SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Department 19, Honorable Theodore C. Zayner Presiding

Maggie Castellon, Courtroom Clerk
191 North First Street, San Jose, CA95113
Telephone: 408.882.2310

To contest the ruling, call (408) 808-6856 before 4:00 P.M. or email department19@scscourt.org. Please state your case name, case number, the name of the attorney and contact number. It would also be helpful if you could identify the specific portion or portions of the tentative ruling that will be contested. Please also make sure you have notified the other side in a timely fashion that you are contesting the tentative ruling. (See R. Ct. 3.1308(a)(1); Local Rule 8.E.)

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- If any party wants a Court Reporter, the appropriate form must be submitted. The Reporter can appear in person or remotely.
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- As a reminder, state and local Court Rules prohibit recording of court proceedings without a Court order. This prohibition applies while in the courtroom and while on Microsoft Teams.

LAW AND MOTION TENTATIVE RULINGS
DATE: JUNE 12, 2024 TIME: 1:30 P.M.
PREVAILING PARTY SHALL PREPARE THE ORDER
UNLESS OTHERWISE STATED (SEE RULE OF COURT 3.1312)

LINE #	CASE #	CASE TITLE	RULING
LINE 1	21CV392334	Balabanoff v. Classic Vacations, LLC, et al. (/Class Action/PAGA)	
LINE 2	20CV363709	Griego v. The Tehama Law Group, P.C., et al. (Class Action)	
LINE 3	21CV387958	Beltran v. George Chiala Farms, Inc.	
LINE 4	20CV367348	Koshkalda v. Rebello's Towing Services, Inc., et al. (Class Action)	
LINE 5	23CV419594	Jones v. Cardinal Health Pharmacy Services, LLC, et al. (Class Action/PAGA) [PENDING inclusion in Cardinal Health Pharmacy Wage and Hour Cases, JCCP5320]	
LINE 6			
LINE 7			
LINE 8			
LINE 9			

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LAW AND MOTION TENTATIVE RULINGS

LINE 10			
LINE 11			
LINE 12			
LINE 13			

Calendar Line 1

Case Name: Balabanoff v. Classic Vacations, LLC, et al. (/Class Action/PAGA)
Case No.: 21CV392334

The above-entitled action comes on for hearing before the Honorable Theodore C. Zayner on June 12, 2024, at 1:30 p.m. in Department 19. The court now issues its tentative ruling as follows:

I. INTRODUCTION

This is a putative class and representative action arising out of various alleged wage and hour violations. The operative First Amended Complaint ("FAC") was filed on June 14, 2023, and sets forth causes of action for: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Meal-Period Liability Under Labor Code § 226.7; (4) Rest Period Liability Under Labor Code § 226.7; (5) Failure to Pay Vacation Wages; (6) Failure to Comply with Labor Code §§ 245 and 246; (7) Reimbursement of Necessary Expenditures Under Labor Code § 2802; (8) Failure to Comply with Labor Code § 2751; (9) Violation of Labor Code § 226(a); (10) Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5; (11) Penalties Pursuant to Labor Code § 203; (12) Violation of Business and Professions Code § 17200, et seq.; and (13) Penalties Pursuant to Labor Code § 2699, et seq.

The parties reached a settlement. Plaintiff Sasha Balabanoff ("Plaintiff") moved for preliminary approval of the settlement.

On October 4, 2023, the court continued the motion for preliminary approval to December 13, 2023. In its minute order, the court directed Plaintiff to identify a new *cy pres* recipient in compliance with Code of Civil Procedure section 384. The court also asked Plaintiff to submit evidence that the proposed settlement was submitted to the LWDA as required under Labor Code section 2699, subdivision (l)(2). The court also asked Plaintiff to submit a supplemental declaration specifically detailing her participation in the action and an estimate of the time spent. Finally, the court asked the parties to make several changes to the class notice.

On November 14, 2023, Plaintiff's counsel filed a supplemental declaration in support of the motion.

On December 13, 2023, the court granted preliminary approval of the settlement and approved the amended class notice. On January 12, 2024, the court entered a formal order memorializing its decision.

Now before the court is Plaintiff's motion for final approval of the settlement. The motion is unopposed.

II. LEGAL STANDARD

Generally, "questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235 (*Wershba*), citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794 (*Dunk*).)

> 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."

(*Wershba*, *supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk*, *supra*, 48 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com'n, etc.* (9th Cir. 1982) 688 F.2d 615, 624 (*Officers*).)

"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*, *supra*, 91 Cal.App.4th at p. 245.) The court must examine the "proposed settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." (*Ibid*., quoting *Dunk*, *supra*, 48 Cal.App.4th at p. 1801 and *Officers*, *supra*, 688 F.2d at p. 625, internal quotation marks omitted.)

> The burden is on the proponent of the settlement to show that it is fair and reasonable. However "a presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and

> discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small."

(*Wershba*, *supra*, 91 Cal.App.4th at p. 245, citing *Dunk*, *supra*, 48 Cal.App.4th at p. 1802.)

III. DISCUSSION

> The case has been settled on behalf of the following class:
> [A]ll person employed by [defendant] Classic Vacations, LLC in California and classified as non-exempt employee who worked for [defendants Classic Vacations, LLC, Classic Custom Vacations (a d/b/a of Classic Vacations, LLC), Expedia, Inc., and Expedia Group, Inc. (collectively, "Defendants")] during the Class Period.

The Class Period is defined as the time period from September 23, 2017 to January 16, 2023. The class also contains a subset of aggrieved employees that are defined as "person[s] employed by Classic Vacations, LLC in California and classified as a non-exempt employee who worked for Defendants during the PAGA Period." The PAGA period is the same as the Class Period.

As discussed in connection with preliminary approval, Defendants will pay a gross, non-reversionary amount of $450,000. The gross settlement amount includes attorney fees of $150,000 (1/3 of the gross settlement amount), litigation costs not to exceed $25,000, a service award for the class representative not to exceed $7,500, settlement administration costs not to exceed $8,500, and PAGA allocation of $20,000 (75 percent of which will be paid to the LWDA and 25 of which will be paid to aggrieved employees).

