SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA

Tentative Ruling

2025CUOE041622: JESSICA FISHER vs DOTERRA INTERNATIONAL, LLC
04/14/2026 in Department 44
Demurrer

Effective **January 5, 2026**, Judge Charmaine H. Buehner and all cases previously assigned to Department J4 at the Juvenile Justice Center in Oxnard transferred to Department 44, located at the Hall of Justice, 800 South Victoria Avenue, Ventura, California 93009.

Department Rules. Parties and counsel shall follow the Department 44 rules and Zoom protocols, available at https://www2.ventura.courts.ca.gov/Courtroom/C44.

Remote Appearances. The Court allows Zoom appearances as a courtesy to parties and counsel. The Court does not accommodate Court Call appearances. **You MUST register by 4:00 p.m. the court day before your hearing or you will be DENIED entry to the hearing:**

ZOOM Registration Link:

https://ventura-courts-ca.zoom.us/meeting/register/iqN7uhQSQMuOqs-9TQXgEQ

No advance notice is required to appear in person.

Tentative Rulings. Oral argument should address the tentative decision. To submit on the tentative decision, email courtroom44@ventura.courts.ca.gov before 8:00 a.m. on the hearing date, copying all other parties, Use the subject line "SUBMISSION ON TENTATIVE", [Case Number], [Case Title] and [Party]. If not all parties submit, the hearing will proceed, and the tentative ruling may change.

The Court may adopt, modify or reject the tentative ruling after hearing. The tentative ruling has no legal effect unless and until adopted by the Court.

Motion: Defendant's Demurrer to First Amended Complaint

Tentative Ruling:

Defendant's Demurrer to First Amended Complaint is SUSTAINED WITHOUT LEAVE TO AMEND.

Defendant to provide notice and prepare a judgment in conformity with this ruling.

Defendant's Request for Judicial Notice

Defendant requests judicial notice of the November 25, 2024, and January 29, 2025, PAGA notices. Plaintiff objects on relevance grounds. The Court notes, however, that Plaintiff's counsel has attached the same notices to his declaration in support of Plaintiff's Opposition.

(Rukavishnikov Decl., ¶¶ 3-4 and Exhs. A, B.) The Court overrules Plaintiff's objection and takes judicial notice of both notices. (Evid. Code, § 452, subds. (c), (h).)

Discussion

Relevant Background

This action arises out of Defendant's alleged violation of various Labor Code provisions. The Complaint was filed on April 4, 2025, as a PAGA claim. Plaintiff alleged therein that she was employed through "at least December of 2023." (Cmplt., ¶ 45.) She further alleged that she filed her PAGA notice on November 25, 2024. (*Id*., ¶ 8.)

Defendant's demurrer to the Complaint was sustained with leave to amend on November 5, 2025, on statute of limitations grounds. The Court reasoned that the deadline to file the Complaint was tolled for 65 days from the filing of the PAGA notice on November 25, 2024. But even if the 65-day tolling period were to be calculated from the one-year limitations period, the deadline to file the Complaint was March 6, 2025. Thus, either way, Plaintiff's filing of the Complaint on April 4, 2025, was late. The Court rejected Plaintiff's argument that she had an additional 65 days within which to file her Complaint based on her claim that she filed an amended PAGA notice on February 13, 2025. First, the Complaint contained no such allegations. Second, Plaintiff cited no authority that the filing of an amended PAGA notice further tolled the statute of limitations.

Plaintiff filed her First Amended Complaint on November 12, 2025. Plaintiff alleges that her last day worked was December 31, 2023; that she filed her PAGA notice "on or around November 25, 2024;" and that she filed an amended PAGA noticed on January 29, 2025, which included "a more robust array of allegations, including, without limitation, that Defendant violated Plaintiff's right to overtime pay, minimum wages, meal periods, rest periods, and other allegations not included in the original PAGA notice." (FAC, ¶¶ 8, 11.) Plaintiff further alleges that by virtue of the filing of the amended PAGA notice, the statute of limitations was tolled by another 65 days "through, and including, May 12, 2025 (the first week day after the 65 days that the Action could have been filed)." (*Id*., ¶ 11.) Plaintiff alleges that the filing of the original Complaint on April 4, 2025, was timely because the statute of limitations was "tolled twice by the two 65-day periods afforded to the LWDA under the PAGA statute." (*Id*., ¶ 12.)

Application

"The statute of limitations under PAGA is one year from the date of the last violation." (*LaCour v. Marshalls of California, LLC* (2023) 94 Cal.App.5th 1172, 1184; see also *Williams v. Alacrity Solutions Group, LLC* (2025) 110 Cal.App.5th 932, 942 ["We hold that the statute of limitations is tied to the PAGA plaintiff's individual claims, and that the PAGA plaintiff must bring a PAGA action (as noted above, by serving notice on the Agency) within one year of the last Labor Code violation he or she individually suffered."]; see also *id*., fn. 6 ["Because PAGA's statute of limitations has always been stated—not in PAGA itself—but elsewhere in the Code of Civil Procedure, our Legislature's amendment to PAGA in 2024 to require that an 'aggrieved employee' also 'personally suffer[ ] each of the violations alleged during the period prescribed

under Section 340 of the Code of Civil Procedure' (§ 2699, subd. (c)(1)), simply makes the already-existing timeliness requirement explicit within PAGA itself in addition to the already-existing standing requirement."].)

