Superior Court of California
County of San Benito

Tentative Decisions for August 4, 2025

Courtroom #1: Judge Lydia Villarreal

CU-23-00175 Ana Torres v. CMC Materials EC, Inc.

8-4-25

The Matter is on Calendar for Plaintiff's 6-18-25 Motion for Preliminary Approval of Class Action Settlement.

The motion is unopposed.

Plaintiff: Julieta Hernandez, Dalia Khalili

Defendant: Chris A. Jalian

8-14-23 Plaintiff's claims on behalf of herself and other current and former non-exempt employees of Defendants various violations of the Labor Code. She alleges the following causes of action: 1) Failure to provide required meal periods; 2) Failure to provide required rest periods; 3) Failure to pay overtime wages; 4) Failure to pay minimum wages; 5) Failure to pay all wages due to discharged and quitting employees; 6) Failure to maintain required records; 7) Failure to furnish accurate itemized wage statements; 8) Failure to indemnify employees for necessary expenditures incurred in discharge of duties; 9) Unfair and unlawful business practices; and, 10) Penalties under the Labor Code Private Attorney General Act (PAGA), as a representative action.

10-17-23 Defendant answers, generally and specifically denying all allegations in the Complaint, specifically and generally denying that Plaintiff is entitled to any of the relief requested, or that she has been or will be damaged in any amount, or at all, by any acts

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or omissions of the Defendant, and without admitting any facts asserts twenty-four affirmative defenses.

12-6-23: Case Management Conference. Counsel for Defendant (by Zoom) requests mediation to discuss possible settlement, requesting a sixty-day continuance. The request is granted. (The Further CMC scheduled by the court is continued twice by stipulation of the parties.)

10-30-24 The Parties file a Joint Status Report and Notice of Class Action Settlement. The parties participated in a private mediation with Hon. Angela Bradstreet (Ret) on 9-10-24. At the end of the mediation Judge Bradstreet made a mediator's proposal, outlining the material terms of a proposed class action settlement. The parties accepted the mediator's proposal on 9-18-24.

Legal Authority: There is a two-step process to review a proposed class action settlement. First, is a preliminary hearing to determine whether the proposed settlement is "within the range of possible approval" and whether notice to the class of the settlement terms and scheduling of a final fairness hearing should be approved. (*Armstrong v. Bd. of Sch. Directors of City of Milwaukee* (1980, 7th Circ.) 616 F.2nd 305, 314 (overruled on other grounds in *Felzen v. Andreas* (1998, 7th Cir.) 134 F3rd 873); *Wershba v. Apple Computer Inc.* (2001) 91 Cal. App. 4th 224, 234-35.) In determining if a class settlement is fair, adequate, and reasonable the court must be provided with the basic information about the nature and magnitude of the claims and the basis for the conclusion that the consideration paid to release those claims represents reasonable compromise. (Clark *v. Am, Residential Svcs. LLC* (2009) 175 Cal. App. 4th 785, 790, 802-03.)

In exercising its discretion, the court applies several factors to determine the fairness of the settlement. (*Id.*) These factors are not exhaustive and should be tailored to the specific case. They include "the strength of the Plaintiff's case, the risk, expense, complexity, and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." (*Kullar v. Foot Locker Retail Inc.* (2008) 168 Cal. App. 4th 116, 128 (quoting *Dunk v. Ford Motor Co.* (1996) 48 Cal. App. 4th 1794, 1801.) Primary among the factors the court must consider in determining approval is the strength of the case on the merits balanced against the settlement amount offered. (*Munoz v BCI Coca Cola Bottling Co. of Los Angeles* (2010) 186 Cal. App. 4th 399, 408; *Kullar, supra,* at 130.)

There is a presumption of fairness when the settlement is 1) reached through arm's-length negotiation, 2) there is sufficient investigation and discovery to permit counsel and the court to act intelligently; 3) counsel is experienced in similar litigation; and 4) the percentage of objectors is small. (*Dunk, supra,* at 1806; *In re Microsoft I-V Cases* (2006) 135 Cal. App. 4th 706, 723.)