The net settlement amount will be distributed to the class members on a pro rata basis based on the number of workweeks worked during the Class Period. Similarly, PAGA members will receive a pro rata share of the 25 percent portion of the PAGA payment allocated to them based on the number of workweeks worked during the PAGA period. Checks that remain uncashed more than 180 days after mailing will be void and the funds from those checks will be distributed to Bet Tzedek.

On February 16, 2024, the settlement administrator mailed notice packets to 189 class members. (Declaration of Jeremy Romero (on Behalf of CPT, Group, Inc.) with Respect to Notification and Administration ("Romero Dec."), ¶ 7.) Ultimately, one notice packet was deemed undeliverable. (*Id.* at ¶ 9.) As of May 17, 2024, the settlement administrator has

received one request for exclusion and zero objections. (*Id*. at ¶ 10.) The settlement administrator also received one dispute regarding workweeks, and that dispute has since been resolved with defense counsel. (*Ibid.*)

As of May 17, 2024, the settlement administrator received one request to be added as a potential class member, and it was determined that the individual should be included in the class. (Romero Dec., ¶ 11.) The settlement administrator does not state whether a notice packet was or was not sent to the additional class member. Although the settlement administrator states that the total number of class members is 190, the settlement administrator also states that the total number of participating class members is 198. (Romero Dec., ¶ 12.) The settlement administrator estimates that the average gross payment to each settlement class member is $1,284.21 and the highest is $2,484.63. (*Id.* at ¶¶ 12, 14.)

The court has concerns regarding the adequacy of the notice provided to the class. First, at some unknown time an additional individual reached out to the settlement administrator and asked to be, and eventually was, added to the class. It is unclear whether this additional individual ever received a notice packet, as required under the terms of the settlement, and whether they were given the requisite amount of time to respond to the settlement. Second, the declaration submitted by the settlement confusingly states that there are a total of 190 class members and 198 participating class members. It appears that the number of participating class members listed in the declaration is erroneous, but the settlement administrator must provide a further declaration clarifying this discrepancy. Thus, prior to the continued hearing, Plaintiff shall file a supplemental declaration from the settlement administrator clarifying when, if ever, the additional class member was sent a notice packet, stating the total number of class members, and stating the total number of participating class members.

> Plaintiff requests an incentive award of $7,500 for the class representative. The rationale for making enhancement or incentive awards to named plaintiffs is that they should be compensated for the expense or risk they have incurred in conferring a benefit on other members of the class. An incentive award is appropriate if it is necessary to induce an individual to participate in the suit. Criteria courts may consider in determining whether to make an incentive award include: 1) the risk to the class representative in commencing suit, both financial and otherwise; 2) the notoriety and personal difficulties encountered by the class representative; 3) the amount of time and effort spent by the class representative; 4) the duration of the litigation and; 5) the personal benefit (or

> lack thereof) enjoyed by the class representative as a result of the litigation. These "incentive awards" to class representatives must not be disproportionate to the amount of time and energy expended in pursuit of the lawsuit.

(*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1394-1395, quotation marks, brackets, ellipses, and citations omitted.)

As discussed in connection with preliminary approval, Plaintiff submitted a declaration in support of the request, detailing her participation in the action. (See Declaration of Sasha Balabanoff in Support of Motion for Preliminary Approval of the Class Action Settlement.) However, Plaintiff did not provide an estimate of the time spent in connection with this litigation. The court instructed Plaintiff to file a supplemental declaration specifically detailing her participation in the action and an estimate of the time spent prior to the final approval hearing. Plaintiff failed to file the requested supplemental declaration in connection with the motion for final approval. Prior to the continued hearing date, Plaintiff shall file a supplemental declaration with an estimate of the time spent in connection with this action. The court will determine the incentive award at that time.

The court also has an independent right and responsibility to review the requested attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Plaintiff's counsel seeks attorney fees of $150,000 (1/3 of the gross settlement fund). Plaintiff's counsel provides evidence demonstrating a total combined lodestar of $154,082.50. (Declaration of David Yeremian in Support of Plaintiff's Motion for Final Approval of Class Action Settlement ("Yeremin Dec."), ¶ 15 & Exs. 1-2; Declaration of Roman Shkodnik in Support of Final Approval of Class Action Settlement, ¶ 5 & Ex. 1; Declaration of Emil Davtyan in Support of Final Approval of Class Action Settlement, ¶ 13-14.) This results in a negative multiplier. The court finds the attorney fees are reasonable as a percentage of the common fund and they are approved.

Plaintiff's counsel also requests litigation costs in the amount of $15,081.35 and provides evidence of incurred costs in that amount. (Yeremian Dec., ¶ 28 & Ex. 3.) Consequently, the litigation costs are reasonable and approved. The settlement administration costs of $8,500 are also approved. (Romero Dec., ¶ 15.)

Accordingly, the motion for final approval of the class action settlement is CONTINUED to July 31, 2024, at 1:30 p.m. in Department 19. Plaintiff shall file supplemental declarations with the additional information requested by the court no later than July 31, 2024. No additional filings are permitted.

The prevailing party shall prepare the order in accordance with California Rules of Court, rule 3.1312.

