

Tentative Rulings for December 10, 2025
Department 502

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) *The above rule also applies to cases listed in this "must appear" section.*

19CECG00256 *Santellan v. Hein*

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 502

Begin at the next page

(03)

Tentative Ruling

Re: ***Mann-Herbert v. Peachwood Medical Group Clovis, Inc.***
Case No. 21CECG01599

Hearing Date: December 10, 2025 (Dept. 502)

Motion: Plaintiffs' Motion for Approval of PAGA Settlement and
Reasonable Attorney's Fees and Costs

Tentative Ruling:

To deny plaintiffs' motion for approval of PAGA settlement and reasonable attorney's fees and costs, without prejudice.

Explanation:

1. Introduction

Under Labor Code section 2699, "[t]he superior court shall review and approve any settlement of any civil action filed pursuant to [PAGA]. The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." (Lab. Code, § 2699, subd. (i)(2).)

The statute does not explain what exactly the trial court should consider when reviewing a proposed PAGA settlement. However, recently the Court of Appeal in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56 did provide some guidance. The court explained that "many federal district courts have applied the 'fair, reasonable, and adequate' standard from class action cases to evaluate PAGA settlements." (*Id.* at pp. 75–76, disapproved on other grounds by *Turrieta v. Lyft, Inc.* (2024) 16 Cal.5th 664.) "Given PAGA's purpose to protect the public interest, we also agree with the LWDA and federal district courts that have found it appropriate to review a PAGA settlement to ascertain whether a settlement is fair in view of PAGA's purposes and policies. We therefore hold that a trial court should evaluate a PAGA settlement to determine whether it is fair, reasonable, and adequate in view of PAGA's purposes to remediate present labor law violations, deter future ones, and to maximize enforcement of state labor laws." (*Id.* at p. 77, internal citations and footnote omitted.) On the other hand, "PAGA does not provide that aggrieved employees must be heard on the approval of PAGA settlements... PAGA provides no mechanism for aggrieved employees, including those pursuing PAGA lawsuits, to be heard in objection to another PAGA settlement. This concession is dispositive, and we will not read a requirement into a statute that does not appear therein." (*Id.* at p. 79, internal citation omitted.)

2. Notice to LWDA

Labor Code section 2699, subdivision (l)(2), states: "The proposed settlement shall be submitted to the agency at the same time that it is submitted to the court." Here, plaintiff's counsel has stated that notice of the settlement was provided to the LWDA on

September of 2025. (Piercy decl., ¶ 6.) He does not include a copy of the notice with his declaration. However, it does appear that he has complied with the notice requirement.

3. Is the Settlement Fair, Adequate, and Reasonable?

As mentioned above, the Court of Appeal in *Moniz v. Adecco USA, Inc.*, *supra*, 72 Cal.App.5th 56 stated that the trial court should review PAGA settlements to determine whether they are fair, adequate and reasonable. (*Moniz, supra*, at pp. 75-77.)

Here, plaintiffs have not shown that the settlement is fair, adequate, and reasonable. Plaintiffs claim that they are settling a “PAGA only” case, but in fact their complaint also alleges multiple class action causes of action based on the same violations that underlie their PAGA claim. Plaintiffs’ complaint alleges seven class action claims for various wage and hour violations, as well as UCL and PAGA claims. (See Complaint filed on June 3, 2021.) There is nothing in the court’s docket that indicates that the class action claims were ever dismissed or settled previously.¹ However, the settlement only provides payment to plaintiffs to settle their PAGA claims, and plaintiffs are apparently dismissing their other claims, including their class claims, without any additional consideration. (Exhibit 2 to Piercy decl., PAGA Settlement Agreement, p. 7, ¶ 5.1.)

Thus, it appears that plaintiffs are now abandoning their class action claims without explaining why they are dismissing their claims for no consideration, other than the payment for their PAGA claims. Plaintiffs have not made any showing that it would be fair, reasonable, or adequate to dismiss their class action claims for no money, especially since they are receiving \$125,000 to settle the PAGA claim, which is based on the same Labor Code violations as the class action claims. If the PAGA claim is worth \$125,000, then why are the other class actions claims based on the same alleged violations worth nothing at all?

Since plaintiffs have asserted multiple class action claims, they need to explain why it is fair, reasonable, and adequate to settle their class claims for no money, but at the same time accept \$125,000 to settle their PAGA claims for the same violations. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244–245, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260 [listing factors court must consider in deciding whether to approve class action settlement].) Here, plaintiffs’ counsel has not provided any explanation for the decision to settle the class claims for nothing, or why settling the class claims for no money is fair, adequate, and reasonable in light of the relevant factors. Therefore, the court will not approve the proposed settlement at this time. Plaintiffs’ counsel needs to provide a discussion of the reasons why they are settling their PAGA claim for \$125,000 but dismissing their class claims without any additional payment.

