

Tentative Rulings for March 18, 2025
Department 503

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

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

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

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Tentative Ruling

Re: ***Fidelmar Diaz, JR v. Nale Farms***
Superior Court Case No. 23CECG03930

Hearing Date: March 18, 2025 (Dept. 503)

Motion: By Plaintiff for Final Approval of Class Settlement, Class Representative's Enhancement Payment, and Attorney's Fees and Costs

Tentative Ruling:

To grant Plaintiff's motion for final approval of the class settlement, class representative's enhancement payment, attorney's fees and costs, payment of settlement administrator's fees, and payment to the Labor and Workforce Development Agency.

To also order the parties to return on Tuesday, March 17, 2026, at 3:30 p.m. in Department 503 to inform the court of the total amount actually paid to the class members, pursuant to Code of Civil Procedure section 384, subdivision (b), so that the judgment can be amended and the distribution of any cy pres funds can be ordered. Documentation as to the amount paid to class members must be filed on or before March 2, 2025.

Explanation:

Final Approval of Settlement

California Rules of Court, rule 3.769(g) states: "Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement." Subsection (h) states: "If the court approves the settlement agreement after the final approval hearing, the court must make and enter judgment. The judgment must include a provision for the retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court may not enter an order dismissing the action at the same time as, or after, entry of judgment."

The court has vetted the fairness of the settlement through prior hearings, each with its own filings. The settlement here generally meets the standards for fairness, and the class has approved it, with no objections, disputes, or requests for exclusion. Only 17 of 155 notices were undeliverable. The court finds that the method of notice followed, which this court approved at the prior hearing, comports with due process and was reasonably calculated to reach the absent class members:

"Individual notice of class proceedings is not meant to guarantee that every member entitled to individual notice receives such notice," but "it is the court's duty to ensure that the notice ordered is reasonably calculated to reach the absent class members." [Citations.] After such appropriate

notice is given, if the absent class members fail to opt out of the class action, such members will be bound by the court's actions, including settlement and judgment, even though those individuals never actually receive notice. *Cooper*, 467 U.S. at 874, 104 S.Ct. 2794; 7B Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 1789 (2d ed.1986).

(*Reppert v. Marvin Lumber and Cedar Co., Inc.* (1st Cir. 2004) 359 F.3d 53, 56-57 emphasis added.)

Calculation of Class Member Payments

Based on the number of class members known to be participating, Ryan McNamee of Apex Class Action, LLC has calculated the net settlement fund to be \$108,490.67 after deducting attorney fees and costs, the administration costs of \$5,990, the class representative award totaling \$5,000, and the PAGA payment. (McNamee Decl. ¶ 14.) The highest estimated class payment is \$8,109.98, the average payment is \$699.94, and the lowest estimated payment is \$31.56. (*Id.* at ¶ 15.)

PAGA Settlement

Plaintiff also seeks approval of \$5,000 to be paid to settle the PAGA claim, 75% of which will be paid to the LWDA pursuant to Labor Code section 2699, subdivision (i). The amount to be paid to settle the PAGA claim appears to be reasonable. The LWDA has been served with a copy of the settlement as well as preliminary and final approval motions, and it has not objected to the request to approve the settlement.

Payment to Class Representatives

Plaintiff seeks court approval of a \$5,000 payment to the named class representative, Fidelmar Diaz Jr. The court intends to approve the requested enhancement payment of \$5,000 to the named plaintiff. This represents a reasonable amount, commensurate with the evidence of risk incurred in conferring a benefit to the class and sufficient to induce the named plaintiff to participate in the suit.

Attorneys' Fees

The settlement provided that the parties agreed (i.e., defendant agreed not to oppose) to fees calculated at 35% of the gross settlement amount or \$71,400. Counsel has provided evidence of the time expended by the attorneys representing plaintiff and the class throughout this action to support the lodestar amount, as a cross-check of the percentage-based fees requested.

Counsel have submitted evidence of the hours expended during litigation by the two attorneys. Counsel worked 148.3 hours at an hourly rate of \$600 for an estimated \$88,980 in attorney fees. Considering the lodestar method is intended to check the reasonableness of the fee, and the lodestar exceeds the fees requested, the court intends to approve the fees sought in the amount of \$71,400.

The court intends to find that the amount requested in fees is reasonable and justified by the efforts made and results obtained with this settlement, and approve attorney fees in the amount of \$71,400 to Stansbury Brown Law, PC.

Costs

The Settlement Agreement provides that plaintiff's counsel would be reimbursed costs up to \$9,000.00. The request for actual costs of \$8,119.33 is supported with evidence and should be approved. (Brown Decl., Exh. K.) The remaining \$880.67 of the \$9,000 reserved for costs can be returned to the common fund for the benefit of the class members.

The court is satisfied that the costs incurred are reasonable and litigation-related and intends to approve the costs in the amount of \$8,119.33 to Stansbury Brown Law, PC.

Administrator's Costs

The court intends to find the amount of \$5,990 as requested to be reasonable, and approve the administrator's costs as requested.

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

Tentative Ruling

Issued By: JS **on** 3/14/2025.
(Judge's initials) (Date)