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Calendar Line 2

Case Name: Griego v. The Tehama Law Group, P.C., et al. (Class Action)
Case No.: 20CV363709

The above-entitled action comes on for hearing before the Honorable Theodore C. Zayner on June 12, 2024, at 1:30 p.m. in Department 19. The court now issues its tentative ruling as follows:

I. INTRODUCTION

This is a putative consumer class action brought pursuant to the California Rosenthal Fair Debt Collection Practices Act ("RFDCPA"). According to the allegations of the First Amended Class Action Complaint for Declaratory Relief, Injunctive Relief, and Damages ("FAC"), filed on April 13, 2020 in federal district court, plaintiff Maria Consuelo Griego ("Plaintiff") seeks statutory damages against defendants The Tehama Law Group, P.C. ("Tehama"), Kes Narbutas ("Narbutas"), Cypress Asset Recovery Services, LLC ("Cypress"), Jeff Fernandez ("Fernandez"), Eric Wilson, Matthew Wright, and Patelco Credit Union ("Patelco").[1] (FAC, ¶¶ 3 & 10-15.) Plaintiff alleges that the defendants had a routine practice of sending initial written communications, like the one sent to Plaintiff, that fail to contain the disclosure required by California Business and Professions Code sections 6077.5, subdivision (g)(4) and 6077.5, subdivision (g)(5), and which falsely represent or imply that a civil lawsuit has been filed to collect a defaulted consumer debt when no such lawsuit has been filed, and that the failure to pay will result in an accusation that the debtor has committed a crime. (*Ibid*.) The defendants also had a routine practice of sending voice messages, which falsely represent or imply that a civil lawsuit had been filed to collect a defaulted consumer debt and that the failure to pay would result in an accusation that the debtor had committed a crime. (*Ibid.*) The FAC sets forth the following causes of action: (1) Rosenthal Fair Debt Collection Practices Act; and (2) Violation of California Unfair Competition Law.

On December 16, 2022, the court entered defaults against Cypress and Fernandez.

On December 22, 2022, Patelco filed a Cross-Complaint against Tehama, Narbutas, Cypress, and Fernandez (aka Eric Wilson, aka Matthew Wright), alleging causes of action for:

[1] Cypress and Fernandez were substituted as Doe 1 and Doe 2, respectively, on January 12, 2021.

(1) Breach of Written Contract; (2) Fraud; (3) Negligence; (4) Tort of Another; (5) Express Contractual Indemnity; (6) Implied Indemnity; (7) Equitable Indemnity; (8) Legal Malpractice; (9) Contribution; (10) Declaratory Relief; and (11) Declaratory Relief.

On December 28, 2022, Plaintiff filed a Notice of Termination or Modification of Stay, advising the bankruptcy stay regarding Tehama was no longer in effect.

On January 31, 2023, Tehama and Narbutas filed a Cross-Complaint against Patelco and Fernandez (aka Eric Wilson, aka Matthew Wright), which sets forth causes of action for: (1) Equitable Indemnity; (2) Apportionment of Fault; and (3) Declaratory Relief.

Patelco and Plaintiff have entered into a settlement.

Subsequently, Plaintiff and Patelco jointly moved for preliminary approval of class action settlement. Additionally, Patelco moved for determination of good faith settlement.

On October 4, 2023, the court continued both motions to December 13, 2023.

On December 13, 2023, the court granted both motions. The court entered formal orders on December 14, 2023 and January 2, 2024, memorializing its decision.

Now before the court is Plaintiff's motion for final approval of class action settlement and related motion for attorney fees and costs. The motions are unopposed.

II. LEGAL STANDARD

Generally, "questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235 (*Wershba*), citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794 (*Dunk*).)

> 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."

(*Wershba*, *supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk*, *supra*, 48 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com'n, etc.* (9th Cir. 1982) 688 F.2d 615, 624 (*Officers*).)

"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*, *supra*, 91 Cal.App.4th at p. 245.) The court must examine the "proposed settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." (*Ibid*., quoting *Dunk*, *supra*, 48 Cal.App.4th at p. 1801 and *Officers*, *supra*, 688 F.2d at p. 625, internal quotation marks omitted.)

> The burden is on the proponent of the settlement to show that it is fair and reasonable. However "a presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small."

(*Wershba*, *supra*, 91 Cal.App.4th at p. 245, citing *Dunk*, *supra*, 48 Cal.App.4th at p. 1802.)

III. DISCUSSION

> The case has been settled on behalf of the following class:
> All persons with addresses in California to whom [Tehama], sent, or caused to be sent, an initial written communication in the form of Exhibit "1" to the Complaint in an attempt to collect a consumer debt owed to [Patelco], which were not returned as undeliverable by the U.S. Post Office during the period from February 11, 2019, through the date of class certification.

As discussed in connection with preliminary approval, Patelco will pay a non-reversionary amount of $245,900 to the class (i.e., no less than $100 to each of the estimated 2,459 class members). In addition to the class fund, Patelco will pay all costs associated with settlement administration, actual and statutory damages in the amount of $20,000 to Plaintiff, and attorney fees and costs not to exceed $350,000.

The class fund will be distributed to the class members on a pro rata basis. Settlement checks will become void 90 days after mailing and funds from uncashed checks will be distributed to the Katherine & George Alexander Community Law Center.

In exchange for the settlement, class members agree to release Patelco, and related persons and entities, from all claims alleging a violation of the California Rosenthal Fair Debt Collection Practices Act, Civil Code sections 1788-1788.33, or similar or related claims or

causes of action, arising from or relating to collection letters allegedly mailed on behalf of Patelco in the form attached as Exhibit 1 to the FAC during the class settlement period. Additionally, Plaintiff agrees to voluntarily withdraw from membership with Patelco and not reapply for membership at any time in the future.

On January 17, 2024, the settlement administrator mailed notice packets to 2,459 class members. (Declaration of Scott M. Fenwick of Kroll Settlement Administration LLC in Connection with Final Approval of Settlement, ¶ 7.) Ultimately, 154 notice packets were deemed undeliverable. (*Id.* at ¶¶ 8-10.) No objections were received. (*Id.* at ¶ 12.) There were two requests for exclusion. (*Id.* at ¶ 12 & Ex. B.)

Plaintiff's counsel shall appear at the final approval hearing and provide the names of the two individuals who requested exclusion so their names may be included in the final settlement order.

The court previously found the proposed settlement is fair and the court continues to make that finding for purposes of final approval.

