**LAW & MOTION CALENDAR**
**TENTATIVE RULINGS**

**June 26, 2025**

**Judge Melissa R. McCormick**
**Dept. CX105**

**Department CX105 hears law and motion on Thursdays at 2:00 p.m.**

**Court reporters:** Official court reporters typically are not provided in this department for any proceedings. If the parties desire the services of a court reporter, the parties should follow the procedures set forth on the court's website at www.occourts.org.

**Tentative rulings:** The court endeavors to post tentative rulings on the court's website by 9:00 a.m. the day of the hearing. Tentative rulings may not be posted in every case. Please do not call the department for tentative rulings if tentative rulings have not been posted.

**Submitting on tentative rulings:** If all parties intend to submit on the tentative ruling and do not desire oral argument, please advise the courtroom clerk or courtroom attendant by calling (657) 622-5304. Please do not call the department unless all parties submit on the tentative ruling. If all parties submit on the tentative ruling and so advise the court, the tentative ruling will become the court's final ruling and the prevailing party shall give notice of the ruling.

**Appearances and public access:** Appearances, whether in person or remote, must comply with Civil Procedure Code section 367.75, California Rule of Court 3.672, Orange County Superior Court Local Rule 375, and Orange County Superior Court Appearance Procedure and Information—Civil Unlimited and Complex (pub. 9/9/22).

Unless the court orders otherwise, remote appearances will be conducted via Zoom. All counsel and self-represented parties appearing via Zoom must check in through the court's civil remote appearance website before the hearing begins. Check-in instructions are available on the court's website.

The public may attend hearings by coming to court or via remote access as described above.

**Photographing, filming, recording and/or broadcasting court proceedings are prohibited unless authorized pursuant to California Rule of Court 1.150 or Orange County Superior Court Local Rule 180**.

**Non-appearances:** If nobody appears for the hearing and the court has not been notified that all parties submit on the tentative ruling, the court shall determine whether the matter is taken off calendar or the tentative ruling becomes the final ruling. The court also might make a different order. *See Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442 n.1.

| NO. | CASE NAME | MATTER |
|---|---|---|
| 1 | Aguirre v. Heritage Plastering, Inc.<br><br>2024-01415313 | <u>Defendant Heritage Plastering, Inc.'s Motion to Compel Arbitration</u><br><br>Defendant Heritage Plastering, Inc. moves for an order compelling arbitration of plaintiff Socorro Aguirre's individual claims and striking plaintiff's class allegations, and staying the action pending completion of the arbitration. For the following reasons, defendant's motion is denied. |

| | | |
|---|---|---|
| | | The right to arbitration depends upon contract; a petition to compel arbitration is simply a suit in equity seeking specific performance of that contract. *Little v. Pullman* (2013) 219 Cal.App.4th 558, 565. The petitioner bears the burden of proving the existence of a valid arbitration agreement by the preponderance of the evidence, and a party opposing the petition bears the burden of proving by a preponderance of the evidence any fact necessary to its defense. *Id.*<br><br>Defendant argues that plaintiff and defendant "entered into a mutual agreement to arbitrate that includes both the signed arbitration agreement and the mutual arbitration policy incorporated into the arbitration agreement." Brief (ROA 43) at 8:6-8; *see also id.* at 14:26-15:1 ("Plaintiff signed the Arbitration *Agreements*, which was an acknowledgment that he agreed to the terms therein (including the MAP)") (italics added). Defendant argues the MAP "is part of the Arbitration Agreement." *Id.* at 9:9-10 ("the Mutual Arbitration Policy . . . is part of the Arbitration Agreement"). (The mutual arbitration policy is sometimes referred to herein as the "MAP." The parties also sometimes refer to the mutual arbitration agreement as the "PAM.") At a minimum, the arbitration agreement and the MAP should be read and construed together. *See Alberto v. Cambrian Homecare* (2023) 91 Cal.App.5th 482, 490-91 (arbitration agreement and confidentiality agreement read together where they were executed same day and were part of single transaction of plaintiff's hiring and dispute resolution procedure applicable to plaintiff); *Silva v. Cross Country Healthcare, Inc.* (Jun. 13, 2025, B337435) __ Cal.App.5th __, 2025 WL 1671621 at *5.<br><br>Defendant submitted the declaration of Rafa Aguirre, plaintiff's uncle, who states that he lived with plaintiff when plaintiff started work at defendant in 2019. Rafa Aguirre Decl. (ROA 41) ¶ 2. Rafa Aguirre states that he provided a copy of "all the employment application documents in Spanish to Plaintiff Aguirre at [Rafa Aguirre's] home," and that he is "personally aware that within the employment application documents [he] provided to Plaintiff were copies of the MAP and Arbitration Agreement." *Id.* ¶ 4. Rafa Aguirre states that he "witnessed Plaintiff review and hand sign each document including the MAP and Arbitration Agreement," and that plaintiff "did not have any questions, comments, or concerns while filling out the MAP and Arbitration Agreement." *Id.* ¶ 8. Rafa Aguirre states that Spanish copies of the MAP and arbitration agreement are attached to his declaration as Exhibits A and B, respectively. *Id.* ¶¶ 5, 6 & Exs. A, B. The copy of the MAP attached to Rafa Aguirre's declaration is not signed; the copy of the arbitration agreement attached to Rafa Aguirre's declaration is dated November 2, 2019 (in the Spanish format, dd-mm-yy) and bears the handwritten name "Socorro Aguirre." *Id.* Exs. A. B.<br><br>Defendant also submitted the declaration of Rafa Hernandez, who states that he is defendant's General Field Superintendent. Hernandez Decl. (ROA 42) ¶ 1. Hernandez states that to |

| | | |
|---|---|---|
| | | prepare his declaration he "reviewed and relied upon documents in Plaintiff Aguirre's personnel file." *Id.* Hernandez states that "[d]uring the new employee application process Plaintiff Aguirre was provided with a copy of the Mutual Arbitration Policy to review," and that plaintiff "received the Arbitration Agreement which incorporates by reference the Mutual Arbitration Policy." *Id.* ¶ 4. Hernandez states that plaintiff "hand-signed the arbitration agreement on November 2, 2019." *Id.* Hernandez states that "[b]oth Plaintiff Aguirre and [defendant] affirmatively consented to the Arbitration Agreement." *Id.* ¶ 6. Hernandez states no facts providing foundation for any of his statements regarding the presentation of the arbitration agreement and the MAP to plaintiff, plaintiff's signature, or plaintiff's alleged consent.<br><br>Plaintiff concedes in his declaration filed in opposition to the motion that he signed the arbitration agreement. Socorro Aguirre Decl. (ROA 59) ¶¶ 3, 4, 9. He does not state that he signed the MAP, and he states that he "do[es] not believe that the MAP was included in the stack of papers [he] received for onboarding." *Id.* ¶ 4.<br><br>The arbitration agreement and the MAP are separate documents. Rafa Aguirre Decl. (ROA 41) Exs. A, B; Hernandez Decl. (ROA 42) Exs. A, B.; Beck Decl. (ROA 50) Exs. A (English translation), B (English translation). The arbitration agreement states:<br><br>"I certify that I received and reviewed a copy of the Heritage Plastering, Inc. Mutual Arbitration Policy (PAM), and I understand that it is a requirement for my employment to sign it. I agree and it is my duty to use the PAM to submit to final and mandatory arbitration any claim and conflict related to my employment with Heritage Plastering, Inc. ('HERITAGE') or its termination.<br><br>"I understand that final and mandatory arbitration will be the sole and exclusive form to solve any claim or conflict against Heritage, its parent company, subsidiaries, affiliates and/or each of its employees, officers, directors or agents (commonly referred to herein as 'HERITAGE') and that, by agreeing to use arbitration to solve any conflict, Heritage and I agree to waive the rights either of us may have to a legal trial in cases covered by the PAM, and I waive any right to present a lawsuit against a representative or to submit general judgments.<br><br>"I also understand that any arbitration shall take place before an arbitrator chosen by me and Heritage, and under the Federal Arbitration Act and the regulations for applicable conducts of the American Arbitration Association ('AAA'). I acknowledge that in exchange for my agreement to arbitrate Heritage also agrees to submit any claim or conflict that may arise against me to a final and mandatory arbitration procedure, and Heritage also agrees that if I were to present a petition for mandatory arbitration, I will pay for my own expenses in arbitration fees up to a limit |

| | | |
|---|---|---|
| | | and Heritage will pay any remaining fees and costs to cover both the mediator and any AAA related administrative costs.<br><br>"If a court or mediator were to find inapplicable any disposition of the PAM, such disposition may be separated without affecting this arbitration agreement. I also acknowledge that this mutual obligation to arbitrate may not be modified or voided except with the mutual consent of both Heritage and me."<br><br>Rafa Aguirre Decl. (ROA 41) Ex. B; Beck Decl. (ROA 50) Ex. A. The MAP is a separate, three-page document that, *inter alia*, describes the covered disputes. Rafa Aguirre Decl. (ROA 41) Ex. A; Beck Decl. (ROA 50) Ex. B.<br><br>As noted above, the arbitration agreement expressly states that signing the MAP is a requirement of plaintiff's employment. Rafa Aguirre Decl. (ROA 41) Ex. B; Beck Decl. (ROA 50) Ex. A. None of the copies of the MAP submitted by defendant is signed by plaintiff. Rafa Aguirre Decl. (ROA 41) Ex. A; Hernandez Decl. (ROA 42) Ex. A; Beck Decl. (ROA 50) Ex. B. The court finds that the preponderance of the evidence shows that plaintiff did not sign the MAP, and that the evidence does not support Rafa Aguirre's statements in his declaration that plaintiff "hand sign[ed]" and "fill[ed] out" the MAP. The lack of evidence supporting Rafa Aguirre's claim that plaintiff signed and filled out the MAP also undermines Rafa Aguirre's statement, disputed by plaintiff, that he gave plaintiff a copy of the MAP with other employment documents at their home.<br><br>In addition, the arbitration agreement states that by agreeing to use arbitration to resolve disputes, plaintiff and defendant "agree to waive the rights either . . . may have to a legal trial in cases covered by the PAM." Rafa Aguirre Decl. (ROA 41) Ex. B; Beck Decl. (ROA 50) Ex. A. The arbitration agreement does not define the "cases covered by the PAM [MAP]"; the MAP identifies the covered disputes. As defendant has not shown by a preponderance of the evidence that plaintiff received a copy of the MAP, and as defendant has not shown that plaintiff signed the MAP, the court has no basis on which to conclude plaintiff agreed to arbitrate the disputes defined in the MAP. Furthermore, even if the arbitration agreement could be read and construed as a standalone document (it cannot, as discussed above), the arbitration agreement alone does not identify all of the terms of the purported agreement to arbitrate.<br><br>In sum, defendant did not carry its burden of proving the existence of a valid arbitration agreement between plaintiff and defendant by the preponderance of the evidence.<br><br>Plaintiff to give notice.<br><br><u>Status Conference</u><br><br>The court has reviewed plaintiff's initial case management conference statement filed June 18, 2025 (ROA 65), and based |

