a defamatory sense, and then considering the context in which the statement was made. *We focus not on the literal truth or falsity of each word in a statement, but rather on whether the gist or sting of the statement is true or false, benign or defamatory, in substance. We also consider whether the reasonable or average reader would so interpret the material. The average reader is a reasonable member of the audience to which the material was originally addressed.*

(*Edward v. Ellis* (2021) 72 Cal.App.5th 780, 790–792, citations and internal quotation marks omitted, italics added [acknowledging that in *Beilenson, supra*, 44 Cal.App.4th at p. 951 defendant's statement in political campaign that plaintiff's conduct was a "rip-off," when considered in context with rest of mailer, was rhetorical hyperbole, and finding mailers at

issue in *Edward* for political campaign were reasonably susceptible to both an innocent and libelous meaning, therefore, jury, not court, must decide interpretation].)

Thus, unless the plaintiff can show that a claim has minimal merit, the court will strike the challenged claim. (*Bonni, supra,* 11 Cal.5th at p. 1009.) Defendants cite *Briggs v. Eden Council for Hope & Opportunity* (1999) 19 Cal.4th 1106, where the Supreme Court explained that the court must determine "'only if the plaintiff has stated and substantiated a legally sufficient claim" and an anti-SLAPP motions operates "like a demurrer or motion for summary judgment in reverse." (*Id.* at p. 1123, citations and internal quotation marks omitted.)

California Civil Code section 45 defines libel as "a false and unprivileged publication by writing . . . which exposes any person to hatred, contempt, ridicule, or obloquy, or which causes him to be shunned or avoided, or which has a tendency to injure him in his occupation." Defendants cite *Medical Marijuana, Inc. v. ProjectCBD.com* (2020) 46 Cal.App.5th 869, where the court explained the elements of libel and defamation as follows:

> Libel is one form of defamation. (Civ. Code, § 44 [defamation occurs either through libel or slander].) Libel is defamation that is based on a publication in writing or other fixed representation that can be seen. (*Id.*, § 45.)
>
> To establish defamation, a plaintiff must show a publication that was false, defamatory, unprivileged, and that has a natural tendency to injure or cause special damages. [Citation.] "Because [a defamatory] statement must contain a provable falsehood, courts distinguish between statements of fact and statements of opinion for purposes of defamation liability. Although statements of fact may be actionable as libel, statements of opinion are constitutionally protected." [Citation.]

(*Id.* at pp. 883–884.)

Based on the declarations of Plaintiff's owners, Plaintiff contends it has alleged the required elements for defamation:

> [I]ncluding the facts of publication and republication, that it was false, that it was unprivileged, that is expressed or implied Plaintiff was engaged in dishonest and criminal behavior by "ripping off" and stealing from [its] growers and that Plaintiff suffered resulting injury to its business and professional reputation. [Fn.]

(Opp., p. 9:1-5.) Defendants contend Plaintiff cannot prevail, as a matter of law, for nine different reasons.

1. Fair and True Report Privilege

First, Defendants contend Plaintiff cannot prevail because Defendants are protected by the fair and true report privilege contained in Civil Code section 47, subdivision (d), which provides, a person cannot be held liable, as a matter of law, for:

> [A] fair and true report in, or a communication to, a public journal, of (A) a judicial, (B) legislative, or (C) other public official proceeding, or (D) of anything said in the course thereof, or (E) of a verified charge or complaint made by any person to a public official, upon which complaint a warrant has been issued.

Defendants cite *Healthsmart Pacific, Inc. v. Kabateck* (2016) 7 Cal.App.5th 416, 430, which held for purposes of an anti-SLAPP motion, "[a] plaintiff fails to establish such minimal merit when the cause of action arises from the publication of statements that are privileged as a matter of law."