The court has an independent right and responsibility to review the requested attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co.* (2004) 118 Cal.App.4th 123, 127-128.) Plaintiff's counsel seeks attorney fees and costs in the total amount of $350,000. Plaintiff's counsel provides evidence demonstrating a lodestar of $445,934.50, based on 618.10 hours of work, and incurred costs in the amount of $3,704.42. (Declaration of Fred W. Schwinn in Support of Motion for Attorney Fees and Costs by Class Counsel ("Schwinn Dec."), ¶¶ 15-18 & Ex. A.) This results in a negative multiplier. The attorney fees and costs in the requested amount of $350,000 are approved.

Accordingly, the motion for final approval of the class action settlement is GRANTED.

The prevailing party shall prepare the order in accordance with California Rules of Court, rule 3.1312.

The court will set a compliance hearing for January 22, 2025, at 2:30 p.m. in Department 19. At least ten court days before the hearing, class counsel and the settlement administrator shall submit a summary accounting of the net settlement fund identifying distributions made as ordered herein, the number and value of any uncashed checks, amounts remitted to Defendant, the status of any unresolved issues, and any other matters appropriate to bring to the court's attention. Counsel may appear at the compliance hearing remotely.

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Calendar Line 3

Case Name: Beltran v. George Chiala Farms, Inc.
Case No.: 21CV387958

The above-entitled action comes on for hearing before the Honorable Theodore C. Zayner on June 12, 2024, at 1:30 p.m. in Department 19. The court now issues its tentative ruling as follows:

II. INTRODUCTION

This putative class and representative action by plaintiff Thomas Beltran ("Plaintiff") arises out of various alleged wage and hour violations. The operative First Amended Complaint ("FAC"), filed on January 6, 2022, sets forth the following causes of action: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Permit Rest Breaks; (5) Failure to Reimburse Business Expenses; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Pay All Wages Due Upon Separation of Employment; (8) Violation of Business and Professions Code §§ 17200, et seq.; and (9) Enforcement of Labor Code §§ 2698 et seq. ("PAGA").

The parties reached a settlement. Plaintiff moved for preliminary approval of the settlement.

On July 26, 2023, the court continued the hearing on the motion for preliminary approval of settlement to September 6, 2023. In its minute order, the court explained that it had several concerns regarding the settlement. First, it was not readily apparent how the parties would determine whether a particular individual was a member of the class given the exclusion categories set forth in the settlement agreement. Second, the court noted that the Class Period and PAGA Period as defined in the settlement agreement had different end dates, and Plaintiff did not provide an explanation for this discrepancy. Third, Plaintiff entered into an individual settlement agreement that was not provided to the court. Fourth, the court found the releases overbroad given the definition of the term "Released Parties" and the scope of the PAGA release. Fifth, there was a problem with the structure of the payment calculations as they did not separately calculate payments to be made from the settlement of the class action and settlement of the PAGA action. Sixth, the parties were instructed to identify a new *cy pres*

recipient in compliance with Code of Civil Procedure section 384. The court directed Plaintiff to file a supplemental declaration addressing these issues. The court also requested Plaintiff make certain changes to the class notice.

On August 25, 2023, Plaintiff's counsel filed a supplemental declaration in support of the motion for preliminary approval of settlement.

On September 6, 2023, the court determined that Plaintiff's supplemental filing adequately addressed its concerns regarding the settlement, and granted the motion for preliminary approval of settlement.

On September 21, 2023, the court entered a formal order memorializing its decision.

Now before the court is the motion for final approval of settlement. The motion is unopposed.

III. LEGAL STANDARD

Generally, "questions whether a settlement was fair and reasonable, whether notice to the class was adequate, whether certification of the class was proper, and whether the attorney fee award was proper are matters addressed to the trial court's broad discretion." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 234-235 (*Wershba*), citing *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794 (*Dunk*).)

> 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."

(*Wershba*, *supra*, 91 Cal.App.4th at pp. 244-245, citing *Dunk*, *supra*, 48 Cal.App.4th at p. 1801 and *Officers for Justice v. Civil Service Com'n, etc.* (9th Cir. 1982) 688 F.2d 615, 624 (*Officers*).)

"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*, *supra*, 91 Cal.App.4th at p. 245.) The court must examine the "proposed settlement agreement to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as

a whole, is fair, reasonable and adequate to all concerned." (*Ibid*., quoting *Dunk*, *supra*, 48 Cal.App.4th at p. 1801 and *Officers*, *supra*, 688 F.2d at p. 625, internal quotation marks omitted.)

> The burden is on the proponent of the settlement to show that it is fair and reasonable. However "a presumption of fairness exists where: (1) the settlement is reached through arm's-length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small."

(*Wershba*, *supra*, 91 Cal.App.4th at p. 245, citing *Dunk*, *supra*, 48 Cal.App.4th at p. 1802.)

IV. DISCUSSION

> The case has been settled on behalf of the following class:
> [A]ll current and former non-exempt employees who worked for Defendant [George Chiala Farms, Inc. ("Defendant")] in California any time or times between April 13, 2017 through December 31, 2022 (the "Class Period"), and excluding any persons who: (1) opt out of the class; and/or (2) signed an arbitration agreement with Defendant that includes a class and/or representative action waiver on or before April 25, 2023.

The amended settlement agreement also includes PAGA Group Members, who are defined as "all current or former non-exempt employees who worked for Defendant in the State of California from April 13, 2020 through December 31, 2022."

Defendant will pay a maximum, non-reversionary settlement amount of $656,970 (increased from $610,000 by the settlement's escalator clause as the final number of workweeks totaled 40,553). The gross settlement amount includes attorney fees up to $218,990 (1/3 of the escalated gross settlement amount), litigation costs not to exceed $25,000, a PAGA allocation of $20,000 (75 percent of which will be paid to the LWDA and 25 percent of which will be distributed to PAGA Group Members), an incentive award up to $2,500 for the class representative, and settlement administration costs up to $12,500. The net settlement amount will be distributed to participating class members pro rata basis. Checks that remain uncashed 180 days from the date the checks are dated will be void and the funds from those checks will be distributed to Legal Aid at Work.