"The employee may bring a PAGA action only after the LWDA either fails to act within a specified time or notifies the employee that the LWDA does not intend to take further action." (*Esparza v. Safeway, Inc.* (2019) 36 Cal.App.5th 42, 59 [citing Lab. Code, § 2699.3, subd. (a)(2)(A), (B)].) If the LWDA notifies the aggrieved employee and the employer by certified mail within 60 days of its intention not to investigate, then the aggrieved employee may commence a civil action upon receipt of such notice. (Lab. Code, § 2699.3, subd. (a)(2)(A).) If the LWDA does not provide such notice within 65 days of the postmark date of the PAGA notice, the aggrieved employee may also commence a civil action. (*Ibid*.)

Turning to the merits, Plaintiff continues to rely on the application of a second tolling period in arguing that the Complaint was timely filed. (FAC, ¶¶ 8,11, 12.) As with her Opposition to Defendant's demurrer to the original Complaint, Plaintiff cites no authorities in support of her position that extended tolling applies.

Plaintiff also argues that the statute was equitably tolled. She must establish timely notice, lack of prejudice to Defendant, and reasonable and good-faith conduct on her part. (*Saint Francis Memorial Hospital v. State Dept. of Public Health* (2020) 9 Cal.5th 710, 725.) The notice element must be liberally interpreted, and each case examined on its facts. (*Saint Francis Memorial Hospital v. State Dept. of Public Health* (2020) 9 Cal.5th 710, 727.) Plaintiff suggests notice to the Defendant is not relevant because notice is merely a prerequisite to filing, "not to limit access to the courts." (Opp. at 5:17-18.) Plaintiff cites no authorities in support of her argument. The Court finds that Plaintiff has not met her burden.

With regard to prejudice, there is no doubt that Defendant would be prejudiced from having to defend this case. But the focus of the inquiry is "whether application of equitable tolling would prevent the defendant from defending a claim on the merits." (*Id*. at pp. 727-728.) Thus, the fact that Defendant would suffer the time, expense, and disruption of having to defend is insufficient to constitute prejudice for purposes of equitable tolling. Consequently, this factor favors Plaintiff.

The third element of equitable tolling requires reasonable and good faith conduct by the plaintiff, determined objectively. (*Id*. at pp. 728-729.) This factor weighs against Plaintiff. Thus, even assuming the first two elements are satisfied, the viability of Plaintiff's claims fails on the third. Section 2699.3 is silent on amended notices and does not address the import of the filing of an amended notice. The structure of PAGA, particularly section 2699.3, shows that the Legislature knew how to provide extra time if it wanted to do so. But other than the 65-day waiting period/tolling provision, the Legislature provided for no other basis for tolling, let alone for any tolling resulting from an amended notice. Further support for this conclusion comes from the Fair Employment and Housing Act, where the Legislature expressly provided for tolling in certain circumstances. (See, e.g., Gov. Code, §§ 12960, subds. (e)-(f), 12965, subd. (c).) It also provided for a double statute of limitations. (Gov. Code, §§ 12960, subd. (e)(5) (three-year

statute of limitations for filing complaint with Civil Rights Department), 12965, subd. (c)(1)(D) [one year from date of right-to-sue notice to file a civil action]).

Plaintiff cites *McDonald v. Antelope Valley Community College Dist.* (2008) 45 Cal.4th 88 in support of her position. *McDonald* was a FEHA case, however, and the Supreme Court found tolling to be appropriate in that case because the employer and employee were pursuing resolution of internal grievance procedures. The court found that "[t]olling promotes resort to such features." (*Id*. at p. 108.) No such basis for tolling is alleged here. Thus, *McDonald* is distinguishable and does not support Plaintiff's argument.

Finally, Plaintiff also argues that *Brown v. Ralphs Grocery Co.* (2018) 28 Cal.App.5th 824 does not preclude application of equitable tolling, asserting that the decision in that case was based on the facts of that case. But *Brown* also held that "[e]quitable tolling is not permissible where it is inconsistent with the text of the relevant statute." (*Id*. at p. 840 [quoting *United States v. Beggerly* (1998) 524 U.S. 38, 48].) While the adequacy of the amended notice and the years-later filing of an amended PAGA notice were at issue in *Brown*, the principle still applies. In this case, the relevant statute is the statute of limitations set forth in Code of Civil Procedure section 340, subdivision (a), which provides for a one-year limitations period and which governs PAGA claims. (*Williams*, *supra*, 110 Cal.App.5th at p. 942, fn. 6.) Application of equitable tolling on the facts of this case would render the statute of limitations meaningless.

For the reasons stated herein, the Court sustains the demurrer without leave to amend on statute of limitations grounds; no amended pleading could cure this statute of limitations defect. The Court need not reach Plaintiff's other arguments, which depend on the viability of the action that are mooted by the Court's ruling.

Counsel for Defendant is to give notice of the Court's ruling.