Analysis: Plaintiff argues the court should approve the proposed settlement, noting review of a proposed class action settlement involves a two-step process. The first step is a preliminary hearing to determine if the proposed settlement is "within the range of possible approval." (*Armstrong v. Bd. of Sch. Directors of City of Milwaukee* (7th Cir. 1980) 616 F. 2d. 305, 314, overruled on other grounds by *Felzen v. Andreas* (7thh Cir. 1998) 134 F. 3d 873.) The purpose of this pre-notification hearing is not to determine fairness, but rather to determine whether there is any reason to notify class members of the proposed settlement then proceed to fairness hearing. (*Id.*) This settlement is within the range of possible approvals and is entitled to the presumption of fairness. This presumption exists when the settlement is reached through arm's length bargaining; there is sufficient investigation and discovery to permit counsel and the court to act intelligently; counsel is experienced in similar litigation; and the percentage of objectors is small. This last element in the context of pre-notification matters is less a part of the discussion. (*In re Microsoft I-V Cases* 92006) 135 Cal. App. 4th 706, 723.) This settlement was reached after extensive arm's length negotiation (Khalili Dec. ¶¶8-18), after both parties had engaged in discovery permitting Plaintiff's counsel to act intelligently (Khalili Dec. ¶¶8-14). They note that Plaintiff's counsel is highly experienced in wage and hour class actions (Khalili Dec ¶¶27-36), thus this proposed settlement is entitled to the presumption of fairness. The court has broad discretion to determine whether settlement is fair and reasonable. (*In re Cellphone Fee Termination Cases* (2010) 186 Cal. App. 4th 1380, 1389). The factors as laid out in *Kullar v. Foot Locker Retail, Inc.* (2008)168 Cal. App. 4th 116, 128 are met and the settlement is fair, adequate and reasonable for the class members. They have calculated the maximum potential damages, constituting the maximum potential damages if Plaintiff's claims are certified and Plaintiff could establish liability at trial (Khalili Dec ¶19.) The proposed settlement would eliminate the significant risk of being unable to establish liability at trial, with continued litigation being expensive, involving lengthy, complex trial and possible appeal, resulting in substantial delay and reduction to any recovery by the Class members. While confident in the merits of the clam, legitimate controversy exists as to each cause of action. (*Id.* at ¶21.) Moreover, certain of Plaintiff's claims for penalties are

derivative of the claims; should relief be denied on the other claims there would be no damages recoverable for those claims.

In light of the foregoing the proposed settlement of $600,000.00 is within the ballpark of reasonableness. The agreement provides for an appropriate award to counsel, reasonable under a common fund theory. (*Laffitte v. Robert Half Int'l Inc.* (2016) 1 Cal. 5th 480.) The percentage method with or without lodestar cross-check may be used in all common fund cases (*Id*. at 503). The proposed payment to the class representative is appropriate given the criteria to be considered including the risk, financial and otherwise, in bringing the suit, the cost of time, the duration of litigation, the notoriety and personal challenges of raising the claims, and the personal benefits, or lack of them in the result of the litigation. (*In re Cellphone, supra,* at 1394-95.) The proposed PAGA allocation is also fair and reasonable. Where, as here, the parties reached a substantial settlement providing the employees with financial compensation for the underlying Labor Code violations, many of PAGA's policy objectives are satisfied.

The proposed class is approximately 85 persons, who are defined by objective criteria and who would receive at least $4000.00 in settlement. Class is sufficiently ascertainable and numerous, with common issues of law and fact predominating, the fact they share a clearly defined community of interests makes class representation more appropriate. The proposed means of notice is sufficient to fairly inform the class members of the proposed settlement and options for dissent. (*Wershaba v. Apple Computer, Inc.* (2001) 91 Cal. App. 4th 224, 251.) Code of Civil Procedure section 382 gives three requirements to sustain class actions: an ascertainable class; a well-defined community of interest in the questions of law or fact affecting the parties; and certification providing substantial benefits to the litigants and the courts, that is that proceeding as a class will be superior to other methods. (*Fireside Bank v. Sup. Ct.* (2007) 40 Cal. 4th 1069, 1089.) Because no trial is anticipated in a settlement case, the case management issues inherent in ascertainable class determination are not confronted, and thus the courts use a less stringent standard for certification during settlement. (*Global Minerals &Metals Corp. v. Sup. Ct.* (2003) 111 Cal. App. 4th 836, 859.) The granting of preliminary approval of the proposed settlement, provisional certification of class, and setting of the final approval hearing are thus appropriate.

Proposed ruling: Grant preliminary approval of proposed class action settlement; grant provisional approval of the class for the purposes of the settlement and set the final approval hearing.

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CU-25-00039 Richard Uribe v. San Benito County Sheriff's Office, et al.