In exchange for the settlement, the class members agree to release Defendant "each of Defendant's respective current and former, direct and indirect owners, parents, subsidiaries, brother-sister companies, and their current and former partners, officers, directors, employees,

attorneys, agents, shareholders, insurers, reinsurers, assigns, transferees, executors, administrators, predecessors, successors" ("Released Parties") from:

> all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or unknown, suspected or unsuspected, that each participating class member had, now has, or may hereafter claim to have against Released Parties and that were asserted in the Action, or that arise from or could have been asserted based on any of the facts, circumstances, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act alleged in Plaintiff's Complaint, regardless of whether such claims arise under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law.

The amended settlement agreement further provides that PAGA Group Members agree to release the Released Parties from:

> all claims for civil penalties under Labor Code §§ 2698 et seq. exhausted in Plaintiff's notice(s) sent to the LWDA and alleged in the Action, and any and all PAGA claims which arose during the PAGA Period, that could have been asserted by the Labor Commissioner against Released Parties based on the factual allegations of Plaintiff's First Amended Complaint and Plaintiff's notice(s) sent to the LWDA, including claims for Labor Code sections §§ 201, 202, 203, 204, 205, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, and 2802 and the related IWC Wage Order(s). […] This settlement is also conditioned on the covenant that PAGA Group members will not participate in or receive recovery or monies in connection with any further proceeding seeking penalties under Section 2699, which arose during the PAGA Period for claims based on the allegations Plaintiff alleged in the Action.

In addition, Plaintiff agrees to a comprehensive general release.

On October 20, 2023, the settlement administrator mailed notice packets to 802 class members. (Declaration of Chantal Soto-Najera on Behalf of CPT Group, Inc. Regarding Settlement Administration ("Soto-Najera Dec"), ¶¶ 4-6.) Ultimately, 22 notice packets were deemed undeliverable. (*Id.* at ¶ 7.)

During the administration, the settlement administrator received requests from 17 individuals to be included in the class. (Soto-Najera Dec., ¶ 12.) Defendant confirmed that those additional individuals should be included in the class such that the class is now comprised of 819 members. (*Id.* at ¶¶ 12-13.) The settlement administrator does not state when, if ever, notice packets were provided to the 17 additional class members.

The settlement administrator declares that as of May 20, 2024, there were no objections and no requests for exclusion. (Soto-Najera Dec., ¶¶ 9-11.) The highest settlement amount is estimated to be $2,756.77, the lowest settlement amount is estimated to be $9.79, and the average settlement amount is estimated to be $465.88. (*Id.* at ¶ 16.)

The court has concerns regarding the adequacy of the notice provided to class members. As some unknown time, 17 additional class members reached out to the settlement administrator and asked to be, and were eventually, added to the class. It is unclear whether these 17 additional individuals ever received notice packets as required per the terms of the settlement and whether they were given the requisite time to respond to the settlement. Prior to the continued hearing, Plaintiff shall file a supplemental declaration addressing this issue and clarifying when, if ever, notice packets were provided to the 17 additional class members.

Plaintiff requests an incentive award in the amount of $2,500. The class representative filed a declaration detailing his participation in the action. Specifically, Plaintiff declares that he spent approximately 40 hours in connection with this action, including discussing the case with class counsel, gathering and reviewing documents, providing documents to class counsel, preparing for mediation, and reviewing settlement documents. (Declaration of Plaintiff Thomas Beltran in Support of Motion for Approval of Class and Representative PAGA Action Settlement, ¶¶ 5-12.)

The class representative's efforts in the case resulted in a benefit to the class. Moreover, Plaintiff undertook risk by putting his name on the case because it might impact his future employment. (See *Covillo v. Specialty's Café* (N.D. Cal. 2014) 2014 U.S. Dist. LEXIS 29837, at *29 [incentive awards are particularly appropriate where a plaintiff undertakes a significant "reputational risk" in bringing an action against an employer].) Accordingly, the court finds the incentive award is warranted and it is approved.

The court also has an independent right and responsibility to review the requested attorney fees and only award so much as it determines reasonable. (See *Garabedian v. Los Angeles Cellular Telephone Co*. (2004) 118 Cal.App.4th 123, 127-128.) Plaintiff's counsel seeks attorney fees of $218,990 (1/3 of the escalated gross settlement amount). Plaintiff's counsel provides evidence demonstrating a lodestar of $129,060. (Declaration of Jamie M. Loos in Support of Motion for Final Approval of Class and Representative PAGA Action Settlement ("Loos Dec."), ¶¶ 40-42.) This results in a multiplier of 1.7. The court finds the attorney fees are reasonable as a percentage of the common fund and they are approved.

Plaintiff's counsel also requests costs in the amount of $21,426.40. Plaintiff's counsel provides evidence of incurred costs in that amount and the costs are approved. (Loos Dec., ¶ 45.) The settlement administration costs are also approved in the amount of $12,500. (Soto-Najera Dec., ¶ 19.)

Accordingly, the motion for final approval of the class and representative action settlement is CONTINUED to July 17, 2024, at 1:30 p.m. in Department 19. Plaintiff shall file a supplemental declaration with the additional information requested by the court no later than July 1, 2024. No additional filings are permitted.

The prevailing party shall prepare the order in accordance with California Rules of Court, rule 3.1312.

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Calendar Line 4

Case Name: Koshkalda v. Rebello's Towing Services, Inc., et al. (Class Action)
Case No.: 20CV367348

The above-entitled action comes on for hearing before the Honorable Theodore C. Zayner on June 12, 2024, at 1:30 p.m. in Department 19. The court now issues its tentative ruling as follows:

V. INTRODUCTION

This putative class action arises out of defendants Rebello's Towing Services, Inc. ("Rebello"), Anton La Moraga, LLC, and St. Anton Multifamily, Inc.'s (collectively, "Defendants") alleged pattern and practice of towing vehicles in violation of Vehicle Code sections 22953 and 22658.