| | | |
|---|---|---|
| | | thereon continues the June 26, 2025 status conference to October 9, 2025 at 9:00 a.m. in Department CX105.<br><br>The parties are ordered to file a joint status conference statement at least 5 court days before the hearing.<br><br>Clerk to give notice. |
| 2 | Sandoval, et al. v. Heritage Plastering, Inc.<br><br>2024-01376278 | Status Conference<br><br>The court has reviewed the parties' joint status conference statement filed June 18, 2025 (ROA 108), and based thereon continues the June 26, 2025 status conference to October 9, 2025 at 9:00 a.m. in Department CX105<br><br>The parties are ordered to file a joint status conference statement at least 5 court days before the hearing.<br><br>Clerk to give notice. |
| 3 | Armenta v. Collectors Universe, Inc.<br><br>2023-01336673 | Plaintiff's Motion for Approval of PAGA Settlement<br><br>The court has reviewed and considered the papers filed in support of plaintiff's motion for approval of a $1,000,000 PAGA settlement. Subject to the parties' submission of the documents identified below, the court grant the motion for approval, as follows:<br><br>$333,333.33 for attorneys' fees;<br><br>$11,490.85 for litigation costs;<br><br>$11,000.00 for settlement administration costs; and<br><br>$644,175.85 total PAGA penalties ($483,131.88 to the LWDA).<br><br>As to the First Amended PAGA Settlement Agreement: The First Amended PAGA Settlement Agreement does not state when the "Release by Aggrieved Employees" is effective. Aroeste Decl. (ROA 70) Ex. 1 (¶ 5). The phrase "the Aggrieved Employees" should be inserted after "Plaintiff" and before "PAGA Counsel" in paragraph 5 of the First Amended PAGA Settlement Agreement.<br><br>As to the notice letter: The first paragraph on page 2 of the notice letter (Aroeste Decl. (ROA 70) Ex. 2) should be removed, as it appears duplicative of the third paragraph on the same page. The third sentence of the third paragraph on page 2 of the notice letter should be removed. The last sentence of the fourth paragraph on page 2 of the notice letter should be removed.<br><br>The parties are ordered to lodge by July 3, 2025 a revised proposed order with a copy of the settlement agreement (amended as described above) and a copy of the notice letter (in English and Spanish, and revised as described above) attached as exhibits.<br><br>The final accounting hearing is scheduled for February 26, 2026 at 9:00 a.m. in Department CX104. Counsel shall submit a final |

| | | |
|---|---|---|
| | | settlement administrator's report at least 9 court days before the hearing addressing the status of the settlement administration, including the actual amounts paid to the Aggrieved Employees and the other amounts distributed under the settlement, including any uncashed checks.<br><br>Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service. |
| 4 | Chavez v. Raplisa Medical Management, Inc., et al.<br><br>2019-01086209 | Plaintiff's Motion for Approval of PAGA Settlement<br><br>The court has reviewed and considered the papers, including the supplemental papers, filed in support of plaintiff's motion for approval of a $10,000 PAGA settlement. Subject to plaintiff's submission of the revised documents described below, the court grants the motion as follows:<br><br>No enhancement payment to plaintiff;<br><br>$3,300.00 for attorneys' fees; and<br><br>$6,700.00 total PAGA penalties ($5,025.00 to the LWDA).<br><br>The court has the following comments:<br><br>1. In its February 27, 2025 order (ROA 401), the court stated that the release in the notice was not consistent with the release in the amended settlement agreement. 2/27/25 Order (ROA 401) No. 2. The release in the notice is still not consistent with the release in the further amended settlement agreement. *Compare* Afgani Decl. (ROA 408) Ex. 1 (¶ 2) *with id.* Ex. 3 (§ III).<br><br>In the third paragraph of section III of the notice, the phrase "the California Labor & Workforce Development Agency ('LWDA') and" should be removed, as that phrase does not appear in the release in the further amended settlement agreement. The phrase "but not limited to" should be removed in the same paragraph, as that phrase has been removed from the release in the further amended settlement agreement. The phrase "(hereinafter the 'Released PAGA Claim')" in the last line of the same paragraph should be removed, as that phrase appears earlier in the paragraph. The last two words of the same paragraph ("released parties") should be capitalized ("Released Parties").<br><br>The phrase "Upon entry of the Order approving the Settlement" in the first sentence of the fourth paragraph of section III of the notice should be replaced with "Upon the Effective Date." The word "this" before "Agreement" in the same paragraph should be replaced with "the."<br><br>The parties are ordered to file by July 3, 2025 a proposed order **with all exhibits attached** (settlement agreement, any amendments thereto, notice letter in English and Spanish), |

| | | |
|---|---|---|
| | | including a copy of the revised notice discussed above (in English and Spanish).<br><br>The final accounting hearing is scheduled for October 30, 2025 at 9:00 a.m. in Department CX105. Counsel shall submit a final administrator's report at least 9 court days before the hearing addressing the status of the settlement administration, including the actual amounts paid to the Aggrieved Employees and the other amounts distributed under the settlement, including any uncashed checks.<br><br>Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service. |
| 5 | Contreras, et al. v. Merical, LLC<br><br>2021-01214079 | Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement<br><br>The court has reviewed and considered the papers filed in support of plaintiffs' motion for preliminary approval of a $3,725,000 class action and PAGA settlement. The court has the following questions and comments:<br><br>As to the settlement:<br><br>1. The "Released Class Claims" provision is overbroad. Settlement Agreement ¶ I.JJ. The release of the class members' claims must be fairly tailored to the claims that were or reasonably could have been asserted in the lawsuit based on the facts alleged in the operative complaint.<br><br>2. The "Released PAGA Claims" provision is overbroad. Settlement Agreement ¶ I.KK. Releases for aggrieved employees other than plaintiff should not release more than the civil penalties available under PAGA based on the facts alleged in the operative complaint and the notice letter to the LWDA.<br><br>3. The "Released Parties" provision is overbroad. Settlement Agreement ¶ I.LL. It includes several unrelated third parties and undefined third parties (e.g., "attorneys, insurers," "affiliates," "business partners, contracting partners, and clients").<br><br>4. Paragraph III.L.3 (addressing objections) contains several statements inconsistent with use of a separate objection form, which the parties propose to use (Han Decl. (ROA 278) Ex. C) and which the court prefers. Paragraph III.L.3 should be revised to reflect use of a separate objection form.<br><br>5. Plaintiffs' counsel seeks attorneys' fees not to exceed 35% of the Gross Settlement Amount. While the court will not determine the amount of attorneys' fees to be awarded until the final approval hearing, the court is unlikely to approve attorneys' fees exceeding 30% of the Gross Settlement Amount absent unique circumstances. |

| | | |
|---|---|---|
| | | Plaintiffs should address in the supplemental filing whether any such unique circumstances exist in this case.<br><br>6. Absent unique circumstances, the court is unlikely to approve enhancement payments in excess of $5,000 to each named plaintiff. If unique circumstances warrant the higher amount plaintiffs seeks, plaintiffs should submit declarations and/or other information explaining those circumstances with the supplemental filings.<br><br>7. Is plaintiff Buchanan a former employee of defendant? *Compare* Han Decl. (ROA 278) ¶ 30 *with* Han Decl. ¶ 66. In addition, will plaintiff Buchanan's only recovery from the settlement be an enhancement payment, i.e., will plaintiff Buchanan receive either/both an individual settlement payment and/or an individual PAGA payment? *See* Han Decl. ¶ 30. Plaintiffs should state the amount(s), if any, of these individual payments.<br><br>8. Will plaintiff Contreras receive an individual PAGA payment? *See* Han Decl. ¶ 30. If so, plaintiffs should state the amount.<br><br>9. Plaintiffs' counsel seeks litigation costs not to exceed $30,000. While the court will not determine the amount of litigation costs to be awarded until the final approval hearing, plaintiffs' counsel should submit a list of itemized costs incurred to date.<br><br>10. Defendant should advise, in a declaration filed with the court, whether, after making reasonable inquiry, it is aware of any class, representative or other collective action in any court that asserts claims similar to those asserted in this action. If any such actions are known to exist, the declaration shall also state the name and case number of any such case and the procedural status of that case, and describe the impact of the settlement on that case.<br><br><u>As to the notice</u>:<br><br>11. The notice should be revised consistent with the above.<br><br>12. As a general matter, the notice should be substantially shortened, e.g., repetitive and redundant information should be removed, as should unnecessarily detailed information (e.g., the paragraph about how to access the court's website should be shortened). The exclusion form should also be substantially shortened.<br><br>13. The judge's name (Judge Melissa R. McCormick) and court department (CX105) should be updated throughout the notice.<br><br>14. Section 8 ("How Do I Object to the Settlement?") is inconsistent with the use of a separate objection form, |

