SUPERIOR COURT OF CALIFORNIA
COUNTY OF VENTURA

Tentative Ruling

2024CUOE019854: DARIO ARELLANO vs WIGGINS LIFT CO INC, et al.
09/02/2026 in Department 44
Motion for Preliminary Approval

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 3:00 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: Plaintiff's Motion for Preliminary Approval of Class Action Settlement and Provisional Class Certification for Settlement Purposes Only

Tentative Ruling:

The Court GRANTS Plaintiff Dario Arellano's Motion for Preliminary Approval of Class Action Settlement and Provisional Class Certification, subject to a revised settlement agreement and a revised class notice, to be submitted with a declaration and a revised proposed order, as specified below:

No class notice shall be given until the corrected form has been approved by the Court and a revised order signed.

The Court sets the Final Approval Hearing for **Wednesday, March 4, 2027, at 1:30 p.m.** in Department 44.

All papers in support of final approval, including the fee and cost application, Plaintiff's request for a service award, and the Settlement Administrator's declaration, shall be filed no later than

16 court days before the Final Approval Hearing, with appropriate allowance made for the method of service, e.g., two additional court days for electronic service.

Plaintiff's counsel shall give notice.

1. Summary of Proposed and Preliminarily Approved Monetary Terms.

Description	Proposed	Preliminarily Approved
Gross Settlement Amount	$635,000.00, subject to escalation	$635,000.00, subject to escalation
Less: Attorney Fees	$222,250.00 (35%)	$211,666.67 (1/3)
Less: Costs (not to exceed)	$50,000.00	$25,000.00
Less: Administrative Costs (not to exceed)	$6,990.00	$6,990.00
Less: Service Award	$7,500.00	$7,500.00
Net Settlement	$348,260.00	$383,843.33

Defendant Wiggins Lift Co., Inc. represents that there were 20,537 Class Member workweeks through December 9, 2025. If the total number of workweeks during the Class Period exceeds 21,564, the Gross Settlement Sum increases by $30.92 for each additional workweek. The settlement is non-reversionary, and employer-side payroll taxes are paid separately from the Gross Settlement Sum. (Mendoza Decl., ¶ 8.)

The parties estimate approximately 173 Class Members. Assuming 173 members and the maximum deductions preliminarily approved above, the average net payment would be approximately $2,074 before employee-side taxes and withholding. Actual payments will vary because each Class Member's payment is based on the proportion of total Class Period workweeks attributable to that Class Member.

2. Timely Service. The Motion was filed and electronically served on Defendants on July 21, 2026, more than 16 court days before the September 2 hearing. (Code Civ. Proc., §§ 1005, subd. (b), 1010.6.) The August 27 supplemental declaration merely withdraws and replaces the previously submitted proposed order and does not alter the substantive terms of the settlement.

Because no PAGA settlement is presently before the Court, the LWDA-service requirement applicable to a proposed PAGA settlement does not apply. (Lab. Code, § 2699, subd. (s)(2).) As discussed below, however, the settlement should be amended to make clear that it does not purport to release representative PAGA claims.

3. Conformity with Rules of Court. The moving memorandum complies with the applicable page limitation. (Cal. Rules of Court, rule 3.1113(d).) The Court has reviewed the motion and supporting declarations and exhibits. The motion and Mendoza declaration contain references to California Rules of Court, "rule 3.679," which appear to be typographical errors; the applicable class-settlement rule is rule 3.769. The errors do not affect the substance of the motion.

4. Fairness of the Settlement. A class settlement requires the Court independently to determine whether the settlement is fair, adequate, and reasonable. Relevant considerations include the strength of the plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the amount offered in settlement, the extent of discovery completed and stage of the proceedings, and the experience and views of counsel. (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) The Court must have sufficient information concerning the potential value of the claims to make an informed evaluation of the settlement. (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130.)

Plaintiff filed the action on January 26, 2024. The Complaint alleges Plaintiff was employed by Defendants as a non-exempt employee performing welding work from approximately March 2001 through August 2021. (Compl., ¶ 2.) Plaintiff alleges, among other things, unpaid overtime and minimum wages, off-the-clock work and detrimental rounding, noncompliant meal and rest periods, wage-statement violations, waiting-time penalties, unreimbursed expenses, unpaid vacation wages, and unfair competition. (Compl., ¶¶ 15-26.)

Before mediation, Plaintiff obtained time and payroll records, information concerning Class Members, workweeks, shifts, wage-statement pay periods and separated employees, wage-and-hour policies, and Plaintiff's personnel records. (Mendoza Decl., ¶¶ 3-5.) The parties participated in an all-day mediation with Steve Paul on August 12, 2025. Although no settlement was reached that day, negotiations continued with the mediator's assistance and ultimately produced the settlement. (Mendoza Decl., ¶¶ 6-7.)