Plaintiff cites *McClatchy Newspapers, Inc. v. Superior Court* (1987) 189 Cal.App.3d 961, based on the precursor to Civil Code section 47, subdivision (d), where the court explained the privilege as follows:

> The meaning of a "fair and true report" is well established in California case law. It is undenied that a media defendant does not have to justify every word of the alleged defamatory material that is published. [Citation.] The media's responsibility lies in ensuring that the "gist or sting" of the report—its very substance—is accurately conveyed.

(*McClatchy Newspapers, Inc. v. Superior Court, supra,* 189 Cal.App.3d at p. 975.) Plaintiff explains the "gist" of the various articles published by Defendants as follows:

> Here, the "gist" or "sting" of the multiple defamatory articles published by Defendants over the span of four months is that "Fresno County farmers are accusing the long-time raisin packer of ripping them off . . ." In other words, the "gist" or "sting" of these articles is not merely that Chooljian Brothers is failing to timely pay their growers; instead, the "gist" or "sting" of these repeated publications is that Chooljian Brothers intentionally steals from and/or rips off its growers. Dishonest and/or criminal conduct is a far cry from enduring financial problems that necessitate slow-paying growers.

In *Beilenson*, the court held that "rip-off," when read in context with the rest of a political campaign mailer, was protected rhetorical hyperbole. But *Beilenson* does not stand for the rule that the phrase is always protected—the political context was central to the court's holding. Here, the reasonable or average reader might reasonably conclude that the boldface-type headline that **"Raisin farmers accuse longtime Fresno County packer of ripping them off,"** conveys the meaning that the packer (Plaintiff) cheated the farmers by deliberately depriving them of payment for their crops. Of course, that is not the only possible reading of the headline, and an average reader might reach a different conclusion. But because the statement is susceptible of both an

innocent and a libelous meaning, the question cannot be resolved as a matter of law. At this stage, Plaintiff meets its burden to show the question is one for the jury to determine how the statement was understood.

2. Public Figure

Next, Defendants contend Plaintiff cannot prevail because it and its principals "are public figures who cannot show 'actual malice' under *New York Times v. Sullivan* (1964) 376 U.S. 254 and its progeny. [Fn.]" (Memo., p. 9:22-24.) Defendants contend:

> Chooljian Brothers and its principals, Michael Chooljian and Sandra Barr, qualify as public figures because of their long-standing prominence in the Fresno County agricultural scene, something they proudly proclaim both in their present Complaint and in advertising they have done in the decades they have done business.

(Memo., p. 10:4-7.)

Plaintiff and Defendants cite *Reader's Digest Assn. v. Superior Court* (1984) 37 Cal.3d 244, which explains:

> [A] "public figure" plaintiff must have undertaken some *voluntary* act through which he seeks to influence the resolution of the public issues involved. [Fn.] As such, the mere involvement of a person in a matter which the media deems to be of interest to the public does not, in and of itself, require that such a person become a public figure for the purpose of a subsequent libel action.

(*Id.* at 37 Cal.3d at p. 254, italics original.)

The court concludes Defendants have not established that Plaintiff was a public figure as a matter of law. As Plaintiff explains:

> Here, there is no showing whatsoever that there was a public controversy concerning [Plaintiff's] slow payment of its growers. Moreover, as was held by the California Supreme Court in *Reader's Digest Association*, the fact that the Fresno Bee decided [Plaintiff's] slow payment of its growers was newsworthy is not dispositive of the issue because, as stated above, a person "should not be considered a 'public figure' solely because that person . . . happens to be involved in a controversy that is newsworthy." Similarly, "Mere involvement of a person in a matter that the media deems to be of interest to the public does not, in and of itself, require that such a person become a public figure." Moreover, as stated by the court in *Readers Digest Association*, there must be some showing of a voluntary act undertaken by the person alleged to be a public figure by which he seeks to influence the resolution of public issues.

(Opp., p. 13:12-21.)

3. Actual Malice

Without a finding that Plaintiff is a public figure, Plaintiff is not required to show actual malice.