| | | |
|---|---|---|
| | | which the parties propose to use (Han Decl. (ROA 278) Ex. C) and which the court prefers. Section 8 should be revised to reflect use of a separate objection form.<br><br>15. The second sentence in the second paragraph of Section 8 is inconsistent with the settlement agreement (¶ III.L.3(b)) and should be revised.<br><br>16. Section 10(5) should include the specific amounts to be paid to the LWDA and the Eligible Aggrieved Employees.<br><br>17. The phrase "Because these penalties can only be sought by the State of California" should be removed from the third paragraph at the top of page 9 of the notice.<br><br>18. The objection form should be revised to include space at the bottom of the page for class members to state their objections. The reference to attaching separate pages to explain objections should be removed.<br><br><u>As to the proposed order (ROA 279)</u>:<br><br>19. The proposed order should be revised consistent with the above.<br><br>20. Counsel information should be removed from the caption page.<br><br>21. The second caption page (the caption for the now-consolidated case) should be removed.<br><br>22. The judge's name (Judge Melissa R. McCormick) and court department (CX105) should be updated throughout.<br><br>23. The proposed order should be substantially shortened. Rather than restating numerous lengthy sections of the settlement agreement, the parties should consider whether reference to the settlement agreement and its terms could appropriately be done by means of use of capitalized terms (i.e., terms that are defined in the settlement agreement).<br><br>24. The last sentence of paragraph 1 should be removed.<br><br>25. The parties should propose a date for the final approval hearing. The court holds final approval hearings on Thursdays at 2:00 p.m. The motion for final approval should be filed and served at least 16 court days before the final approval hearing.<br><br>The hearing on plaintiff's motion for preliminary approval of a class action and PAGA settlement is continued to <u>October 2, 2025 at 2:00 p.m.</u> in Department CX105 to permit the parties to address and respond to the above issues. *See also* Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall |

| | | |
|---|---|---|
| | | address as necessary each of the above points. If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement," to streamline the court's review. The parties shall also provide redlined copies of any revised documents.<br><br>Plaintiffs are ordered to provide notice, including to the LWDA, and to file a proof of service. Plaintiffs must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service. |
| 6 | Cooper v. Birtcher Anderson & Davis Associates, Inc.<br><br>2023-01303804 | Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement<br><br>The court has reviewed and considered the papers, including the supplemental papers, filed in support of plaintiff's motion for preliminary approval of a $170,575 class action and PAGA settlement. Subject to a satisfactory response to the below question and submission of the documents identified below, the court grants the motion as follows:<br><br>$3,000.00 for plaintiff's enhancement payment (not to exceed);<br><br>$56,858.33 for attorneys' fees (not to exceed 1/3 of gross settlement amount);<br><br>$15,000.00 for litigation costs (not to exceed);<br><br>$5,750.00 for settlement administration costs (not to exceed); and<br><br>$40,000.00 total PAGA penalties ($30,000.00 to LWDA).<br><br>The court has the following question:<br><br>1. In its September 26, 2024 order (ROA 71, No. 2) and January 23, 2025 order (ROA 83, No. 1), the court ordered the parties to provided plaintiff's anticipated total amount to be received (including for any individual claims and excluding any enhancement payment). This information has not been provided. What is plaintiff's anticipated total amount to be received (including for any individual claims and excluding any enhancement payment)?<br><br>Plaintiff is ordered to submit by July 3, 2025 a copy of the "separate individual settlement for release of Plaintiff's claims and a general release" referred to in plaintiff's brief (ROA 94, at 3:4-5).<br><br>The final approval hearing is scheduled for November 6, 2025 at 2:00 p.m. in Department CX105. The motion for final approval shall be filed at least 16 court days before the hearing. *See* Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org).<br><br>Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service. |

| | | |
|---|---|---|
| 7 | Elias v. Aryzta, LLC, et al.<br><br>2020-01141103 | Plaintiff Troy Gray's Motion for Approval of PAGA Settlement<br><br>The court has reviewed and considered the papers, including the supplemental papers, filed in support of plaintiff's motion for approval of a $250,000 PAGA settlement. The court has the following questions and comments:<br><br>As to the settlement:<br><br>1. In its February 6, 2025 order (ROA 227), the court stated that paragraph 3.2.3 of the settlement agreement stated plaintiff will receive "an Individual Settlement Payment not to exceed $10,000 . . . for taking on the role of lead Plaintiff, for individual wage and hour claims, and for his full general release of any and all claims against Defendant." *See also* Brief (ROA 219) at 4:1; Hawkins Decl. (ROA 215) ¶ 7. The court explained that an enhancement award is not intended to serve as consideration for the release of additional claims, but rather to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, in some circumstances, to recognize their willingness to act as a private attorney general. To address this issue, the parties appear to have changed paragraph 3.2.3 to state that plaintiff will receive an "Enhancement Payment" not to exceed $10,000 "for taking on the role of lead plaintiff." Amendment to Settlement Agreement ¶ 3.2.3 (ROA 239). As an initial matter, the amendment to the settlement agreement contradicts plaintiff's counsel's supplemental declaration (ROA 237), which states that plaintiff's enhancement payment is intended in part to compensate plaintiff for "agree[ing] to a broad general release." Supp. Hawkins Decl. (ROA 237) ¶ 9. In addition, in light of the amendment to the settlement agreement, what compensation will plaintiff receive for his individual wage and hour claims and for his general release?<br><br>2. In its February 6, 2025 order (ROA 227), the court stated that absent unique circumstances, the court is unlikely to approve to approve an enhancement payment in excess of $5,000. The court stated that if unique circumstances warrant the higher amount plaintiff seeks, plaintiff should submit a declaration and/or other information explaining those circumstances with the supplemental filings. The circumstances described in plaintiff's counsel's declaration (ROA 237, ¶ 9) are not unique. The court finds that any enhancement payment to plaintiff shall not exceed $5,000.<br><br>3. In its February 6, 2025 order (ROA 227), the court stated that plaintiff's counsel should submit contemporaneous time records substantiating the 181.30 hours worked. *See* Hawkins Decl. (ROA 215) ¶ 29. |

| | | |
|---|---|---|
| | | Plaintiff's counsel did not submit counsel's time records with the supplemental filing.<br><br>4. In its February 6, 2025 order (ROA 227), the court stated that plaintiff's counsel should submit an invoices substantiating the "expert analysis" charge. Plaintiff's counsel did not submit an invoice substantiating the "expert analysis" charge. In addition, since the prior filing, plaintiff's counsel has increased counsel's costs by $13,000, apparently for a mediation charge. Plaintiff's counsel should submit an invoice substantiating the mediation charge.<br><br>5. The court has reviewed the travel and transportation charges (and related invoices) for which plaintiff's counsel seeks reimbursement. The court finds $576 in livery service charges ($288 x 2) unreasonable, and reduces those charges to $160 ($80 x 2).<br><br>6. In its February 6, 2025 order (ROA 227), the court ordered plaintiff to state his total anticipated consideration, including his individual PAGA payment and excluding any enhancement award. Plaintiff did not provide this information with the supplemental filing.<br><br>7. In its February 6, 2025 order (227), the court asked whether the parties are aware of any related pending actions or other cases that may be impacted by the settlement. The court noted that plaintiff's counsel's claimed costs include an $8.50 charge for "Court Documents—Complaint (Vallejo v. Aryzta)." *See* Supp. Hawkins Decl. (ROA 237) Ex. 3. Neither of these issues has been addressed in the supplemental filing.<br><br><u>As to the notice letter</u>:<br><br>8. The notice letter should be revised as necessary consistent with the above.<br><br>9. The case name in the notice letter is not correct.<br><br>10. As stated in the court's February 6, 2025 order (ROA 227), the notice letter should describe the recipient's responsibility for any taxes payable on the amount received; and notify the aggrieved employees that they cannot opt out of the settlement and that, even if they do not cash their checks, they will be bound by the release.<br><br>11. Will the individual PAGA checks be sent to the Aggrieved Employees with the notice letter? If so, the phrase "may be" in the paragraph above "What is this case about?" on page 1 of the notice letter should be revised.<br><br>12. Why does the last paragraph on page 1 of the notice letter refer to the settlement as "proposed"? |

| | | |
|---|---|---|
| | | 13. The phrase "up to" should be removed in all places on page 2 of the notice letter, and the specific amount of litigation costs should be inserted in place of "$21,000" on the same page.<br><br>14. The second sentence in paragraph (a) on page 2 of the notice letter should be removed.<br><br>15. Why would the Net Settlement Amount stated in the notice letter on page 2 be "estimated"?<br><br>16. The release described on page 2 of the notice letter is inconsistent with the release in paragraph 5.1 of the settlement agreement.<br><br>17. The last paragraph on page 2 of the notice letter is inconsistent with paragraph 5 of the settlement agreement.<br><br>As to the proposed order and judgment (ROA 233):<br><br>18. The proposed order and judgment should be revised as necessary consistent with the above.<br><br>19. The proposed order and judgment states on page 2 (¶ 10) that the enhancement award is intended in part to compensate plaintiff "for Plaintiff's general release of Plaintiff's Released Claims." This statement is inconsistent with the amendment to the settlement agreement and with the court's February 6, 2025 order.<br><br>20. In its February 6, 2025 order (ROA 227), the court stated that the proposed order and judgment should state how notice of entry of the judgment will be given to the aggrieved employees. This issue has not been addressed.<br><br>The hearing on plaintiff's motion for approval is continued to October 2, 2025 at 2:00 p.m. in Department CX105 to permit the parties to address and respond to the above issues. *See also* Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. If required, an amendment to the settlement agreement shall be submitted, rather than an "amended settlement agreement," to streamline the court's review of the documents. The parties shall provide redlined copies of any revised documents (e.g., revised settlement agreement, revised notice, revised proposed order).<br><br>Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service. |
| 8 | Mejia v. DACM INC | Plaintiff's Motion for Final Approval of Class Action Settlement |