Class Counsel calculated maximum theoretical exposure of approximately $3,932,057, consisting principally of approximately $182,235 for rounding/off-the-clock wages, $1,786,354 for meal-period claims, $732,054 for rest-period claims, $868,400 in wage-statement penalties, and $363,014 in waiting-time penalties. Counsel discounted the claims based on, among other things, Defendants' positions that their rounding practice was neutral; off-the-clock work was prohibited; meal and rest policies were lawful and any deviations presented individualized questions; the statutory prerequisites to derivative penalties could not be established; and numerous Class Members had executed arbitration agreements.

The $635,000 Gross Settlement Sum therefore represents approximately 16.1 percent of counsel's maximum theoretical exposure. Considering the litigation and certification risks, the substantial informal discovery and damages analysis completed before settlement, the mediator-assisted negotiations, and the non-reversionary nature of the settlement, the monetary compromise falls within the range of reasonableness for purposes of preliminary approval.

There is, however, an issue with the scope of the release. "Settled Claims" presently includes any claims "arising out of or related to work performed" during the Class Period that "are alleged, were alleged, or could have been alleged" in the Action, as well as claims comprised of the facts, matters, transactions, or occurrences alleged. The illustrative list extends to, among other things, sick-pay claims, record-maintenance and record-production claims, and claims concerning written employment agreements.

A class settlement may release claims not expressly pleaded, but the release must remain reasonably tethered to the factual allegations underlying the action. (*Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, 538-539.) The current first prong (claims that merely "could have been alleged") is not expressly limited to claims based on the same factual predicate. The parties therefore shall amend the Settlement Agreement so that the Class release is limited to claims alleged, or claims that could have been alleged based on the factual allegations in the Complaint. The Class Notice must contain the same limitation. The Settlement Agreement must also be amended to designate a cy pres charity as discussed below.

Further, because the separately filed PAGA action has been dismissed and no PAGA payment, LWDA allocation, or request for PAGA approval is before this Court, the amendment should expressly provide that the Class settlement does not release representative PAGA claims. The current definition of Plaintiff's broader "Generally Released Claims" expressly refers to the California Labor Code "including the Private Attorneys General Act." To avoid treating the present settlement as an unpresented PAGA compromise, that reference should also be removed or expressly carved out.

Subject to these modifications, the settlement is preliminarily fair, adequate, and reasonable.

5. Conditional Class Certification. For settlement purposes, the Court conditionally certifies the following Class:

All current and former non-exempt, hourly paid employees of Defendant Wiggins Lift Co., Inc. who worked in California from January 26, 2020 through January 31, 2026.

The Complaint seeks to represent current and former non-exempt California employees for the four-year period preceding filing through the time class notice is provided. (Compl., ¶¶ 27-28.) It alleges numerosity, common questions concerning Defendants' wage-and-hour practices, typicality, adequacy, and superiority. (Compl., ¶¶ 29-35.)

Approximately 173 persons fall within the settlement definition, and they can be identified through Defendant's payroll records. The common issues concern, among other things, allegedly unpaid work time and overtime, meal and rest periods and premiums, wage statements, and derivative penalties. Plaintiff alleges that he was subjected to the same practices. (Mendoza Decl., ¶¶ 35-38.)

The requirements of Code of Civil Procedure section 382 are satisfied for settlement purposes. (See *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021; *Sotelo v. MediaNews Group, Inc.* (2012) 207 Cal.App.4th 639, 647.)

6. Appointments

The Court conditionally appoints **Plaintiff Dario Arellano** as Class Representative and **Bibiyan Law Group, P.C.** as Class Counsel.

Plaintiff participated in the case from before filing, provided information and employment documents, assisted counsel in reviewing time and payroll records, remained available during mediation, reviewed the settlement, and estimates that he has devoted at least 25 hours to the matter. (Arellano Decl., ¶¶ 9-15.)

The declarations also establish that Class Counsel have substantial experience prosecuting wage-and-hour class actions and obtaining approval of class settlements. (Bibiyan Decl., ¶¶ 2-15; Mendoza Decl., ¶¶ 39-43.)

The Court appoints **Apex Class Action, LLC** as Settlement Administrator. Apex represents that it has substantial class-action administration experience, has no ownership affiliation with the parties or counsel, and will administer the settlement for an amount not to exceed $6,990.