According to the allegations of the operative Second Amended Complaint ("SAC"), filed on February 25, 2022, Defendants caused vehicles to be towed without first having obtained signed authorizations from the property owner or its agents, in violation of Vehicle Code section 22658, subdivision (l)(1), and caused vehicles to be towed from the space available to the public without fee less than one hour after the vehicles had been parked, in violation of Vehicle Sections 22953 and 22658, subdivision (l)(1)(D). (SAC, ¶ 1.) Furthermore, Anton La Moraga, LLC and St. Anton Multifamily, Inc. (collectively, "Anton Defendants") violated Vehicle Code section 22658, subdivision (a)(2) as they did not display, in plain view at all entrances to the property, a sign not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency and the name and telephone number of each towing company that is a party to a written general towing authorization agreement with the owner or person in lawful possession of the property. (*Id.* at ¶ 2.)

On May 28, 2022, Plaintiff parked his Honda Pilot in a parking spot that was available for public parking without fee at the Anton La Moraga Apartments located at 5822 Charlotte Drive in San Jose, California. (SAC, ¶ 11.) The property is allegedly owned by Anton Defendants. (*Ibid.*) Less than 30 minutes after he parked his car, Plaintiff returned to his

vehicle and it was gone. (*Id.* at ¶ 12.) Subsequently, Plaintiff contacted Rebello, which confirmed that his vehicle had been towed and he needed to pay $320 to get it back. (*Id.* at ¶ 14.) Plaintiff paid the fee under protest. (*Id.* at ¶ 17.)

Based on the foregoing allegations, the SAC sets forth causes of action for: (1) Violation of Section 22658(l); (2) Violation of Section 22953; (3) Violation of Section 22658(a); (4) Conversion; (5) Trespass to Chattel; and (6) Violation of Business & Professions Code §§ 17200, et. seq. ("UCL"). Each cause of action is alleged on behalf of Plaintiff, as an individual, and the putative class. (SAC, ¶¶ 20, 30-71.)

Anton Defendants moved for summary judgment or, alternatively, summary adjudication of the first through fifth causes of action. Plaintiff also filed a motion for class certification.

Plaintiff's counsel passed away in October 2022. On November 22, 2022, Plaintiff filed a Substitution of Attorney - Civil, stating that he was representing himself.

In early December 2022, Plaintiff asked the court to continue the hearing on his motion for class certification approximately six months to allow him to find new counsel. On December 9, 2022, the court (Hon. Patricia M. Lucas) took the motion for class certification off calendar.

On May 22, 2023, the court (Hon. Patricia M. Lucas) entered an order denying Anton Defendants' motion for summary judgment, denying Anton Defendants' motion for summary adjudication of the first, second, fourth, and fifth causes of action, and granting Anton Defendants' motion for summary adjudication of the third cause of action.

Following the ruling on Anton Defendants' motion, a case management conference was scheduled for June 21, 2023.

On June 16, 2023, the parties filed a Joint Case Management Statement, in which Plaintiff acknowledged that he needed to secure legal representation in order to maintain the case as a class action. Plaintiff represented that he was in advanced discussions with several law firms regarding representation and he requested that the case management conference be continued to allow him additional time to obtain new counsel. The court, therefore, continued the case management conference to September 20, 2023.

On September 18, 2023, the parties filed a Joint Case Management Statement, in which Plaintiff requested additional time to find new counsel. Plaintiff represented that medical issues hindered his efforts to obtain new counsel for several weeks. Plaintiff asked the court to continue the case management conference for another three months.

The court continued the case management conference to November 15, 2023, and informed Plaintiff that he needed to secure counsel.

Plaintiff failed to appear at the case management conference to November 15, 2023. Consequently, the court issued an order to show cause regarding dismissal to Plaintiff. Anton Defendants also indicated that they would be filing a motion to dismiss the class claims based on Plaintiff's failure to retain counsel.

Now before the court is Anton Defendants' motion to dismiss Plaintiff's class allegations pursuant to Code of Civil Procedure section 583.150. Plaintiff has filed an opposition to the motion.

II. LEGAL STANDARD

Code of Civil Procedure section 583.150 recognizes the trial court's inherent authority to dismiss an action. (*Del Junco v. Hufnagel* (2007) 150 Cal.App.4th 789, 799.) Trial courts should only exercise this authority in extreme situations, such as when the conduct was clear and deliberate, where no lesser alternatives would remedy the situation, the fault lies with the client and not the attorney, and when the court issues a directive that the party fails to obey. (*Ibid.*; *Pearlson v. Does 1 to646* (1999) 76 Cal.App.4th 1005, 1011.)

IV. DISCUSSION

Anton Defendants argue the court should dismiss Plaintiff's class allegations because Plaintiff failed to retain counsel and, therefore, is an inadequate class representative. Anton Defendants assert that Plaintiff cannot adequately represent the class because as a self-represented litigant he cannot represent the legal interests of others. Anton Defendants also argue the class allegations should be dismissed because Plaintiff has been deemed a vexatious litigant and has money judgments against him in other actions.

In opposition, Plaintiff does not dispute that he is prohibited from maintaining his class claims without legal representation. Furthermore, Plaintiff acknowledges that his attempts to

secure new counsel have been unsuccessful. Plaintiff does not request additional time to find an attorney. Rather, Plaintiff asks the court to appoint an attorney for him in this matter.

Notably, Plaintiff does not cite any legal authority, and the court is aware of none, providing that the court may properly appoint counsel for him in this case. Consequently, his request is denied. (See *Badie v. Bank of America* (1998) 67 Cal.App.4th 779, 784-785 ["When [a party] fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as waived."]; see also *Schaeffer Land Trust v. San Jose City Council* (1989) 215 Cal.App.3d 612, 619, fn. 2 ["[A] point which is merely suggested by a party's counsel, with no supporting argument or authority, is deemed to be without foundation and requires no discussion."].)