| | | |
|---|---|---|
| | 2018-01023401 | The court has reviewed and considered the papers, including the Supplemental Sutor Declaration filed June 20, 2025 (ROA 533) filed in support of plaintiff's motion for final approval of a $754,500 class action settlement. Subject to plaintiff's submission of the revised proposed order identified below, and satisfactory responses to the below questions, the court grants the motion as follows:<br><br>$754,500 settlement fund ("Settlement Benefit" as defined in the settlement agreement);<br><br>$3,500.00 for plaintiff's enhancement payment; and<br><br>$510,000.00 for attorneys' fees and costs.<br><br>Pursuant to the settlement agreement, the plaintiff's enhancement payment and the attorneys' fees and costs shall be paid separately by defendant and not from the settlement fund.<br><br>The court has the following questions and comments:<br><br>1. The Sutor Declaration (ROA 528, Ex. 3) states that the settlement administrator received two exclusions, copies of which are attached as Exhibit 2 to the Sutor Declaration (George Nakamura and Yvette Martinez). The Sutor Declaration states the settlement administrator received two objections, copies of which are attached as Exhibit 3 to the Sutor Declaration (Margarita Mendoza and Shawn Guerette).<br><br>Plaintiff's brief (ROA 526) states the settlement administrator received two exclusions and one objection (ROA 526, at 1:7; 5:19-20); plaintiff's brief also states the settlement administrator received two objections (ROA 526, at 11:19); and plaintiff's counsel's brief (ROA 520) states the settlement administrator received one exclusion and no objections (ROA 520, at 3:23-24). The court presumes the statements in plaintiff's brief and plaintiff's counsel's brief that are inconsistent with the number of exclusions and objections set forth in the Sutor Declaration are errors, i.e., the court presumes the Sutor Declaration and its exhibits set forth the correct number of exclusions and objections received. Plaintiff should be prepared to confirm at the hearing whether these presumptions are correct.<br><br>Plaintiff's counsel's declaration states "two class members have objected and requested exclusion." McNeile Decl. (ROA 528) ¶ 5 (at 2:16-17). Here again, the court presumes the Sutor Declaration and its exhibits sets forth the correct number of exclusions and objections received, i.e., the court presumes that counsel did not intend to state that the same two class members both objected to the settlement and requested exclusion from the settlement. Plaintiff should be prepared to |

| | | |
|---|---|---|
| | | confirm at the hearing whether these presumptions are correct.<br><br>The court has reviewed the objections (Sutor Decl. (ROA 528, Ex. 3 (Ex. 3)) and the King Declaration (ROA 528, Ex. 4). The Mendoza and Guerette objections are overruled.<br><br>2. As to the proposed order (ROA 524):<br><br>a. The proposed order should state the amount of the settlement fund;<br><br>b. At the end of line 10 on page 3, the proposed order should state that plaintiff's enhancement payment will be paid separately by defendant and not from the settlement fund;<br><br>c. The proposed order should state that the settlement administrator received two requests for exclusion and should identify the excluded individuals by name (George Nakamura and Yvette Martinez);<br><br>d. Paragraph 7 should include a reference to Civil Procedure Code section 664.6; and<br><br>e. The proposed order should state the date of the final accounting hearing (i.e., April 23, 2026 at 9:00 a.m. in Department CX105).<br><br>The final accounting hearing is scheduled for <u>April 23, 2026 at 9:00 a.m.</u> in Department CX105. Plaintiff shall submit a final accounting report at least 9 court days before the final accounting hearing regarding the status of the settlement administration. The final report must include all information necessary for the court to determine the total amount actually paid to class members and any amounts tendered to the State Controller's Office under the unclaimed property law.<br><br>Plaintiff is ordered to file and serve by <u>July 3, 2025</u> a revised proposed order (*see* No. 2 above).<br><br>Plaintiff to give notice. |
| 9 | Ossipoff v. Soulcycle Inc., et al.<br><br>2020-01146813 | Off calendar. |
| 10 | Palacios Mundo v. Softscapes the Art of Landscape Softscapes, et al.<br><br>2021-01220116 | <u>Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement</u><br><br>The court has reviewed and considered the papers filed in support of plaintiff's motion for preliminary approval of a $212,500 class action and PAGA settlement. The court has the following questions and comments: |

| | | |
|---|---|---|
| | | 1. Were the motion and supporting papers served on the LWDA? Plaintiff must file with the court a proof of service identifying the specific documents served on the LWDA, when plaintiff served the documents, and how service was effected.<br><br><u>As to the settlement</u>:<br><br>2. The parties should provide the average, high and low amounts for the individual class and PAGA payments, and plaintiff's anticipated total amount (including any individual claims and excluding any enhancement payment).<br><br>3. The "Released Parties" provision in paragraph 1.41 of the settlement agreement is overbroad as it includes unrelated and ambiguous third parties such as the "current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives" of each of defendants' former, present and future owners, parents, and subsidiaries.<br><br>4. The court prefers a 60-day period for class members to opt-out, object or submit any disputes. Are there special circumstances here that warrant a shorter period? In addition, the "Response Deadline" in paragraph 1.43 should include the deadline for submitting disputes.<br><br>5. Plaintiff's counsel states the gross settlement amount of $212,500 is reasonable "in light of the risks involving obstacles to class certification, all issues and risks related to liability, the issues with manageability at trial, the discretionary nature of PAGA penalties, and considering the case law regarding fair, reasonable and adequate settlements" (Lazar Decl. (ROA 128) ¶ 34), but counsel has not provided sufficient details as to how much each claim was discounted nor does counsel explain why the settlement amount of $212,500, which is substantially less than the estimated maximum exposure of almost $1.9 million, is fair, reasonable and adequate. Plaintiff should provide additional information sufficient to show how much each claim was discounted.<br><br>6. Plaintiff's brief, counsel's declaration, and the notice state counsel seeks attorneys' fees of up to one-third (1/3) of the Gross Settlement Amount, i.e., $70,833.33. E.g., Brief (ROA 127) at 2; Lazar Decl. (ROA 128) ¶ 8. The settlement agreement states counsel seeks fees "of not more than 35% of the Gross Settlement Amount," i.e., $74,375. Settlement Agreement ¶ 3.2.2. In addition, and in any event, while the court will not determine the amount of attorneys' fees to be awarded until the final approval hearing, the court is unlikely to |

| | | |
|---|---|---|
| | | approve attorneys' fees exceeding 30% of the Gross Settlement Amount absent unique circumstances. Plaintiff should address in the supplemental filing whether any such unique circumstances exist in this case.<br><br>7. Plaintiff seeks an enhancement award of $7,500 to in part compensate plaintiff for providing "a more expansive release of claims, including a waiver based upon California Civil Code section 1542, in exchange for the Class Representative Service Payment." Lazar Decl. (ROA 128) ¶ 37; see also Brief (ROA 127) at 17:28-18:2); Palacios Mundo Decl. (ROA 134) ¶ 20. An enhancement award is not intended to serve as consideration for the release of additional claims, but rather to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, in some circumstances, to recognize their willingness to act as a private attorney general. The court is unlikely to approve a settlement that provides an enhancement award in exchange for a general release.<br><br>In addition, absent unique circumstances, the court is unlikely to approve an enhancement payment in excess of $5,000. If unique circumstances warrant the higher amount plaintiff seeks, plaintiff should submit a declaration and/or other information explaining those circumstances with the supplemental filings.<br><br>8. The parties and their counsel should state in declarations filed with the court whether they have any interest in the *cy pres* recipient, including in its governance.<br><br>9. Did the parties intend the reference in the first line of paragraph 5.3 to be to "Section 5.3" or to another section of the settlement agreement?<br><br>10. The dispute procedure in paragraph 7.6 of the settlement agreement should be revised to state: (i) the parties shall file with the court all disputes submitted by class members, the evidence submitted, and the resolution of the disputes, and (ii) although the settlement administrator may make the initial decision regarding claim disputes, the court may review any decision made by the settlement administrator regarding a claim dispute.<br><br>11. Plaintiff's counsel should submit an itemized detail of the costs incurred to date and estimated future costs, if any.<br><br>12. The parties (plaintiff and both defendants) should advise, in a declarations filed with the court, whether, after making reasonable inquiry, they are aware of any class, representative or other collective action in any court that asserts claims similar to those asserted in this action. If |

| | | |
|---|---|---|
| | | any such actions are known to exist, the declarations shall also state the name and case number of any such case and the procedural status of that case, and describe the impact of the settlement on that case.<br><br>As to the notice:<br><br>13. The notice should be revised consistent with the above.<br><br>14. The words "and PAGA" should be added after "Action" and before "Settlement" in the title of the notice and throughout the document.<br><br>15. The court department number (CX105) should be updated throughout the document.<br><br>16. Page 3 of the notice states Aggrieved Employees will receive a pro rata share based on the number of workweeks worked during the PAGA Period, which is inconsistent with paragraph 3.2.5.1 of the settlement agreement<br><br>17. The dispute procedure on page 3 should be revised in accordance with the above.<br><br>18. The term "Released Claims" on page 4 is not defined in the notice or the settlement agreement.<br><br>19. The term "Class Released Claims" on page 5 is not defined in the notice or the settlement agreement.<br><br>20. The notice should advise the aggrieved employees that even if they do not cash their PAGA settlement checks, they are still bound by the terms of the PAGA release.<br><br>21. The notice should provide the URL for the settlement website maintained by the administrator.<br><br>22. The "Additional Information" section of the notice on page 5 should state that the settlement administrator will post all key documents on its website, including the operative complaint, the PAGA notice letter(s) to the LWDA, the settlement agreement and any amendments, the class notice and any included forms, the orders granting preliminary and final approval, and the judgment. The judgment should be posted for at least 180 days.<br><br>23. The court prefers that the notice be accompanied by a separate form to be completed by a class member seeking to be excluded, and a separate form to be completed by a class member wishing to object. The settlement agreement should be revised accordingly.<br><br>As to the proposed order (ROA 125):<br><br>24. The proposed order should be revised in accordance with the above. |