4. Attorney’s Fees and Costs

Counsel has provided his declaration regarding his request for \$25,000 in fees, including a summary of his lodestar fees. (Piercy decl., ¶ 14.) Counsel’s declaration is

¹ Also, plaintiffs would need to obtain the court’s approval before dismissing their class claims. (See Cal. Rules of Court, rule 3.770) There is nothing in the court’s records indicating that it ever approved a dismissal of the class claims.

However, counsel has not adequately explained the request for \$8,000 in costs. He mentions that his office has incurred costs of approximately \$7,000 so far, as well as anticipated costs of \$500 to finalize the case. (*Id.* at ¶ 15.) Yet he does not summarize the costs or include any records to support the request for \$8,000 in costs. Therefore, plaintiffs' counsel has not shown that the requested costs are reasonable.

The settlement administrator, ILYM Group, Inc. will receive up to \$4,000 to cover administration costs. However, ILYM has not provided a declaration from one of its representatives stating how much it will charge for administration costs. Therefore, plaintiffs have not shown that the requested administration costs are reasonable.

The settlement also provides that the named plaintiffs will receive an incentive awards in the total amount of \$12,500, with \$7,500 paid to plaintiff Herbert and \$5,000 paid to plaintiff Masterman. However, there are no declarations from the named plaintiffs stating the work they did on the case and why they should receive incentive payments. Therefore, plaintiffs have not provided sufficient evidence to show that the requested payments are reasonable.

The court intends to deny the order approving the PAGA settlement without prejudice and require plaintiffs' counsel to provide additional evidence regarding the reasons why plaintiffs are not being paid to settle their class action claims, as well as more evidence regarding the requested court costs, the settlement administrator's fees, and the incentive payments to the named plaintiffs.

Tentative Ruling

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(46)

Tentative Ruling

Re: **Juventino Ortiz v. Fernando Cervantes**
Superior Court Case No. 24CECG02055

Hearing Date: December 10, 2025 (Dept. 502)

Motion: by Plaintiffs to Deem Requests for Admission, Set One, to be
Admitted

Tentative Ruling:

To grant the motion seeking an order deeming the truth of matters specified in the Requests for Admission, Set One established pursuant to Code of Civil Procedure section 2033.280, subdivision (b) against defendant Barbie B Ranch LLC, unless responses in substantial conformity with Code of Civil Procedure section 2033.220 are served prior to the hearing.

To impose monetary sanctions in the total amount of \$437.00 against defendant Barbie B Ranch LLC, in favor of plaintiffs. Within thirty (30) days of service of the order by the clerk, defendant Barbie B Ranch LLC shall pay sanctions to plaintiffs' counsel, Mallison & Martinez.

Explanation:

Plaintiffs Juventino Ortiz and Mariano Carranza ("plaintiffs") move for an order deeming admitted the truth of matters specified in Requests for Admissions, Set One, as served on defendant Barbie B Ranch LLC ("defendant").

If a party fails to serve a timely response to requests for admission propounded upon that party, the requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction. (Code. Civ. Proc., § 2033.280 subd. (b).) Objections are waived including those based on privilege and work product. (*Id.*, § 2033.280 subd. (a).) The court shall make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a response to the requests for admission that is in substantial compliance with Section 2033.220. (*Id.*, subd. (c).) 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.)

On June 18, 2025, the discovery at issue was served on defendant Barbie B Ranch LLC at the business address on record with the California Secretary of State. (Bolce Decl., ¶ 4, Exh. 3.) As of the filing of the motion, no responses have been served. (*Id.*, ¶ 5.) No opposition to the present motion was filed. Therefore, the motion seeking an order deeming the truth of matters specified in Requests for Admission, Set One as established will be granted pursuant to Code of Civil Procedure section 2033.280, subdivision (b),

unless responses in substantial conformity with Code of Civil Procedure section 2033.220 are served prior to the hearing.

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., § 2033.280, subd. (c).) As no opposition was filed, the court finds no circumstances that would render the mandatory sanctions unjust. However, the amount of sanctions may be reduced. The motion is straightforward and without issue. No opposition was filed, so no reply or appearance are necessary. The court will impose sanctions of \$437.00 in favor of plaintiff.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By: KCK on 12/08/25
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***Erik Camacho v. Aldo Ramirez Rios***
Superior Court Case No. 24CECG03966

Hearing Date: December 10, 2025 (Dept. 502)

Motion: By Plaintiff's Attorney to be Relieved as Counsel

Tentative Ruling:

To deny, without prejudice.

Explanation:

Although counsel's motion claims it was served on the client, the accompanying proofs of service do not include the client as a recipient. Accordingly, this court exercises its discretion such that withdrawal is not granted at this time. (*Manfredi & Levine v. Superior Court* (1998) 66 Cal.App.4th 1128, 1133 ["The determination whether to grant or deny a motion to withdraw as counsel lies within the sound discretion of the trial court."])

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: _____ on _____.
(Judge's initials) (Date)