Moreover, there is no dispute that Plaintiff cannot pursue class-wide relief without legal representation because he, as a self-represented litigant, may not represent the legal interests of others. (*Drake v. Superior Court* (1994) 21 Cal.App.4th 1826, 1830-1831 [it is well-settled that persons may represent their own interests in legal proceedings but may not practice law for another in this state unless they are an active member of the state bar]; see *Balin v. City of Los Angeles* (C.D.Cal. Aug. 25, 2014, No. CV 14-5697-PSG (JPRx)) 2014 U.S.Dist.LEXIS 119334, at *2-3 ["The law is clear that a pro per nonlawyer may not act on behalf of a purported class of people. [Citation.] This includes a prohibition against pro per nonlawyers bringing putative class actions; such lawsuits or claims must be dismissed. [Citations.]"]; see also *Bryant v. Oakland Tribune Newspaper Co.* (N.D.Cal. Jan. 11, 1993, Case No. C 92-4308 BAC) 1993 U.S.Dist.LEXIS 583, at *2 ["A pro per plaintiff cannot adequately protect the interests of the class."]; *Kukes v. Vasquez* (N.D.Cal. Nov. 5, 1993, Case No. C 93-3160 BAC) 1993 U.S.Dist.LEXIS 16101, at *3 [same].)

Plaintiff was given approximately one year and seven months to obtain legal representation, but concedes that he has been unable to retain new counsel. Consequently, as it stands now, Plaintiff has no valid class claims. For these reasons, the court concludes that the most appropriate remedy in this case is dismissal of the class claims without prejudice. (See *Troche v. Daley* (1990) 217 Cal.App.3d 403, 412 [a dismissal without prejudice terminates the proceeding and concludes the right of the parties in the particular action, but does not bar a

subsequent action on the same cause of action filed within the statutory period]; see also *Nolan v. Workers' Comp. Appeals Bd.* (1977) 70 Cal.App.3d 122, 128 [same].)

Accordingly, Anton Defendants' motion to dismiss class allegations is GRANTED. Plaintiff's class-wide claims are dismissed without prejudice as Plaintiff is not permitted to pursue class claims until he has obtained legal representation. Stripped of its class allegations and requests for class-wide relief, the SAC is reduced to individual claims.

The prevailing party shall prepare the order in accordance with California Rules of Court, rule 3.1312.

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Calendar Line 5

Case Name: Jones v. Cardinal Health Pharmacy Services, LLC, et al. (Class Action/PAGA) [PENDING inclusion in Cardinal Health Pharmacy Wage and Hour Cases, JCCP5320]
Case No.: 23CV419594

The above-entitled action comes on for hearing before the Honorable Theodore C. Zayner on June 12, 2024, at 1:30 p.m. in Department 19. The court now issues its tentative ruling as follows:

VI. INTRODUCTION

This is a wage and hour action arising out of various alleged Labor Code violations. Plaintiff Deborah Jones ("Jones") filed the original Class Action Complaint in this action against defendants Cardinal Health Pharmacy Services, LLC and Cardinal Health, Inc. (collectively, "Defendants") on July 25, 2023.

On August 17, 2023, the court deemed this action complex and stayed discovery and the responsive pleading deadline pending the first Case Management Conference on November 29, 2023.

On October 27, 2023, Jones's filed her operative First Amended Class Action Complaint ("FAC"), which sets forth causes of action for: (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 1182.12, 1194, 1197, 1197.1, and 1198 (Unpaid Minimum Wages); (3) Violation of California Labor Code §§ 226.7, 516, and 1198 (Failure to Authorize and Permit Rest Periods); (4) Violation of California Labor Code §§ 226(a), 1174(d), and 1198 (Non-Compliant Wage Statements and Failure to Maintain Payroll Records); (5) Violation of California Labor Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination); (6) Violation of California Labor Code § 204 (Failure to Timely Pay Wages During Employment); (7) Violation of California Labor Code § 2802 (Unreimbursed Business Expenses); (8) Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, et seq.; (9) Violation of California Business & Professions Code §§ 17200, et seq. (Unlawful Business Practices); and (10) Violation of California Business & Professions Code §§ 17200, et seq. (Unfair Business Practices).

Now before the court is Defendants' unopposed petition to coordinate this action with the following case: *Michael Salazar v. Cardinal Health Pharmacy Services, LLC* (Los Angeles County Superior Court, Case No. 23STCV19699) ("*Salazar* Action").

Plaintiff Michael Salazar ("Salazar") filed his Class Action Complaint against Cardinal Health Pharmacy Services, LLC on August 17, 2023, alleging causes of action for: (1) Unfair Competition in Violation of Cal. Bus. & Prof. Code §§ 17200, et seq.; (2) Failure to Pay Minimum Wages in Violation of Cal. Lab. Code §§ 1194, 1197 & 1197.1; (3) Failure to Pay Overtime Wages in Violation of Cal. Lab. Code § 510; (4) Failure to Provide Required Meal Periods in Violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Periods in Violation of Cal. Lab. Code §§ 226.7 &512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Statements in Violation of Cal. Lab. Code § 226; (7) Failure to Reimburse Employees for Required Expenses in Violation of Cal. Lab. Code § 2802; and (8) Failure to Pay Sick Pay Wages in Violation of Cal. Lab. Code §§ 201-204, 233, 246.

On August 22, 2023, the Los Angeles County Superior Court deemed the *Salazar* Action complex and stayed discovery. The stay was lifted on February 16, 2024. Salazar subsequently propounded discovery on Cardinal Health Pharmacy Services, LLC.

On April 18, 2024, the court entered an Order and Notice Setting Hearing Date for Petition for Coordination ("Coordination Hearing") and Staying Included Actions Pending Coordination Hearing, which stayed all proceedings in this action and the *Salazar* Action pending a ruling on Defendants' petition for coordination.

