SUPERIOR COURT OF CALIFORNIA - COUNTY OF FRESNO Civil Department - Non-Limited	Entered by:
TITLE OF CASE: **In Re: Foster Farms Wage & Hour Cases / COORDINATED**	
LAW AND MOTION MINUTE ORDER	Case Number: **21JCCP05166**

Hearing Date: **December 11, 2025** Hearing Type: **Motion - Prelim Approval Class Settlement**
Department: **502** Judge/Temp. Judge: **Culver Kapetan, Kristi**
Court Clerk: **V. Santana** Reporter/Tape: **Not Reported**

Appearing Parties:

Plaintiff: Defendant:

Counsel: **No Appearance** Counsel: **No Appearance**

[ ] Off Calendar

[ ] Continued to [ ] Set for __ at __ Dept. __ for __

[ ] Submitted on points and authorities with/without argument. [ ] Matter is argued and submitted.

[ ] Upon filing of points and authorities.

[ ] Motion is granted [ ] in part and denied in part. [ ] Motion is denied [ ] with/without prejudice.

[ ] Taken under advisement

[X] No Party requested oral argument pursuant to Local Rule 2.2.5 and CRC 3.1308(a)(1).

[X] Tentative ruling becomes the order of the court. No further order is necessary.

[X] Pursuant to CRC 3.1312(a) and CCP section 1019.5(a), no further order is necessary. The minute order adopting the tentative ruling serves as the order of the court.

[X] Service by the clerk will constitute notice of the order.

[X] See attached copy of the Tentative Ruling.

[ ] Judgment debtor __ failed to appear.
Bench warrant issued in the amount of $ __

JUDGMENT:
[ ] Money damages [ ] Default [ ] Other __ entered in the amount of:
Principal $__ Interest $__ Costs $__ Attorney fees $__ / Total $__
[ ] Claim of exemption [ ] granted [ ] denied. Court orders withholdings modified to $__ per __

FURTHER, COURT ORDERS:
[ ] Monies held by levying officer to be [ ] released to judgment creditor. [ ] returned to judgment debtor.
[ ] $__ to be released to judgment creditor and balance returned to judgment debtor.
[ ] Levying Officer, County of __, notified. [ ] Writ to issue
[ ] Notice to be filed within 15 days. [ ] Restitution of Premises
[ ] Other: __

(03)

Tentative Ruling

Re: ***In re Foster Farms Wage and Hour Cases***
Case No. 21JCCP05166

Hearing Date: December 11, 2025 (Dept. 502)

Motion: Plaintiffs' Motion for Preliminary Approval of Class and PAGA Settlement

Tentative Ruling:

To grant plaintiffs' motion for preliminary approval of class and PAGA settlement. To set a hearing for final approval for May 21, 2026 at 3:30 in Department 502.

Explanation:

1. Class Certification

a. Standards

"Class certification requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e., that proceeding as a class is superior to other methods. In turn, the community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class." (*In re Tobacco II Cases* (2009) 46 Cal. 4th 298, 313.)

b. Numerosity and Ascertainability

Here, the class is ascertainable, as defendants' personnel records should be sufficient to allow the parties to identify the class members. The class is also sufficiently numerous to justify certification, as plaintiff's counsel claims that there are approximately 45,046 class members who worked for defendant during the class period. Therefore, the court intends to find that the class is sufficiently numerous and ascertainable for certification.

c. Community of Interest

"[T]he 'community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.'" (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021, internal citations omitted.) "The focus of the typicality requirement entails inquiry as to whether the plaintiff's individual circumstances are markedly different or whether the legal theory upon which the claims are based differ from that upon which the claims of the other class members will be based." (*Classen v. Weller* (1983) 145 Cal. App. 3d 27,

46.) [T]he adequacy inquiry should focus on the abilities of the class representative's counsel and the existence of conflicts between the representative and other class members." (*Caro v. Procter & Gamble Co.* (1993) 18 Cal. App. 4th 644, 669.)

Here, it does appear that there are common questions of law and fact, as all of the proposed class members worked for the same defendant and allegedly suffered the same type of Labor Code violations. Therefore, the proposed class involves common issues of law and fact.