| | | |
|---|---|---|
| | | 25. Counsel's name and contact information should be removed from the caption.<br><br>26. The court's department (CX105) should be updated throughout the document.<br><br>27. The fourth and fifth sentences in paragraph 4 of the proposed order should be removed.<br><br>28. In paragraph 11, the word "deems" should be replaced with "preliminarily appoints."<br><br>29. The proposed order should include a provision that states: "The court orders the parties and the settlement administrator to carry out their duties and obligations in accordance with terms of the settlement agreement."<br><br>30. The settlement agreement, any amendments thereto and the notice packet (in all languages with certified translations) should be attached to the proposed order as exhibits.<br><br>31. The proposed order should include a provision that the court retains jurisdiction to enforce the settlement pursuant to Civil Procedure Code section 664.6.<br><br>32. The parties should propose a date for the final approval hearing. The court holds final approval hearings on Thursdays at 2:00 p.m. The motion for final approval should be filed and served at least 16 court days before the hearing.<br><br>The hearing on plaintiff's motion for preliminary approval is continued to <u>October 2, 2025 at 2:00 p.m.</u> in Department CX105 to enable the parties to address and respond to the above issues. *See also* Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. If required, an amendment to the settlement agreement shall be submitted, rather than an "amended settlement agreement," to streamline the court's review of the documents. The parties shall provide redlined copies of any revised documents (e.g., revised settlement agreement, revised notice, revised proposed order).<br><br>Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended documents, and file a proof of service. |
| 11 | Sheikh, et al. v. Surgical Care Affiliates, LLC<br><br>2022-01254790 | <u>Plaintiff Denise Vasquez's for Preliminary Approval of Class Action and PAGA Settlement</u><br><br>The court has reviewed and considered the papers filed in support of plaintiff's motion for preliminary approval of a |

| | | |
|---|---|---|
| | | $3,450,000 class action and PAGA settlement. The court has the following questions and comments:<br><br><u>As to the settlement</u>:<br><br>1. The parties should provide the estimated high, low and average PAGA payments, as well as plaintiff's estimated PAGA payment, if any.<br><br>2. The "Released Parties" provision is overbroad. Settlement Agreement ¶ 1.41. It includes unidentified, ambiguous and/or unrelated third parties, e.g., "affiliates," "agents," and "attorneys." In addition, why should nonparties SCAI Holdings, LLC, SCA HoldCo, Inc., Collaborative Care Holdings, LLC, OptumHealth Holdings, LLC, Optum, Inc., United HealthCare Services, Inc. and UnitedHealth Group Incorporated be included in the released parties?<br><br>3. The "Release by Participating Class Members" provision (Settlement Agreement ¶ 5.2) is overbroad, i.e., the phrase "any and all causes of action or" should be removed, and the phrase "including, but not limited to" should be replaced with "are." The release should be fairly tailored to the claims that were or reasonably could have been asserted in the lawsuit based on the facts alleged in the Second Amended Complaint.<br><br>4. The "Release by Aggrieved Employees" provision (Settlement Agreement ¶ 5.3) is overbroad, i.e., the phrase "any and all rights and" should be removed. Releases for aggrieved employees other than plaintiff should not release more than the civil penalties available under PAGA based on the facts alleged in the Second Amended Complaint, and the notice letter(s) to the LWDA. In addition, punctuation appears to be missing after "PAGA Period" and before "Released PAGA Claims."<br><br>5. How did plaintiff's counsel calculate the maximum exposure amounts for each claim? In addition, some of the claims appear to have possibly unrealistically high values, even for maximum exposure, e.g., $4.8 million for minimum wage and overtime claims, $13.4 million for waiting time penalties and $7.76 million for wage statement penalties. Plaintiff should provide additional information clarifying the calculation of the maximum exposure amounts for each claim.<br><br>6. The third and fifth sentences in paragraph 7.5.2 of the settlement agreement should be removed.<br><br>7. The dispute procedure in paragraph 7.6 of the settlement agreement should be revised to state (i) the parties shall file with the court all disputes submitted by class members, the evidence submitted, and the resolution of the disputes, and (ii) although the settlement |

| | | |
|---|---|---|
| | | administrator may make the initial decision regarding claim disputes, the court may review any decision made by the settlement administrator regarding a claim dispute. In addition, the phrase "and/or PAGA Pay Periods" should be added after "Workweeks" and before "contained" in paragraph 7.6.<br><br>8. While the court will not determine the amount of attorneys' fees to be awarded until final approval, the court is unlikely to approve attorneys' fees in excess of 30% of the gross settlement amount absent unique circumstances. Plaintiff's counsel should address in the supplemental filing whether any such unique circumstances exist here.<br><br>9. Plaintiff's counsel should submit evidence substantiating the amount of not-to-exceed litigation costs, i.e., itemized litigation costs incurred to date.<br><br>10. The parties (including defendant) shall advise in declarations filed with the court, whether, after making reasonable inquiry, they are aware of any class, representative or other collective action in any court that asserts claims similar to those asserted in this action, other than *Padilla v. Surgical Care Affiliates, LLC*, OCSC Case No. 2024-01399066. If any such actions are known to exist, the declarations shall also state the name and case number of any such case and the procedural status of that case, and describe the impact of the settlement on that case.<br><br>11. The parties have identified one related action: *Padilla v. Surgical Care Affiliates, LLC*, OCSC Case No. 2024-01399066. Plaintiff asserts that the class and PAGA claims alleged in *Padilla* are subsumed by the settlement in this action. Davies Decl. (ROA 102) ¶ 31. Plaintiff Padilla submitted a "proffer of evidence" and supporting declaration of her counsel (ROA 111; *see also* ROA 43 and 45 in Case No. 2024-01399066), by which Padilla objects to the PAGA portion of the *Sheikh* settlement on the basis that plaintiff Sheikh allegedly did not exhaust administrative remedies and that the PAGA portion of the *Sheikh* settlement allegedly "violate[s]" the statute of limitations for PAGA claims. Padilla asserts that because Sheikh did not file the second amended complaint within one year and 65 days of his initial LWDA notice letter, the PAGA claims alleged in the second amended complaint were untimely, which allegedly prevents plaintiff and defendant from settling the PAGA claims in *Sheikh* based on a PAGA Period that includes the period encompassed by Sheikh's initial LWDA notice letter. Put another way, Padilla contends the court should not preliminarily approve the PAGA portion of the *Sheikh* settlement because the PAGA Period includes allegedly time-barred PAGA claims. Padilla argues that plaintiff |

| | | |
|---|---|---|
| | | Vasquez's LWDA notice letter(s) does not relate back to plaintiff Sheikh's initial LWDA notice letter.<br><br>Plaintiff and defendant filed objections to Padilla's "proffer of evidence," which the court has reviewed. ROA 115, 117. As set forth herein, the hearing on plaintiff's motion for preliminary approval is being continued to October 16, 2025 at 2:00 p.m. to enable the parties to address the issues in this ruling. Should plaintiff and defendant desire to further address Padilla's filing, they may do in their supplemental filings, including: (i) whether Padilla may properly object to the PAGA portion of the *Sheikh* settlement (*see, e.g.*, *Turrieta v. Lyft* (2024) 16 Cal.5th 664, 715 ("nothing in PAGA's text, statutory scheme, or legislative history suggests the Legislature understood or intended an aggrieved employee's authority to commence and prosecute a PAGA action on the state's behalf to include the power to file objections to the settlement reached by another aggrieved employee representing the same state interest and also acting on the state's behalf")); (ii) whether the cases on which Padilla relies—*Hargrove v. Legacy Healthcare, Inc.* (2022) 80 Cal.App.5th 782 and *Hutcheson v. Superior Court* (2022) 74 Cal.App.5th 932—have any application to the PAGA settlement here, as opposed to the non-settlement postures at issue in those cases; and (iii) whether *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, applies here.<br><br>In *Amaro*, appellate court held that a PAGA plaintiff may release PAGA claims outside the limitations period of his or her own PAGA claim by means of a court-approved settlement. *Id.* at 543. Although the settling plaintiff in *Amaro* did not submit her PAGA notice until February 2017 (*id.* at 541), the court held that the settlement could properly release similar PAGA claims that were covered by complaints that had been filed earlier by other plaintiffs, including one filed in December 2014. *Id.* at 529-30. The court rejected the contention that a plaintiff's notice under PAGA "established the temporal scope" of the plaintiff's authority to act on behalf of the LWDA, such that plaintiffs are authorized only to pursue or settle PAGA claims that arise within the year before notice was submitted. *Id*. at 543. The court observed that nothing in the statute prohibited the settling plaintiff from releasing PAGA claims beyond the limitations period of her claim, and concluded that allowing her to do so was consistent with PAGA's purposes. *Id.* at 541.<br><br><u>As to the notice</u>:<br><br>12. The notice should be revised consistent with the above. |