VII. REQUEST FOR JUDICIAL NOTICE

Defendants request judicial notice of: (1) the original Class Action Complaint filed in this action; (2) the FAC; (3) the Order Deeming Case Complex and Staying Discovery and Responsive Pleading Deadline issued by the court in this action on August 17, 2023; (4) the Class Action Complaint filed in the *Salazar* Action; (5) the Court Order Re: Initial Status Conference Order entered in the *Salazar* Action on August 22, 2023; (6) a Minute Order entered February 4, 2021, granting plaintiff Nancy Nguyen's Motion for Final Approval of Class Action and PAGA Settlement in the matter of *Nancy Nguyen v. Cardinal Health*

Pharmacy Services, LLC (Sacramento County Superior Court, Case No. 34-2019-00263185) ("*Nguyen* Action"); (7) the Notice of Ruling Regarding Further Case Management Conference filed on February 1, 2024; (8) a printout of a PAGA Notice Public Search - Case Detail obtained from the Labor and Workforce Development Agency ("LWDA") website on February 26, 2024; (9) a copy of the PAGA Notice letter that Salazar filed with the LWDA on or about August 18, 2023.

First, the court records filed in this action and the *Salazar* and *Nguyen* actions are proper subjects of judicial notice as they are court records relevant to the pending petition for coordination. (See Evid. Code, § 452, subd. (d) [permitting judicial notice of court records].) Second, the printout from the LWDA website and the copy of the PAGA Notice letter dated August 18, 2023 are proper subjects of judicial notice as they are "facts and propositions that are not reasonably subject to dispute and capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." (Evid. Code, § 452, subd. (h); see also *Scott v. JPMorgan Chase Bank N.A.* (2013) 214 Cal.App.4th 743, 753-754 [trial court properly took judicial notice of document posted on the Federal Deposit Insurance Corporation website].)

Accordingly, the request for judicial notice is GRANTED.

VIII. LEGAL STANDARD

> When civil actions sharing a common question of fact or law are pending in different courts, a petition for coordination may be submitted to the Chairperson of the Judicial Council, by the presiding judge of any such court, or by any party to one of the actions after obtaining permission from the presiding judge, or by all of the parties plaintiff or defendant in any such action. A petition for coordination, or a motion for permission to submit a petition, shall be supported by a declaration stating facts showing that the actions are complex, as defined by the Judicial Council and that the actions meet the standards specified in Section 404.1. On receipt of a petition for coordination, the Chairperson of the Judicial Council may assign a judge to determine whether the actions are complex, and if so, whether coordination of the actions is appropriate, or the Chairperson of the Judicial Council may authorize the presiding judge of a court to assign the matter to judicial officers of the court to make the determination in the same manner as assignments are made in other civil cases.

(Code Civ. Proc., § 404.)

> Coordination of civil actions sharing a common question of fact or law is appropriate if one judge hearing all of the actions for all purposes in a selected site or sites will promote the ends of justice taking into account whether the common question of fact or law is predominating and significant to the litigation; the convenience of parties, witnesses, and counsel; the relative

> development of the actions and the work product of counsel; the efficient utilization of judicial facilities and manpower; the calendar of the courts; the disadvantages of duplicative and inconsistent rulings, orders, or judgments; and, the likelihood of settlement of the actions without further litigation should coordination be denied.

(Code Civ. Proc., § 404.1.)

III. DISCUSSION

Defendants argue that this action should be coordinated with the *Salazar* Action because the cases share common issues of law and fact against some of the same defendants on behalf of overlapping groups of employees. (Memorandum of Points and Authorities in Support of Petitioners/Defendants Cardinal Health Pharmacy Services, LLC and Cardinal Health, Inc.'s Petition for Coordination [] ("MPA"), pp. 10-12.) Defendants note that both actions have been designated complex. (*Id.* at p. 8:19-20.) Defendants also assert that both actions include class and/or PAGA claims arising from the same Labor Code violations and the claims are based on similar underlying allegations. (*Id.* at pp. 10:20-11:19.) Defendants further state that both actions seek the same relief on behalf of essentially the same putative class of non-exempt employees. (*Id.* at p. 12:3-13.) Defendants state that the class periods in the two actions should be identical because the prior class action settlement entered in the *Nguyen* Action effectively limits the class period start dates to October 8, 2020. (*Id.* at p. 12:7-10.) Defendants further contend that this action and the *Salazar* Action are in the initial phase of discovery and no class certification deadlines, discovery cut-off dates, or trial dates have been set in either action. (*Id* at pp. 13:22 -14:2.) Defendants argue that coordination will promote the efficient use of judicial resources and will guard against inconsistent rulings. (*Id.* at p. 14:14-27.) Defendants also assert that coordination before one judge will promote settlement. (*Id.* at p. 15:14-26.) Lastly, Defendants contend that any inconvenience to the plaintiffs is outweighed by their interest in the ability to share costs and efforts. (*Id.* at p. 16:3-20.)

Defendants' arguments have merit. There is significant overlap between the two cases, including the legal and factual issues, as well as the parties. Given the overlap between the cases, coordination will advance the convenience of the parties, counsel, and at least some witnesses. Having the parties conduct the same discovery and make the same arguments in

two separate courts would waste significant time and resources for all involved. Coordination will also significantly reduce the likelihood of inconsistent rulings. While some discovery has commenced in the *Salazar* Action, this will prevent the same discovery needing to be conducted in this action. Notably, if coordination is denied, and the matters continue to proceed on separate tracks, settlement only becomes less attractive to the parties, as it makes a single global settlement less likely. Therefore, the court finds the cases should be coordinated.

The petition for coordination is GRANTED, with Santa Clara County Superior Court as the court to hear the coordinated actions and the Sixth Appellate District of the Court of Appeal as the reviewing court having appellate jurisdiction.

The prevailing party shall prepare the order in accordance with California Rules of Court, rule 3.1312.

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