With regard to the requirement of typicality of the representative's claims, it does appear that the named plaintiffs' claims are typical of the rest of the class and that they seek the same relief as the other class members based on their allegations and prayer for relief in the complaints. There is no evidence that the named plaintiffs have any conflicts between their interests and the interests of the other class members that would make them unsuitable to represent their interests. Therefore, plaintiffs have shown that they have claims typical of the other class members.

Plaintiffs' counsel has submitted declarations showing that they are experienced and qualified to represent the class. The attorneys' declarations discuss their background, education, and experience in class action litigation. They clearly have extensive backgrounds and experience in class action litigation. There is no indication that they have any conflict of interest that would prevent them from being appointed as counsel for the class. Therefore, the declarations provide sufficient evidence to support counsels' assertion that they are experienced and qualified to represent the named plaintiffs and the other class members here.

d. Superiority of Class Certification

It does appear that certifying the class would be superior to any other available means of resolving the disputes between the parties. Absent class certification, each employee of defendants would have to litigate their claims individually, which would result in wasted time and resources relitigating the same issues and presenting the same testimony and evidence. Class certification will allow the employees' claims to be resolved in a relatively efficient and fair manner. (*Sav-On Drugs Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 340.) Also, the value of each individual class member's claim is relatively small, so it would not be worthwhile for them to bring their claims on an individual basis. On the other hand, if they bring their claims as a class, then they can recover substantially more money and hopefully deter defendant from committing future violations of the law. Therefore, it does appear that class certification is the superior means of resolving the plaintiffs' claims.

Conclusion: The court intends to grant certification of the class for the purpose of settlement.

2. Settlement

a. Legal Standards

"[I]n the final analysis it is the Court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent

merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing litigation. The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement . . . The courts are supposed to be the guardians of the class." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal. App. 4th 116, 129.) "[T]o protect the interests of absent class members, the court must independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished . . . [therefore] the factual record must be before the ... court must be sufficiently developed." (*Id.* at p. 130.) The court must be leery of a situation where "there was nothing before the court to establish the sufficiency of class counsel's investigation other than their assurance that they had seen what they needed to see." (*Id.* at p. 129.)

b. Fairness and Reasonableness of the Settlement

"In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.' The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244–245, internal citations omitted, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

Here, plaintiffs' counsel has presented a detailed discussion of the risks, complexity, and duration of further litigation, and an explanation of why the settlement is fair and reasonable in light of the risks of taking the case to trial. Counsel explains that there were considerable problems with the case, including proving that the violations and occurred and that they were willful. Therefore, plaintiffs' counsel has shown that the settlement of $9 million is reasonable, fair, and adequate under the circumstances.

c. Proposed Class Notice

The proposed notice appears to be adequate. The notices will provide the class members with information regarding their time to opt out or object, the nature and amount of the settlement, the impact on class members if they do not opt out, the amount of attorney's fees and costs, and the service award to the named class representatives. As a result, the court intends to find that the proposed class notice is adequate.

3. Attorney's Fees and Costs

Plaintiffs' counsel seeks attorney's fees of $3,000,000, which is 1/3 of the gross settlement. Plaintiffs' counsel has provided declarations to describe their education, skill, and experience, as well as the challenges presented in the litigation. The declarations generally discuss the attorneys' background, education, skill, and experience. They rely

on the fact that courts have chosen to allow attorneys in class and representative actions to recover fees based on a percentage of the common fund that they obtained for the class. Such fees are commonly in the range of one-third of the total recovery.

Also, counsel has stated the amount of hours they spent on the case, their hourly rates of pay, and the tasks that they performed. According to counsel, they have incurred at total of $3,367,410 in fees based on 4,306.5 hours of attorney time. Thus, counsel's lodestar fees are slightly higher than their requested fees.

It does appear that counsel have adequately shown that the requested fees of $3 million are fair and reasonable given the fact that courts routinely award fees of about 1/3 of the total gross settlement in class action cases. Also, the attorneys' lodestar fees are just over $3 million, which supports their request for fees of $3 million. Therefore, the court intends to grant preliminary approval of the requested attorneys' fees.