4. Non-actionable Opinion or Rhetorical Hyperbole

In *Kahn v. Bower* (1991) 232 Cal.App.3d 1599, cited by Defendants, the court explained when the question of fact versus opinion will be submitted to the jury:

> The question whether challenged statements convey the requisite factual imputation is ordinarily a question of law for the court. However, . . . some statements are ambiguous and cannot be characterized as factual or nonfactual as a matter of law. In these circumstances, it is for the jury to determine whether an ordinary reader would have understood the article as a factual assertion[.]

(*Id.* at p. 1608, citations and internal quotation marks omitted.)

As noted above in the court's consideration of the fair and true report privilege, a reasonable reader might conclude that the "rip-off" headline in boldface type conveys the meaning that Plaintiff cheated the farmers by deliberately depriving them of payment for their crops. Based on the court's conclusion, the question of fact or opinion would be presented to the jury to decide, based on CACI No. 1707, which provides:

> For [*name of plaintiff*] to recover, [*name of defendant*]'s statement(s) must have been [a] statement(s) of fact, not opinion. A statement of fact is one that can be proved to be true or false. In some circumstances, [*name of plaintiff*] may recover if a statement phrased as an opinion implies that a false statement of fact is true. [¶] In deciding this issue, you should consider whether the average [reader/listener] would conclude from the language of the statement and its context that [*name of defendant*] was implying that a false statement of fact is true.

Thus, the jury might conclude, though not necessarily so, that a factual news report about specific commercial transactions might convey a different meaning from the hyperbolic campaign rhetoric in *Beilenson.*

5. Material Falsity

Defendants contend "Plaintiff has not even attempted to prove falsity—let alone *material* falsity[.]" (Memo., p. 13:21, italics original.) The court disagrees. The complaint includes as part of exhibit A on page 32, a copy of an internet article with a correction at the top of page two in much smaller print as follows: "**CORRECTION**: This version corrects an error in reporting that said a 2018 breach of contract lawsuit involving payment of $1.6 million from [Chooljian] in Sanger to a grower was still pending. The case was settled." At page four, the article includes this sentence, "Although the company advanced the farmer $47,674.81 on Jan. 11, 2018, and $50,000.00 on Jan. 19, 2018, they still have not been paid in full." (*Id.* at p. 34.) The text of the article ends with a single-sentence paragraph that "[t]he case was settled."

The gist of the article implies that the farmer has been paid less than $100,000 of the $1.6 million owed and still has not been paid in full.

To challenge the gist of the statement that "a raisin grower who had delivered a $1.6M crop to Chooljian in 2017 'still had not been paid in full'" (comp., pp. 2:28 – 3:1), Plaintiff submits the declarations of its co-owners, Michael Chooljian and Sandra Barr. In his declaration, Mr. Chooljian identifies the grower who made the statement and declares the grower "was fully paid for the 2017 crop pursuant to that settlement agreement by April 19, 2019." This is sufficient to show falsity at this stage. (Mr. Chooljian and Ms. Barr also challenge, inter alia, the truth of the statement that neither of them would comment on the article, which provides relevant context to the articles' other statements.)

6. The Litigation Privilege

Defendants contend they are absolutely immune from liability under the litigation privilege found in Civil Code section 47, subdivision (b). Defendants cite *Sylmar Air Conditioning v. Pueblo Contracting Services, Inc.* (2004) 122 Cal.App.4th 1049, where the court explained "[u]nder the 'usual formulation,' the litigation "privilege applies to any communication (1) made in judicial or quasi-judicial proceedings; (2) by litigants or other participants authorized by law; (3) to achieve the objects of the litigation; and (4) that have some connection or logical relation to the action. [Citations.]" (*Id.* at p. 1058, citing *Silberg v. Anderson* (1990) 50 Cal.3d 205, 212.) Defendants contend the litigation privilege bars Plaintiff's claims because they involve statement concerning litigation or anticipated litigation.