8-4-25

Matter is on calendar for Plaintiff's 6-24-25 Motion to Strike Answer (as amended 7-3-25)

7-22-25 Defendant's Opposition filed.

Plaintiff: Self Represented

Defendant: Emilio R. Dorame-Martinez (San Benito County Sheriff's Office; County of San Benito.)

Plaintiff's 2-13-25 Complaint seeks damages for intentional tort, violation of his rights under POBRA (Gov't Code §3300, et seq.), alleging to have suffered lost wages, general damages, and loss of earning capacity because of the actions alleged. The complaint is unverified. Plaintiff had been employed by Defendant, San Benito County Sheriff's Office between October 2005 and March 2024. He asserts that during his years of employment, the Defendants' actions and conduct as alleged in the complaint created an intolerable and hostile work environment. Further that the Defendants made multiple statements about Plaintiff, in writing, and that these statements were published to third parties.

3-17-25 Defendants generally and specifically deny all claims and allegations of the Complaint and assert thirty affirmative defenses.

5-12-25 Case Management Conference: Hon. J. Omar Rodriguez determines himself to be disqualified pursuant to CCP§170.1. The Settlement Conference and Motion to Strike are thus continued to 5-16-25 in dept 3.

5-16-25: Case Management Conference: Hon. Patric Palacios determines himself to be disqualified pursuant to CCP§170.1. Discussions held with parties as to time needed to continue the hearing. The court orders Case Management and setting of the Motion to Strike filed by Plaintiff continued to 6-12-25 in dept 1. (Notice sent re: new court date 6-2-25, matter to be heard 6-20-25)

6-20-25: Case Management, Motion to Strike: Court addresses motion to strike. The court notes the points and authorities filed and received are not adequate for the court to make a decision. Regarding Case Management, the court notes the case is at issue. Trial readiness discussed; Plaintiff requests 90 days. The court orders the motion to strike is denied without prejudice. Plaintiff is allowed to file the motion again,

addressing the proper authorities. Trial setting is scheduled October 2, 2025, at 1:30 p.m. in dept 1.

Argument: Plaintiff requests that each affirmative defense be stricken pursuant to CCP§436, on the ground that the affirmative defenses are pled improperly, are irrelevant, or are otherwise unsupported by the facts of the case. The affirmative defenses are irrelevant and are identical to affirmative defenses raised in a separate, unrelated case filed by the same firm in a different county. These defenses are thus without bearing on the matter herein and should be stricken as irrelevant. Pursuant to CCP§431.30, affirmative defenses must be pled with sufficient particularity and facts to give notice. Many of the defenses raised are conclusory and do not contain necessary factual detail to support them. Some affirmative defenses are not legally recognized or applicable to the case at bar. Defenses based on governmental immunity, statute of limitation, or unclean hands are inapplicable to this case and Defendant has not demonstrated a legal basis or factual basis to raise these defenses. The court should therefore strike the affirmative defenses.

7-22-25 Opposition: When served a lawsuit, a defendant may elect to file an answer to the complaint. Pursuant to CCP§431.30 sub (b) the answer to the complaint shall contain (1) the general or specific denial of the material allegations of the complaint controverted by the defendant. (2) A statement of any new matter constituting a defense. A motion to strike must be filed within the time allowed to respond to a pleading.... (CCP§435 sub (b)(1).) The grounds for the motion to strike must appear on the face of the challenged pleading or in a matter which may be judicially noticed. (CCP§437 sub. (a); *City and County of San Francisco v. Strahlendorf* (1992) 7 Cal. App. 4th 1911, 1913.) A notice of motion to strike a portion of a pleading must quote in full the portions sought to be stricken except where the motion is to strike the entire paragraph, cause of action, count or defense. Specifications in the notice must be numbered consecutively. (CRC Rule 3.1322.) When, as here, a party files a motion to strike an answer in its entirety, the court must deny the motion if any portion of the answer constitutes a proper denial of the plaintiff's allegations. While not framed as a request to strike the answer, the request seeks to strike each and every defense. Under general principles of California Law, this motion must be denied as the general denials and affirmative defenses asserted in the answer are proper on the face of the complaint. Their answer includes affirmative defenses, directly responsive to the causes of action raised in the operative complaint. Under CCP§431.30 sub (g) affirmative defenses must be "[s]eparately stated, and the several defenses shall refer to the causes of action which they are intended to answer, in a manner by which they may be intelligibly distinguished." This, they have

done. The reference to the unrelated case in another jurisdiction for alleged similarities are argued as if this were dispositive. It isn't. Even if true, which they do not concede, it is without relevance.