In addition, counsel have adequately explained their request for costs of up to $200,000. According to counsel, their costs are currently about $164,000, and those costs will presumably increase until the case is resolved. If costs are less than $200,000 after the final approval order is granted, then counsel will pay any additional amounts over the actual costs to the class. Therefore, the court intends to grant preliminary approval of the request for $200,000 in costs.

4. Payment to Class Representatives

Plaintiffs seek preliminary approval of a $15,000 service award to the named plaintiffs. Plaintiffs have provided their declarations, which support the request for a service award, as they state that they worked closely with plaintiffs' counsel, provided documents, answered questions, and participated in meetings about the case with counsel. Plaintiffs also took the risk that they might be blacklisted by other employers because they sued their former employer. The service award appears to be fair and reasonable in light of the work done by the named plaintiffs. Therefore, the court intends to grant preliminary approval of the $15,000 incentive award to the named plaintiffs.

5. Payment to Class Administrator

Plaintiff's counsel states that the class administrator, Apex Class Action, LLC will receive a maximum of up to $170,000 to administer the settlement. However, according to the declaration from the representative of Apex, Sean Hartranft, Apex's fees will not exceed $155,000. (Hartranft decl., ¶ 7, and Exhibit B thereto.)

Plaintiff's counsel has now provided supplemental briefing that explains the discrepancy between the amounts by stating that counsel has included a "cushion" to ensure that there will be enough money to pay any unforeseen costs in administering the settlement. Any unspent administration fees will be paid to the class as part of the net settlement payment, so there will no prejudice to the class. Therefore, plaintiff has shown that its request for settlement administration costs of $170,000 is reasonable. As a result, the court intends to grant preliminary approval of the settlement administration fees.

6. PAGA Settlement

Plaintiffs propose to allocate $250,000 of the settlement to the PAGA claims, with 75% of that amount being paid to the LWDA as required by law and the other 25% being paid out to the aggrieved employees. Plaintiffs' counsel states that he has given notice of the settlement to the LWDA. Therefore, the court finds that the LWDA has been served with the settlement as required by statute.

Plaintiff's counsel has now provided a supplemental brief that explains the reasons why they allocated $250,000 of the total settlement to the PAGA claim, despite the claim being potentially worth millions of dollars. Counsel explains that, not only is there a risk that plaintiff would not prevail on the underlying claims that serve as the foundation for the PAGA claim, but there is also a risk, even if plaintiff did prevail, the court would exercise its discretion to reduce the total penalties and thus substantially reduce plaintiffs' recovery on the PAGA claim. Also, since the aggrieved employees are also class members, they will still receive a substantial amount to compensate them for the violations through the class settlement. The overall settlement of the class and PAGA claims will also serve as a deterrent to employers who might engage in future wage and hour violations. In addition, plaintiff's counsel notes that the LWDA has been provided with notice of the settlement, and it has not objected to the settlement. The LWDA will also be given notice of the preliminary approval order once it is granted, and it will have another opportunity to comment on the settlement prior to final approval.

Thus, plaintiff's counsel has adequately explained the reasons for settling the PAGA claim for $250,000, and the court intends to grant preliminary approval of the PAGA settlement.

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: KL on 12/11/25.
(Judge's initials) (Date)

SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO Civil Unlimited Department, Central Division 1130 "O" Street Fresno, California 93724-0002 (559) 457-1900	*FOR COURT USE ONLY*
TITLE OF CASE: **In Re: Foster Farms Wage & Hour Cases/COORDINATED**	
CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE	CASE NUMBER: 21JCCP05166

I certify that I am not a party to this cause. A true copy of the Minute Order and Tentative Ruling has been processed and:

☒ I certify that, pursuant to California Rules of Court, rule 2.251, and Code of Civil Procedure section 1010.6, the following document(s) have been electronically served by the Superior Court of California, County of Fresno. The list of electronically served recipients are listed below.

☐ Placed in a sealed envelope and:

- ☐ Deposited with the United States Postal Service, mailed first class, postage fully prepaid and addressed as shown below.
- ☐ Placed for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this court's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

Place of mailing/e-mailing: **Fresno, California 93724-0002** on:

Date: **December 12, 2025** Clerk, by Valeri Santana, Deputy
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