| | | |
|---|---|---|
| | | 13. The notice should be substantially shortened, including by removing redundant and duplicative language.<br><br>14. The notice should have page numbers.<br><br>15. The title of the notice and throughout the document should also refer to the PAGA settlement, i.e., "class action and PAGA settlement."<br><br>16. In the second sentence of the second paragraph from the bottom on page 1 of the notice, the phrase "and/or pay periods" should be inserted after "workweeks."<br><br>17. In the last paragraph on page 1 of the notice, the following sentence should be removed: "You will be deemed to have carefully read and understood it."<br><br>18. In the second box from the top on page 3 of the notice, the phrase "by telephone" should be removed.<br><br>19. In the section paragraph of section 1 on page 3 of the notice, the word "strongly" should be removed.<br><br>20. In the partial paragraph at the top of page 4 of the notice, the words "lengthy" and "strongly" should be removed.<br><br>21. In section 3(2)(D) at the top of page 5 of the notice, the phrase "up to" should be removed before "$100,000.00."<br><br>22. The court prefers that the notice be accompanied by a separate form to be completed by a class member seeking to be excluded, and a separate form to be completed by a class member wishing to object. The settlement agreement and notice should be revised accordingly.<br><br>23. The dispute procedure on page 8 of the notice should be revised as stated above.<br><br>24. In section 8 on page 9, the court department should be corrected (CX105).<br><br>25. Section 9 on page 10 should state that the settlement administrator will post all key documents on its website, including the operative complaint, the PAGA notices letter(s) to the LWDA, the settlement agreement and any amendments, the class notice and any included forms, the orders granting preliminary and final approval, and the judgment. The judgment should be posted for at least 180 days.<br><br>26. Should the notice be translated into any languages other than Spanish?<br><br><u>As to the proposed order (ROA 95)</u>: |

| | | |
|---|---|---|
| | | 27. The proposed order should be revised consistent with the above.<br><br>28. The proposed order should state the Gross Settlement Amount.<br><br>29. The following paragraph should be added to the proposed order: "The court orders the parties and the settlement administrator to carry out their duties and obligations in accordance with terms of the settlement agreement."<br><br>30. The court department in paragraph 16 of the proposed order should be corrected (CX105).<br><br>31. The proposed order should include a provision the court will retain jurisdiction to enforce the settlement pursuant to Civil Procedure Code section 664.6.<br><br>32. A certified copy of the Spanish language translation of the notice packet should be attached to the proposed order (along with the settlement agreement and the English language notice).<br><br>The hearing on plaintiff's motion for preliminary approval of a class action and PAGA settlement is continued to October 16, 2025 at 2:00 p.m. in Department CX105 to permit the parties to address and respond to the above issues. *See also* Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement," to streamline the court's review. The parties shall also provide redlined copies of any revised documents.<br><br>Plaintiff is ordered to provide notice, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service. |
| 12 | Padilla v. Surgical Care Affiliates, LLC, et al.<br><br>2024-01399066 | Status Conference<br><br>The court has reviewed the parties' joint status conference statement filed June 18, 2025 (ROA 49), and based thereon continues the June 26, 2025 status conference to October 16, 2025 at 2:00 p.m. in Department CX105.<br><br>The parties are ordered to file a joint status conference statement at least 5 court days before the hearing.<br><br>Clerk to give notice. |
| 13 | Sanjay Grover M.D., Inc., et al. v. Eden Fertility Management, LLC, et al. | Plaintiffs Sanjay Grover M.D., Inc. and Grover Surgical Arts, LLC's Ex Parte Application to Strike Two Summary Judgment Motions |

| | | |
|---|---|---|
| | 2021-01215723 | Plaintiffs Sanjay Grover M.D., Inc. and Grover Surgical Arts, LLC (together, "Grover") apply for an order striking summary judgment motions filed by defendants Morris, Inc. and Culligan International Company. Morris opposes Grover's application; Culligan did not file an opposition. For the following reasons, Grover's application is denied.<br><br>*Background*<br><br>The court (Judge Richard Lee) scheduled the trial for February 5, 2024. 10/20/22 Order (ROA 101). The court (Judge Lee) thereafter granted defendant Morris, Inc.'s ex parte application and continued the trial to August 5, 2024. 7/13/23 Order (ROA 115). The court (Judge Lee) thereafter granted Culligan's ex parte application and continued the trial to September 16, 2024. 7/1/24 Order (ROA 186). The court's order states: "All deadlines are calculated from the 09/16/2024 trial date." *Id.*<br><br>On July 3, 2024 Morris filed the motion for summary judgment that is the subject of the instant application. ROA 201. Morris scheduled the motion for hearing on January 9, 2025 before Judge Lee. *Id.* On July 11, 2024 the court (Judge Lee) denied Morris's ex parte application to specially set the hearing on Morris's motion for September 16, 2024, i.e., the then-trial date, "immediately prior to trial call." 7/11/24 Order (ROA 211); *see also* ROA 207.<br><br>On September 5, 2024 the court (Judge Lee) granted defendant Craig Mechanical, Inc.'s ex parte application and continued the trial to January 27, 2025. 9/5/24 Order (ROA 246). The court's order states: "Discovery and Motion cut-off deadlines are NOT continued. Expert discovery will proceed by code." *Id.*<br><br>On October 18, 2024 Culligan filed the motion for summary judgment that is the subject of the instant application. ROA 261. Culligan scheduled the motion for hearing on May 1, 2025 before Judge Lee. *Id.* On November 7, 2024 the court (Judge Lee) denied Culligan's ex parte application to specially set the hearing on its motion for summary judgment or continue the trial. 11/7/24 Order (ROA 280). The trial remained scheduled for January 27, 2025 before Judge Lee.<br><br>On November 27, 2024 the court (Judge Layne Melzer) designated the case complex and transferred the case to this department. 11/27/24 Order (ROA 287).<br><br>On December 2, 2024 this court vacated the January 27, 2025 trial date. 12/2/24 Order (ROA 297). The court's order states: "<u>No other dates are continued or reopened and the dates remain as presently scheduled</u>. [¶] All pending hearings on the motions for summary judgment and/or adjudication are vacated." 12/2/24 Order (ROA 297) (underline in original); 1/7/25 Order (ROA 313). The court scheduled a trial setting conference for March 6, 2025. 12/2/24 Order (ROA 297). |

| | | |
|---|---|---|
| | | On December 24, 2024 Culligan renoticed its motion for summary judgment for hearing in this department on May 22, 2025. ROA 306. On January 13, 2025 Morris renoticed its motion for summary judgment for hearing in this department on June 5, 2025. ROA 319.<br><br>On April 23, 2025 Grover filed the instant application for an order striking the Morris and Culligan summary judgment motions. On April 23, 2025 the court scheduled the hearing on the instant application for June 26, 2025, and vacated the May 22, 2025 and June 5, 2025 summary judgment hearings pending the outcome of the instant application. ROA 338.<br><br>*Discussion*<br><br>Grover argues the court should strike the Morris and Culligan summary judgment motions because those parties allegedly filed the motions in violation of Judge Lee's orders.<br><br>Civil Procedure Code section 473c(a)(3) states that a motion for summary judgment "shall be heard no later than 30 days before the date of trial, unless the court for good cause orders otherwise . . . ." Civ. Proc. Code § 473c(a)(3).<br><br>In *Green v. Bristol Meyers Co.* (1988) 206 Cal.App.3d 605, the court held that "Code of Civil Procedure section 437c's time limitation requiring a summary judgment motion to be heard no later than 30 days prior to the date of trial is extended when the original trial date is continued." *Id.* at 606. The court stated:<br><br>"Section 437c, subdivision (a) provides: 'The [summary judgment] motion shall be heard no later than 30 days before the date of trial, unless the court for good cause orders otherwise.' Green argues this language requires summary judgment motions to be heard no later than 30 days prior to the initial trial date and any continuance of that date will not extend the time within which a motion may be heard. We disagree.<br><br>. . .<br><br>"Based upon this legislative intent we must construe the language in question so it is consistent with the overall purpose of disposing of meritless claims prior to trial. Framed in this manner, the inescapable conclusion is the 30-day time limit on summary judgment hearings should be calculated based on the trial date in existence when the motion is noticed regardless of whether that date is the original trial date or not. To construe the statute otherwise would unduly bar otherwise meritorious motions such as the one presented here from being heard and requiring the wasteful expenditure of time and money in the unnecessary litigation of a baseless claim."<br><br>*Id.* at 608-09.<br><br>The court in *Sentry Ins. Co. v. Superior Court* (1989) 207 Cal.App.3d 526, concurred: |

| | | |
|---|---|---|
| | | "Real parties in their opposition to this petition urge this court to interpret Code of Civil Procedure section 437c to require that a motion for summary judgment must be filed within 58 days prior to the *initial* trial date. Under this interpretation, petitioners would have had to file their motion for summary judgment by May 14, 1988, since the trial was originally set for July 11, 1988. They point out that such an interpretation would be consistent with discovery rules which require discovery to be filed 30 days prior to the date *initially* set for trial. (Code Civ. Proc., § 2024.) The fact that the Legislature wrote the discovery time limits expressly with reference to an initial trial date indicates that the Legislature's omission to do so in setting the time limits for summary judgment motions was deliberate. The interpretation urged by real parties would be contrary to this intent."<br><br>*Id.* at 529 (italics in original). *See also Soderberg v. McKinney* (1996) 44 Cal.App.4th 1760, 1765, n.4. Morris cites *Green* and *Sentry* in its opposition (ROA 348); Grover did not file a reply and has not addressed either case.<br><br>As stated in *Green*, "the 30-day time limit on summary judgment hearings should be calculated based on the trial date in existence when the motion is noticed regardless of whether that date is the original trial date or not." *Green*, 206 Cal.App.3d at 609. When Morris filed and noticed its summary judgment motion on July 3, 2024, the then-pending trial date was September 16, 2024, i.e., Morris filed and served its motion 75 days before the then-pending trial date. Morris's motion therefore was untimely under the then-effective summary judgment statute, which at that time required filing and service at least 105 days before the trial date (75 days + 30 days). After the court vacated the January 27, 2025 trial date on December 2, 2024, however, Morris renoticed its summary judgment motion for hearing on June 5, 2025. ROA 319. At the time Morris renoticed its motion on January 13, 2025, there was no pending trial date. The court finds that Morris's renoticed motion was timely under *Green* and *Sentry*, and that nothing in Judge Lee's orders precluded Morris from renoticing its motion when it did. Grover's application for an order striking Morris's summary judgment motion is denied.<br><br>When Culligan filed and noticed its summary judgment motion on October 18, 2024, the then-pending trial date was January 27, 2025, i.e., Culligan filed and served its motion 101 days before the then-pending trial date. Culligan's motion therefore was untimely under the then-effective summary judgment statute, which at that time required filing and service at least 105 days before the trial date (75 days + 30 days). After the court vacated the January 27, 2025 trial date on December 2, 2024, however, Culligan renoticed its summary judgment motion for hearing on May 12, 2025. ROA 306. At the time Culligan renoticed its motion on December 24, 2024, there was no pending trial date. The court finds that Culligan's renoticed motion was timely under *Green* and *Sentry*, and that nothing in |