As Defendants acknowledge, the litigation privilege protects qualifying communications by litigants and other authorized participants; it does not protect persons, such as Defendants, who are neither litigants nor participants in the proceeding. (*Silberg v. Anderson, supra,* 50 Cal.3d at p. 212; *Wise v. Thrifty Payless, Inc.* (2000) 83 Cal.App.4th 1296, 1304 [nonparticipants and nonlitigants are never protected from liability under Civ. Code, § 47, subd. (b)].)

7. Negligence

Defendants cite *Carney v. Santa Cruz Women Against Rape* (1990) 221 Cal.App.3d 1009 for the rule that "a private person need prove only negligence (rather than malice) to recover for defamation." (*Id.* at p. 1015.) Defendants must not only cite to valid legal authority, but also must explain how it applies to this case, which Defendants fail to do.

8. Libel Per Quod

Defendants cite *Bartholomew v. YouTube, LLC.* (2017) 17 Cal.App.5th 1217, wherein the court explains the difference between libel per se and libel *per quod* as follows:

> There are generally two types of libel recognized in California—libel per se and libel *per quod.* A libel which is defamatory of the plaintiff without the

> necessity of explanatory matter, such as an inducement, innuendo or other extrinsic fact, is said to be a libel on its face. Defamatory language not libelous on its face is not actionable unless the plaintiff alleges and proves that he has suffered special damage as a proximate result thereof.

(*Id.* at p. 1226, citations and internal quotation marks omitted.)

The challenged statements are part of a complete article, which the trier of fact must consider to determine the impact and meaning of the statements alleged in the complaint together and in context. With no analysis, Defendants declare three statements are libel *per quod.* Defendants fail to explain how the challenged statements, taken together and in context, require extrinsic explanatory matter to explain the defamatory meaning.

9. Other Elements of Defamation

Defendants contend "Plaintiff has not adequately alleged, and will be unable to make a prima facie showing of, other elements of defamation." (Memo., p. 15:7-8.) Although Defendants plainly identify at least six defamatory statements that Plaintiff alleges in the complaint, Defendants contend the complaint is a "paradigm of vagueness." The court disagrees.

Conclusion

In conclusion, the court finds, based on the reasons set forth above and in Plaintiff's opposition, that Plaintiff proffers sufficient evidence to establish that the defamation claims have the "requisite minimal merit [to] proceed." (*Navellier v. Sletten* (2002) 29 Cal.4th 82, 94.) Plaintiff demonstrates that the purpose of its suit is to recover damages for alleged wrongs—not to harass Defendants or chill their free speech rights. In short, the challenged claims are not within the type of meritless, chilling claims arising from protected activity the anti-SLAPP statute is designed to weed out at an early stage. Accordingly, Plaintiff's complaint and evidence are sufficient to support the defamation claims (considered together and in context) and to notify Defendants of the allegations they must defend.

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: JS on 10/27/2026.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Breazeale v. Miller-Phelan, Inc., et al.***
Superior Court Case No. 24CECG01093

Hearing Date: October 29, 2026 (Dept. 503)

Motion: Defendant Harley Davidson Motor Company, Inc.'s Motion to Seal

Tentative Ruling:

To grant defendant Harley Davidson Motor Company, Inc.'s motion to seal documents submitted with plaintiffs' opposition to summary judgment conditionally under seal. (Cal. Rules of Court, Rules 2.550 and 2.551.)

Explanation:

"A record must not be filed under seal without a court order. The court must not permit a record to be filed under seal based solely on the agreement or stipulation of the parties." (Cal. Rules of Court, Rule 2.551, subd. (a).) Also, the court must make certain express findings in order to seal records. Specifically, the court must find that the facts establish:

(1) There exists an overriding interest that overcomes the right of public access to the record;

(2) The overriding interest supports sealing the record;

(3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;

(4) The proposed sealing is narrowly tailored; and

(5) No less restrictive means exist to achieve the overriding interest. (Cal. Rules of Court, Rule 2.550, subd. (d).)