7. Notice to the Class

The proposed notice generally explains the nature of the action and settlement, the distribution formula and anticipated individual payment, the requested fees, costs and service award, the release, and the procedures for objecting, opting out, and disputing workweek information. The proposed mailing procedure, first-class mail after NCOA processing, followed where appropriate by remailing and skip tracing, is adequate. (Cal. Rules of Court, rules 3.766(d), 3.769(f).)

The Notice is not approved in its present form. Before dissemination, the parties shall correct the following:

1. Replace the “Page X” entries in the table of contents with the correct page numbers and insert the preliminary-approval date, Final Approval Hearing date and time, and the objection, exclusion, and workweek-dispute deadlines.

2. Correct the designation “Attorneys for Defendant Andy Gump, Inc.” to identify the Defendants in this action.

3. Reconcile the tax allocation with the Settlement Agreement. The agreement provides 33.4 percent wages, 33.3 percent interest, and 33.3 percent penalties, whereas the Notice states 33.4 percent wages, 33.4 percent interest, and 33 percent penalties.

4. Insert the Settlement Administrator’s website, mailing address, and telephone number in place of the remaining placeholders.

5. Revise the release language to conform to paragraph 4 above.

6. The agreement provides that notice will be distributed in English and Spanish, but only the English version appears in the materials submitted for approval. A Spanish translation conforming in all material respects to the corrected English Notice shall be prepared before distribution. (Mendoza Decl., ¶ 10.)

Additionally, Settlement Agreement section IV.F.4 presently provides that if a Class Member submits both a valid objection or dispute and a request for exclusion, the exclusion request is voided and the Class Member remains in the settlement. The Notice does not disclose that consequence. The parties should amend this provision so that a timely, valid request for exclusion controls over a simultaneous objection or dispute; the objection or dispute may then be disregarded because the person has excluded himself or herself from the settlement.

Plaintiff shall lodge a corrected Class Notice, conforming Spanish translation, written amendment to the Settlement Agreement, and revised proposed preliminary-approval order before notice is disseminated.

8. Attorney Fee Award. Class Counsel seeks fees of up to 35 percent of the Gross Settlement Sum, or $222,250 absent escalation.

The Court independently scrutinizes any percentage award from the common fund. At this preliminary stage, consistent with the Court's usual approach, the Court preliminarily approves a fee award not to exceed one-third of the Gross Settlement Sum ($211,666.67 based on the current $635,000 fund) subject to the 25 percent benchmark utilized by the Court and the Court's discretion at final approval. (See *Laffitte v. Robert Half International Inc.* (2016) 1 Cal.5th 480, 495.)

Class Counsel shall provide at final approval sufficient information concerning hours reasonably expended, applicable hourly rates, lodestar, the risks undertaken, results obtained, and any other factors relied upon to justify the requested percentage. The Notice and revised proposed order shall reflect the one-third preliminary ceiling.

9. Incentive Award. Plaintiff requests an incentive award of up to $7,500. Plaintiff estimates that he has devoted at least 25 hours to the litigation, including assisting counsel before filing, locating and reviewing documents, answering counsel's questions, reviewing time and payroll records, remaining available during mediation, reviewing the settlement, and monitoring the matter after settlement. (Arellano Decl., ¶¶ 9-18.)

At this stage, an award of up to $7,500 is not disproportionate to Plaintiff's asserted effort, risk, and contribution. (*Cellphone Termination Fee Cases* (2010) 186 Cal.App.4th 1380, 1393-1395.) Final approval remains subject to the Court's review of the evidence submitted with the final approval motion.

10. Attorney Costs. Class Counsel seeks reimbursement of litigation costs not to exceed $50,000. The materials presently before the Court do not identify the amount actually incurred to date. These costs are significantly out of proportion to costs sought in similar cases. The Court preliminarily approves up to $25,000 absent justification by Plaintiff's counsel at the hearing that the costs up to $50,000 should be approved.

11. Claims Administration Costs. Apex seeks administration costs not to exceed $6,990. Its declaration and proposal itemize services including data processing, notice printing and mailing, NCOA processing and skip tracing, Spanish translation, a toll-free telephone line and settlement website, settlement calculations and distributions, tax reporting, and post-distribution reconciliation.

The requested amount is reasonable and is preliminarily approved, subject to substantiation of the actual administration costs at final approval.

12. Cy Pres. The settlement is non-reversionary. Any settlement check remaining uncashed 180 days after issuance is to be cancelled and transferred to the State Controller's Unclaimed Property Fund in the name of the Class Member. The parties shall designate a charity under Code of Civil Procedure section 384 and amend the settlement agreement accordingly. If a charity cannot be designated, the parties must explain why this is the case in favor of designating the Unclaimed Property fund.