| | | |
|---|---|---|
| | | Judge Lee's orders precluded Culligan from renoticing its motion when it did. Grover's application for an order striking Culligan's summary judgment motion is denied.<br><br>The hearings on defendants Morris, Inc. and Culligan International Company's respective motions for summary judgment are scheduled for November 13, 2025 at 2:00 p.m. in Department CX105. Oppositions and replies shall be filed per Code based on the November 13, 2025 hearing date.<br><br>Defendant Morris, Inc. to give notice. |
| 14 | State Farm General Insurance Company v. Eden Centers for Advanced Fertility, et al.<br><br>2021-01198546 | <u>Cross-defendant Morris, Inc.'s Motion for Summary Judgment or, in the alternative, Summary Adjudication</u><br><br>Cross-defendant Morris, Inc. moves for summary judgment or, in the alternative, summary adjudication against two cross-complaints filed against Morris, one by defendant and cross-complainant CRH California Water, Inc. (CRH) (ROA 25) and one by defendant and cross-complainant Eden Fertility Management, LLC (Eden) (ROA 128). CRH dismissed its cross-complaint against Morris on June 6, 2025 (ROA 699). Morris's motion against CRH's cross-complaint is thus denied as moot. Neither Eden nor Intervenor Ohio Casualty Insurance Company filed an opposition. For the following reasons, Morris's motion against Eden is denied.<br><br>A defendant seeking summary judgment bears its burden of showing that a cause of action has no merit if the defendant shows that one or more elements of the cause of action cannot be established, or that the defendant has a complete defense to the cause of action. Cal. Civ. Proc. Code § 437c(p)(2); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850-51.<br><br>If a defendant does not meet this initial burden, the plaintiff need not oppose the motion and the motion must be denied. *Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 840. If the defendant meets this initial burden, the burden shifts to the plaintiff to produce evidence demonstrating the existence of a triable issue of material fact. Cal. Civ. Proc. Code § 437c(p)(2); *Aguilar*, 25 Cal.4th at 850-51.<br><br>A party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty, if the party contends the cause of action has no merit, there is no affirmative defense to the cause of action, there is no merit to an affirmative defense as to any cause of action, there is no merit to a claim for damages, as specified in Civil Code section 3294, or that one or more defendants either owed or did not owe a duty to the plaintiff. Civ. Proc. Code § 437c(f)(1). A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty. *Id*. A motion for summary adjudication proceeds in all procedural |

| | | |
|---|---|---|
| | | respects as a motion for summary judgment. *Choochagi v. Barracuda Networks, Inc.* (2020) 60 Cal.App.5th 444, 453.<br><br>California Rule of Court 3.1350(b) provides:<br><br>"If summary adjudication is sought, whether separately or as an alternative to the motion for summary judgment, the specific cause of action, affirmative defense, claims for damages, or issues of duty must be stated specifically in the notice of motion and be repeated, verbatim, in the separate statement of undisputed material facts."<br><br>*Id.*; *see also Schmidlin v. City of Palo Alto* (2007) 157 Cal.App.4th 728, 743-44.<br><br>Morris's notice and separate statement do not comply with rule 3.1350(b). Morris identifies in its notice of motion the "issues" on which it seeks summary adjudication as "each individual cause of action" in Eden's cross-complaint. ROA 476. The notice of motion does not state the specific causes of action in Eden's cross-complaint. *Id.* ROA 476. Reference to the cross-complaint in the court file reflects that Eden's cross-complaint alleges five causes of action against Morris: breach of written contract; express indemnity; equitable indemnity; contribution; and declaratory relief. ROA 128. Morris's separate statement identifies two issues on which Morris seeks summary adjudication: (1) "The Claimants' pleadings based on claims of negligence are not supported by requisite expert opinion"; and (2) "Morris is not a seller or manufacturer of the Culligan water softener." ROA 480. In contravention of rule 3.1350(b), the specific causes of action on which Morris seeks summary adjudication are not "stated specifically in the notice of motion." Cal. R. Ct. 3.1350(b). Nor are they "repeated, verbatim, in the separate statement of undisputed material facts." *Id.* The separate statement identifies different issues than those identified in the notice of motion. *Compare* Notice of Motion (ROA 476) at ii:10-11 *with* Separate Statement (ROA 480) at 2:6-7, 4:24-25. Moreover, neither of the issues identified in the separate statement is a "specific cause of action, affirmative defense, claim[ ] for damages, or issue[ ] of duty."<br><br>Morris's separate statement also does not comply with rule 3.1350(d). That rule states that "[t]he Separate Statement of Undisputed Material Facts in support of a motion must separately identify: (A) Each cause of action, claim for damages, issue of duty, or affirmative defense that is the subject of the motion; and (B) Each supporting material fact claimed to be without dispute with respect to the cause of action, claim for damages, issue of duty, or affirmative defense that is the subject of the motion" Cal. R. Ct. 3.1350(d). Morris's separate statement does not identify "each cause of action . . . that is the subject of the motion," or "each supporting material fact . . . with respect to the cause of action . . . that is the subject of the motion." |

| | | |
|---|---|---|
| | | In addition, "[t]he paragraphs in a separate statement should be limited to facts that address the elements of a cause of action or an affirmative defense." *Beltran v. Hard Rock Hotel Licensing, Inc.* (2023) 97 Cal.App.5th 865, 875; *see also* Cal. R. Ct. 3.1350(d)(2) ("The separate statement should include only material facts and not any facts that are not pertinent to the disposition of the motion."). Morris's separate statement includes allegedly undisputed facts regarding parties and pleadings from other cases. *See, e.g.*, ROA 480 (Nos. 3, 4, 5, 6, 7, 11).<br><br>Preparation of a proper separate statement is not a pedantic exercise. "'The separate statement serves two important functions in a summary judgment proceeding: It notifies the parties which material facts are at issue, and it provides a convenient and expeditious vehicle permitting the trial court to hone in on the truly disputed facts.'" *Id*. A separate statement that does not identify the causes of action on which the moving party seeks summary judgment and/or summary adjudication, and includes allegedly undisputed facts regarding parties and pleadings from other cases, is neither convenient nor expeditious, including because it provides no information regarding the elements of the causes of action.<br><br>In sum, Morris did not carry its initial burden on the motion. Morris did not identify in its separate statement the causes of action on which it seeks summary judgment and/or summary adjudication, and it did not identify in its separate statement the elements of those causes of action. The court thus has no basis on which to conclude that Morris demonstrated that one or more elements of each cause of action cannot be established.<br><br>In light of the court's above ruling, the court need not address the alleged deficiencies in service of Morris's motion on Eden.<br><br>Morris's Reply Request for Judicial Notice (ROA 703) was not material to the disposition of the motion.<br><br>Clerk to give notice. |
| 15 | Still Protecting Our Newport v. City of Newport Beach<br><br>2024-01426713 | <u>Petitioner Still Protecting Our Newport's Motion for Leave to Amend</u><br><br>Petitioner Still Protecting Our Newport (SPON) moves for leave to file a second amended petition for writ of mandate and complaint for declaratory relief. Respondent City of Newport Beach (City) opposes. For the following reasons, SPON's motion is granted.<br><br>Leave to amend pleadings is normally liberally granted under Civil Procedure Code section 473(a)(1). "[C]ourts are bound to apply a policy of great liberality in permitting amendments to the complaint at any stage of the proceedings, up to and including trial," unless prejudice is shown to the adverse party. *Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 761. Stated another way, "it is an abuse of discretion to deny leave to |

| | | |
|---|---|---|
| | | amend where the opposing party was not misled or prejudiced by the amendment." *Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048.<br><br>SPON seeks leave to file a second amended petition for writ of mandate and complaint for declaratory relief to add additional factual allegations and a declaratory relief cause of action. Barron Decl. (ROA 48) Ex. 1 (Proposed Second Amended Petition for Writ of Mandate and Complaint for Declaratory Relief); *id.* Ex. 2 (redline).<br><br>SPON complied with California Rule of Court 3.1324. In addition, SPON did not unduly delay in seeking leave to amend, and the City has not shown prejudice from permitting the amendment at this juncture. The City's factual arguments that the proposed new cause of action and allegations lack merit do not warrant denying leave to amend. The preferred practice is to "permit the amendment and allow the parties to test its legal sufficiency by demurrer, motion for judgment on the pleadings or other appropriate proceedings." *Kittredge*, 213 Cal.App.3d at 1048 (citation and quotations omitted); *see also Armenta ex rel. City of Burbank v. Mueller Co.* (2006) 142 Cal.App.4th 636, 643.<br><br>The City's unopposed Request for Judicial Notice (ROA 68) is granted, although the documents were not material to the disposition of the motion.<br><br>SPON shall file and serve the second amended petition for writ of mandate and complaint for declaratory relief attached as Exhibit 1 to the Barron Declaration (ROA 48) by July 7, 2025.<br><br>SPON to give notice.<br><br><u>Status Conference</u><br><br>The court has reviewed the parties' joint status conference statement filed May 15, 2025 (ROA 54), and based thereon continues the June 26, 2025 status conference to <u>September 4, 2025 at 2:00 p.m.</u> in Department CX105 to be heard with the motion that day.<br><br>The parties are ordered to file a joint status conference statement at least 5 court days before the hearing.<br><br>Clerk to give notice. |
| 16 | Thomas v. Optionwide Financial Corporation, et al.<br><br>2023-01350841 | <u>Plaintiff Hazel Thomas's Motion to Enforce Discovery Order and Request for Monetary and Contempt Sanctions</u><br><br>Plaintiff Hazel Thomas moves: (1) for an order pursuant to Civil Procedure Code section 128(a)(4) enforcing the court's January 30, 2025 order granting plaintiff's three motions to compel discovery responses and imposing sanctions; (2) for an order pursuant to Civil Procedure Code sections 2023.010(g) and 2023.030(a) imposing $3,375 in monetary sanctions against defendant Optionwide Financial Corporation and its counsel for allegedly disobeying the January 30 2025 order; (3) for an |