Legal Authorities: Under Code of Civil Procedure ("CCP") section 436, a court may strike out any irrelevant, false, or improper matter inserted into any pleading or strike out all or part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court. This includes requests for damages not supported by the pleading's allegations. The grounds for a motion to strike must appear on the face of the challenged pleading or from matters of which the court may take judicial notice. (CCP §437(a); see also *City and County of San Francisco v. Strahlendorf* (1992) 7 Cal.App.4th 1911, 1913.) In ruling on a motion to strike, the court reads the complaint as a whole, all parts in their context, and assuming the truth of all well-pleaded allegations. (See Turman v. Turning Point of Central California, Inc. (2010) 191 Cal.App.4th 53, 63 ("Turman"), citing Clauson v. Super. Ct. (1998) 67 Cal.App.4th 1253, 1255 ["[J]udges read allegations of a pleading subject to a motion to strike as a whole, all parts in their context, and assume their truth."]) As with a demurrer, in considering a motion to strike the Court accepts as true all properly pled allegations of material fact in a pleading, but not contentions, deductions or conclusions of fact or law. As is often the case with form complaints, some of the allegations in Plaintiff's Complaint consist of bare legal conclusions which are not accepted as true for the purposes of this motion. The Court may not consider extrinsic evidence in ruling on a motion to strike.

Requests for judicial notice:

Plaintiff's request for Judicial Notice: Plaintiff requests the court take judicial notice of the answer filed in San Mateo Superior Court Case 22CIV05401, *Hejazi v. San Carlos School District*.

Defendant's request for Judicial Notice, pursuant to Evidence Code sections 451 and 452, that 1) Defendant San Benito County Sheriff's Office is a governmental entity within the meaning of Government Code §811.2; and Defendant County of San Benito is a governmental entity within the meaning of Government Code section 811.2

Analysis:

1) Requests for judicial notice: The court Denies Plaintiff request for judicial notice of the answer filed in an unrelated case in San Mateo County by Defendant's counsel: it has no bearing on the credibility of witnesses, hearsay declarants, nor has any tendency in reason to prove or disprove any disputed fact that is of

consequence to the determination of the action. As such it is without relevance to the motion pending before the court. (Evid. §210.)

2) The court grants judicial notice as requested by the Defendants.
3) Motion to Strike. The grounds for a motion to strike must appear on the face of the challenged pleading, or in a manner which the court may take judicial notice. Much like a demurrer, the grounds for the motion must be apparent from the pleading itself as a matter of law. (CCP§437 subd (a).) Fundamentally, an answer including affirmative defenses pled in that answer, preserves a defendant's actual and potential rights, as guaranteed by due process. Absent such pleadings, a defendant would be foreclosed from asserting defenses that may be essential as the facts are developed. This is so because an answer must be filed prior to the parties' ability to explore the facts and contentions through discovery. The attempt here to strike the entire answer ignores this reality and as the Defendant argues, undermines the function of the responsive pleadings. (Defendant's MPA p3, ll 26-28.) Plaintiff misapprehends both the law and the standards of pleading, as the courts have clarified that a verified answer is not to be struck merely because it includes matter that is irrelevant or evidentiary, so long as it also alleges facts constituting a valid defense. (*Cont'l Bldg. &Ln. Ass'n v. Boggess* (1904) 145 Cal. 30.) This is Plaintiff's second attempt to do what the law prohibits- eliminate defenses as mere pretense without supporting evidence. Further, the court concurs that the reference to an answer drafted by Defendant's counsel in a separate, unrelated matter in another county is without relevance to the case at bar. The question for the court's review is ultimately whether the affirmative defenses at issue are legally and factually responsive to the claims made in this matter. Moreover, both named defendants are governmental entities which raise additional legal defenses and other procedural concerns fundamental in this matter.
4) The court notes that the motion itself functions mostly as an argument, and the Defendant pursuant to CCP §437c sub (b) has provided a response to what is functionally Plaintiff's separate statement. The Defendant provides a detailed response and supporting evidence

Proposed ruling. The motion to strike is Denied. The plaintiff in this matter bears the burden of showing that a defense presented is irrelevant, improper, or insufficient on its face, but the Plaintiff has failed to provide relevant legal authority or evidentiary basis to support the striking of the affirmative defenses.

END OF TENTATIVE RULING

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