In addition, "[a]n order sealing the record must: (A) Specifically state the facts that support the findings; and (B) Direct the sealing of only those documents and pages, or, if reasonably practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each document or page must be included in the public file." (Cal. Rules of Court, rule 2.550, subd. (e)(1)(A), (B).)

Here, defendant Harley Davidson Motor Company, Inc. has requested an order to seal documents submitted by plaintiffs in support of their opposition to defendant Harley Davidson Motor Company, Inc.'s motion for summary judgment. The documents identified were submitted to the court conditionally under seal. The documents are said to contain confidential, proprietary information regarding Harley-Davidson's design methodologies, risk assessment, replacements parts, warranty claims and contacts with

customers, and cost information. (Joers Decl., ¶ 3.) The information is maintained as confidential in the ordinary course of business, its dissemination is limited within the company, and is not publically available. (*Ibid*.)

Public dissemination of the information in the records to be sealed would directly harm defendant by revealing confidential information to its competitors regarding how defendant designs and tests its motorcycles and component parts. (Joers Decl., ¶4.)

It does appear that the documents contain the type of confidential and proprietary information that should be placed under seal. Releasing the information by placing it in the public file would prejudice the rights of the defendant, who clearly has a strong interest in keeping its confidential methodologies and internal processes secret. Also, the request to seal is narrowly tailored, as only certain specific documents are being sealed, and there does not appear to be any other, less restrictive means of protecting the confidentiality rights of the defendant. Therefore, the court intends to grant the motion to seal the documents submitted conditionally under seal in plaintiff's opposition to the motion for summary judgment.

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: JS on 10/27/2026.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Jesus Navarro v. Jacobo Farm Services, Inc.***
Superior Court Case No. 24CECG04061

Hearing Date: October 29, 2026 (Dept. 503)

Motion: by Plaintiff for Preliminary Approval of Class Settlement

Tentative Ruling:

To continue to Thursday, November 19, 2026 at 3:30 p.m. in Department 503. Plaintiff must file any supplemental documentation by Friday, November 13, 2026 at 5:00 p.m.

Explanation:

Certification of Class for Settlement

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, 19.a) 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.)

Plaintiff bears the burden of establishing the propriety of class treatment <u>with admissible evidence</u>. (*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].)

Ascertainability and Numerosity

Here, plaintiff requests provisional class certification, with the proposed settlement class being "All non-exempt employees of Defendant Jacobo Farm Services, Inc. in California at any time from September 21, 2020 to December 8, 2025." (See Mallison Decl., ¶ 2, Exh. 1, Items I(B) and I(E).) Plaintiff identifies the class as "approximately 7,190 non-exempt employees who worked for Defendants between September 21, 2020 and December 8, 2025." (Ibid.) However, plaintiff does not offer any admissible evidence establishing the class. Plaintiff mentions that the class members "have been identified through Defendants' employee and payroll files" (Suppl. Request, 3:12-13) but does not include any records or declarations to demonstrate the ascertainability and numerosity of the proposed class.

Community Interest

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."

Plaintiff has not submitted evidence of the work conditions and alleged wage and hour violations that he personally experienced, nor evidence that other employees were subjected to the same practices and suffered the same violations.

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.) This consideration is satisfied, as counsel has substantial class action experience. (See Mallison

Decl., ¶¶ 3-5.) No known conflicts between the representative and other class members is presented.

Settlement Approval

Adequacy of Settlement

"[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 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.)

Clark v. America Residential Services (2009) 175 Cal.App.4th 785 vacated approval of a class settlement coupled with class certification, an award of $25,000 each to two named plaintiffs, and more. The problem was that the plaintiffs presented "no evidence regarding the likelihood of success on any of the 10 causes of action, or the number of unpaid overtime hours estimated to have been worked by the class, or the average hourly rate of pay, or the number of meal periods and rest periods missed, or the value of minimum wage violations, and so on." (*Id*. at p. 793.)