| | | |
|---|---|---|
| | | order pursuant to Civil Procedure Code sections 2023.030(a) and 2023.050(a)(3) imposing $1,000 in monetary sanctions against Optionwide's counsel based on counsel's alleged failure to meet and confer with plaintiff's counsel about plaintiff's document requests; and (4) for an order pursuant to Civil Code section 1209 et seq. and Civil Procedure Code section 2023.030(e) to show cause re contempt against Optionwide and its counsel for their allegedly willful violation of the January 30, 2025 order. The court addresses each of these requested orders in turn below.<br><br>*Order pursuant to Civil Procedure Code section 128(a)(4)*<br><br>Plaintiff moves for an order pursuant to Civil Procedure Code section 128(a)(4) enforcing the court's January 30, 2025 order granting plaintiff's three motions to compel discovery responses and imposing sanctions. Section 128(a)(4) states that every court shall have the power to "compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein." Plaintiff asserts the court should issue the requested order because Optionwide "ha[s] not produced Code-compliant discovery responses, [has] not produced a single document, and [has] not produced a privilege log," and because Optionwide has not paid the discovery sanctions imposed by the January 30, 2025 order. Brief (ROA 116) at 4:14-16.<br><br>Plaintiff's assertion that Optionwide did not produce Code-compliant discovery responses is not entirely accurate. The court has reviewed Optionwide's three sets of verified discovery responses attached as Exhibits B, C and D to plaintiff's counsel's declaration (ROA 114), and—with the exception of Optionwide's responses to Requests for Production Nos. 34-46 and 58-59 and Special Interrogatories Nos. 1, 4, 5 and 7, which the court addresses below—finds Optionwide's responses are Code-compliant and that Optionwide served them by the deadline in the court's January 30, 2025 order.<br><br>Regarding Requests for Production Nos. 34-46 and 58-59 and Special Interrogatories Nos. 1, 4, 5 and 7, Optionwide's responses to Requests for Production Nos. 34-46 and 58-59 state that it cannot respond to the requests because "it does not have the financial resources necessary" to do so. Optionwide's responses to Special Interrogatories Nos. 1, 4, 5 and 7 state that it "has made a good faith effort and conduct[ed] a diligent inquiry to answer" each interrogatory, but that it "has no funding or funds," "does not have the money necessary to pay someone to compile" the information, and thus cannot respond. Optionwide has submitted the declaration of Janice Ramocinski, who states that as of June 13, 2025 she is Optionwide's former CFO, and that Optionwide has ceased business, has no revenue, has no employees and "has no funds to pay anyone to respond to discovery in this case." Ramocinski Decl. (ROA 127) ¶¶ 1-8, 12. (The court notes that as of February 12, 2025, when Ramocinski signed the verifications attached to Optionwide's |

| | | |
|---|---|---|
| | | discovery responses, she stated she was Optionwide's CFO. Ramocinski states in her declaration filed in opposition to the instant motion that "Optionwide has not had any employees since January 2025." Ramocinski Decl. ¶ 5. Neither Optionwide nor Ramocinski offers any explanation for these seemingly inconsistent statements.) Ramocinski's declaration notwithstanding, Optionwide's responses to Requests for Production Nos. 34-46 and 58-59 and Special Interrogatories Nos. 1, 4, 5 and 7 are insufficient and do not reflect a serious attempt by Optionwide to provide plaintiff with information responsive to these requests and interrogatories. Even putting to the side that Optionwide apparently continues to actively litigate plaintiff's individual case against Optionwide and defendant John Trinh (Reply (ROA 130) at 3:17-23), which calls into question Optionwide's claim that it lacks funds to respond to discovery in this case, Optionwide must provide sufficient information in verified responses to Requests for Production Nos. 34-46 and 58-59 and Special Interrogatories Nos. 1, 4, 5 and 7 for plaintiff to locate and obtain the information sought, e.g., Optionwide must identify where the responsive documents and business records are physically located; Optionwide must state who has possession, custody or control of its responsive documents and business records; Optionwide must state the format (e.g., hard copy, electronic, etc.) in which the documents and business records are maintained. Optionwide is ordered to provide verified further Code-compliant responses to Requests for Production Nos. 34-46 and 58-59 and Special Interrogatories Nos. 1, 4, 5 and 7 by July 10, 2025 that provide sufficient information for plaintiff to locate and obtain the information sought by these requests and interrogatories.<br><br>Plaintiff's assertion that Optionwide has not produced "a single document" is not accurate. Optionwide's counsel states in his declaration filed in opposition to the instant motion that Optionwide produced 79 pages of responsive documents and produced financial documents. Mazda Decl. (ROA 128) ¶¶ 5, 7, 11. Plaintiff does not contest these statements in her reply, and thus appears to concede that her assertion that Optionwide has not produced "a single document" is not correct.<br><br>Optionwide's failure to provide a privilege log does not warrant an order pursuant to section 128(a)(4) as the court ordered Optionwide to provide a privilege log if it withheld any documents from production based on privilege. 1/30/25 Order (ROA 103). Optionwide's verified responses do not state any privilege objections.<br><br>Optionwide's failure to pay the sanctions imposed by the January 30, 2025 does not warrant an order pursuant to Civil Procedure Code section 128(a)(4). A court order awarding monetary sanctions is immediately enforceable through the execution of judgment laws. *See, e.g.*, Cal. Civ. Proc. Code §§ 680.230, 680.270 & 699.510; *Newland v. Superior Court* |

| | | |
|---|---|---|
| | | (1995) 40 Cal.App.4th 608, 615. Plaintiff states no reasons that principle does not apply here.<br><br>*Order pursuant to Civil Procedure Code sections 2023.010(g) and 2023.030(a)*<br><br>Plaintiff moves for an order pursuant to Civil Procedure Code sections 2023.010(g) and 2023.030(a) imposing $3,375 in monetary sanctions against Optionwide and its counsel for allegedly disobeying the January 30, 2025 order. Section 2023.010(g) states that disobeying a court order to provide discovery constitutes a misuse of the discovery process. Section 2023.030(a) states that a court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both, pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct. In light of the mixed outcome of this motion, the court does not find monetary sanctions should be imposed pursuant to sections 2023.010(g) and 2023.030(a).<br><br>*Order pursuant to Civil Procedure Code sections 2023.030(a) and 2023.050(a)(3)*<br><br>Plaintiff moves for an order pursuant to Civil Procedure Code sections 2023.030(a) and 2023.050(a)(3) imposing $1,000 in monetary sanctions against Optionwide's counsel based on Optionwide's counsel's alleged failure to meet and confer with plaintiff's counsel about plaintiff's document requests. Optionwide's counsel states in his declaration filed in opposition to the instant motion that he spoke on the telephone with plaintiff's counsel before plaintiff filed the instant motion about Optionwide's responses and its alleged inability to provide further information or documents. Mazda Decl. (ROA 128) ¶ 6; *see also id.* ¶ 11 (referring to "meet-and-confer call prior to the filing of this motion"). Plaintiff does not address her request for sanctions pursuant to section 2023.050(a)(3) in her reply—much less dispute in her reply that her counsel spoke with Optionwide's counsel before plaintiff filed this motion—and thus appears to concede that her claim that Optionwide's counsel "failed to meet and confer with Plaintiff in a reasonable and good faith attempt to informally resolve" (Brief (ROA 116) at 6:6-7) the parties' dispute about the January 30, 2025 does not support sanctions against Optionwide's counsel pursuant to sections 2023.030(a) and 2023.050(a)(3). That plaintiff and defendant did not resolve their dispute regarding the January 30, 2025 order does not mean counsel did not meet and confer in good faith. Plaintiff's motion for an order pursuant to Civil Procedure Code sections 2023.030(a) and 2023.050(a)(3) imposing $1,000 in monetary sanctions against Optionwide's counsel is denied.<br><br>*Order to show cause re contempt*<br><br>Plaintiff moves for an order pursuant to Civil Code section 1209 et seq. and Civil Procedure Code section 2023.030(e) to show |

| | | |
|---|---|---|
| | | cause re contempt against Optionwide and Optionwide's counsel for their allegedly willful violation of the January 30, 2025 order. Section 2023.030(e) states that the court may impose a contempt sanction by an order treating the misuse of the discovery process as a contempt of court. The court finds no basis in the sparse record of this motion to issue an order to show cause re contempt.<br><br>*Defendant John Trinh*<br><br>Citing Labor Code section 558.1, plaintiff argues for the first time in her reply that defendant John Trinh "has separate and distinct obligations to comply with the [January 30, 2025] order and pay sanctions irrespective of Optionwide's purported financial constraints." Reply (ROA 130) at 4:12-13. Labor Code section 558.1(a) states: "Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation." The January 30, 2025 order directed Optionwide (not Trinh) to provide discovery and pay sanctions. Even if section 558.1 might extend liability to Trinh in the event of a finding that Optionwide violated the Labor Code, plaintiff cites no authority holding that section 558.1 encompasses discovery orders issued against other parties and, moreover, does so before any such liability finding has been made.<br><br>Plaintiff to give notice. |