Plaintiff indicates that a review of defendants' timekeeping and payroll records showed their records contain substantial incidents of short, late, or missed meal periods. (Mallison Decl., ¶ 26.) Plaintiff's database expert also analyzed the payroll database, and based on analysis of defendants' timekeeping and payroll records, plaintiff calculated $78,567,420.00 in class-wide damages. (Ibid.) The gross settlement amount is $2,750,000.00. (Id., ¶ 17.) Counsel discusses the reasons for his belief that the settlement is reasonable and adequate, and in the best interest of the class. (Id., ¶¶ 29, 30.) However, there is no declaration or other evidence submitted to provide foundation for the figures relied upon in counsel's assessment of the settlement as reasonable. The potential value of "class-wide damages" is based entirely on plaintiff's counsel's

declaration. (Id., ¶ 26.) Counsel does not have personal knowledge to testify to the actions, policies, or practices constituting the alleged violations or the estimated number of class members and workweeks. The calculated damages amount is presented without any of the calculations used to reach the amount. Counsel has not demonstrated he is qualified to make such calculations based on a sample of the defendant's time records and payroll data. A declaration by an expert is required to rely on a sample to determine damages issues such as those before the court here.

Attorney's Fees

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].)

The court prefers to do a lodestar analysis as a cross-check on the reasonableness of the fees. Counsel submits that they will be requesting up to 35% of the gross settlement amount in fees. (Mallison Decl., ¶ 35.) Costs will also be sought not to exceed $40,000.00. (Id., ¶ 36.) Counsel may submit updated information with detailed billing records for lodestar review.

Payment to Class Representative and Settlement Administrator

The motion seeks preliminary approval of a $20,000 class representative payment to plaintiff. Plaintiff has not estimated the amount of time expended by the class representative on this matter. It is merely stated that the class representative ""actively participated in the investigation of the issues" and "represented his colleagues and invested significant time and energy into this case, risking his reputation and the threat of retaliation from future employers." (Mallison Decl., ¶ 40.) A declaration by the class representative should be submitted and include evidence of his involvement in the case and risks taken, beyond speculation, to support the incentive award.

Plaintiff seeks approval of $32,700.00 for settlement administration paid to CPT Group, Inc. Plaintiff submitted a request for bids to multiple settlement administrators, and the bid from CPT was the most economical, and estimated to be within normal ranges for the size, breadth, and complexity of this proposed class action settlement. The amount may be approved.

Ultimately, the parties held arm's length negotiations with the involvement of an experienced mediator, and engaged in extensive discovery. (See Mallison Decl., ¶¶ 15, 25-26.) Counsel also appears to have extensive experience in wage and hour litigation. These factors generally weigh in favor of finding that the settlement is fair, adequate, and reasonable. However, the evidence of the strength of plaintiff's case and risk of maintaining through litigation is limited to counsel's declaration and opinion. There is insufficient evidence to support finding the settlement is fair, adequate, and reasonable.

Proposed Class Notice

The proposed notice procedures described within the settlement agreement appear to be adequate. A copy of the proposed notice itself is included for the court's review. (See Mallison Decl., Exh. 2.)

The notification procedure is designed to provide the greatest likelihood that each class member will receive the settlement notification. The notices should provide the class members with information regarding their time to opt out, object, or challenge the number of workweeks, the nature and amount of the settlement, the amount to be received by the class member, 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 representative.

After review of the proposed class notice, the notice appears to include all of the relevant information, and the court may find that the proposed class notice is adequate.

Continued for Supplemental Briefing

As it appears the plaintiff has already received expert analysis and the defendant has not opposed this motion, presumably as they agree with the settlement and are working amicably with plaintiff, the court will briefly continue the hearing to allow supplemental declarations to be filed, rather than deny the motion outright.

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: JS on 10/27/2026.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Huerta v. Natures Solution LLC et al.***
Superior Court Case No. 25CECG03349

Hearing Date: October 29, 2026 (Dept. 503)

Motion: Motion for Leave to Amend Complaint

Tentative Ruling:

To take off calendar, as no moving papers have 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: JS on 10/28/2026.
(Judge's initials) (Date)