**1. KAAI v. EMERALD CASCADE RESTAURANT SYSTEMS, INC., 23CV1995**

**Motion for Preliminary Approval of Class Action Settlement**

In this putative class action, plaintiff Branden Kaai ("plaintiff") moves for preliminary approval of his settlement with defendant Emerald Cascade Restaurant Systems, Inc. ("defendant"). No opposition has been filed.

**1. Background and Settlement Terms**

The first amended complaint alleges the following causes of action: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide rest periods and pay missed rest period premiums; (4) failure to provide meal periods and pay missed meal period premiums; (5) failure to maintain accurate employment records; (6) failure to pay wages timely during employment; (7) failure to pay all wages earned and unpaid at separation; (8) failure to indemnify all necessary business expenditures; (9) failure to furnish accurate itemized wage statements; (10) violations of California's Unfair Competition Law (Bus. & Prof. Code, § 17200, et seq.); and (11) violations of the civil penalty provisions recoverable under the Private Attorneys General Act ("PAGA"), Labor Code section 2698, et seq.

Defendant operates restaurants based in California. Plaintiff Branden Kaai worked for defendant as an hourly, non-exempt employee from approximately April 2, 2019, through August 28, 2023.

The parties reached a settlement agreement during a private mediation with Kelly A. Knight. Prior to mediation, defendant produced a sampling of records from 25 percent of randomly selected employees.

The settlement would create a gross settlement fund of $125,000 to be distributed to approximately 272 individuals defined as: "All individuals who are or were employed by Defendants as non-exempt employees in California during the Class Period." The Class Period for these purposes is defined as the period from November 15, 2019, through January 31, 2025.

The class representative payment to plaintiff would be $10,000. Counsel's attorney fees would be one-third of the total settlement (i.e., $41,666.67). Litigation costs would not exceed $15,000.00. Settlement administration costs would not exceed $8,950.00. PAGA penalties would be $12,500, resulting in a payment of $9,375.00 to the Labor and Workforce Development Agency ("LWDA") and $3,125.00 to the settlement class members who worked during the PAGA period (the PAGA period is November 15, 2022, through January 31, 2025).[1] Thus, the net settlement amount available to the class would be approximately $36,883.33.[2] Applicable employer-side payroll taxes would be paid by defendant outside and separate from the gross settlement amount.

The net settlement amount would be distributed to all participating settlement class members based on each member's proportionate number of workweeks worked for defendant during the Class Period.

Counsel has provided a summary of a qualitative analysis of the case, and how the settlement compares to the potential value of the case, after allowing for various risks and contingencies.

**2. Legal Principles**

To protect the interests of absent class members, class action settlements must be reviewed and approved by the court. (*Duran v. Obesity Research Institute, LLC* (2016) 1 Cal.App.5th 635, 646 ["The [trial] court has a fiduciary responsibility as guardians of the

[1] Plaintiff's breakdown of the settlement indicates that the PAGA payment to the LWDA is $9,375.00, which would constitute 75 percent of the PAGA penalties. Plaintiff's breakdown of the settlement does not account for the 25 percent of the PAGA penalties to be paid to the settlement class members who worked during the PAGA period. Based on plaintiff's representation of the PAGA payment to the LWDA, the court calculates the total PAGA penalties as $12,500. 25 percent of $12,500 is $3,125.00.

[2] Plaintiff estimates the net settlement amount is $40,008.33. However, as previously discussed, plaintiff's breakdown of the settlement does not include the $3,125.00 of PAGA penalties to be paid to the settlement class members who worked during the PAGA period.

rights of the absentee class members when deciding whether to approve a settlement agreement"].)

California follows a two-stage procedure for court approval: first, the court reviews the form of the terms of the settlement and form of settlement notice to the class and provides or denies preliminary approval; later, the court considers objections by class members and grants or denies final approval. (Cal. Rules of Ct., rule 3.769.) If the court grants preliminary approval, its order must include the time, date, and place of the final approval hearing; the notice to be given to the class; and any other matters deemed necessary for the proper conduct of a settlement hearing. (Cal. Rules of Ct., rule 3.769, subd. (e).)

The primary determination to be made is whether the proposed settlement is "fair, reasonable, and adequate," under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, including "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 state of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction … to the proposed settlement." (*Ibid.*)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, "[t]he court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter." (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that Neary does not always apply, because "[w]here the rights of the public are implicated, the additional safeguard of judicial review, though more

cumbersome to the settlement process, serves a salutatory purpose." (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

Under PAGA, plaintiffs seek civil penalties that would otherwise by recoverable by the LWDA. (*Iskanian v. CLS Transportation Los Angeles, LLC* (2014) 59 Cal.4th 348, 382.) Any monetary penalties assessed against the defendant are split between the LWDA and aggrieved employees, with 75 percent going to the LWDA.[3] Representative litigants must submit any settlement of a PAGA representative action for court approval. (Lab. Code, § 2699, subd. (s)(2).)

Since the LWDA does not have a proverbial seat at the table, the court's review of a PAGA settlement must make sure that the interests of the LWDA in civil enforcement are defended and that the settlement is fair, adequate, and reasonable under all circumstances. (*O'Connor v. Uber Technologies, Inc.* (N.D. Cal. 2016) 201 F.Supp.3d 1110, 1133; see also Gov. Code, § 12652, subd. (e)(2)(B) [requiring False Claims Act qui tam settlements be "fair, adequate, and reasonable under all of the circumstances"]; see also *Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 46, 62 [noting duty of court to ensure private enforcer brings action in public interest] and *Iskanian*, *supra*, 59 Cal.4th at p. 379 [PAGA cases are brought in public interest].)

**3. Discussion**

The moving papers sufficiently establish that the proposed settlement is fair, reasonable, and adequate to justify preliminary approval. The analysis of the value of the case is sufficient for current purposes.

[3] The law has recently changed such that, for PAGA notices filed on or after June 19, 2024, 65 percent of the recovered penalties go to the LWDA and 35 percent to the aggrieved employees. (Lab. Code, § 2699, subd. (m).) For PAGA notices filed before June 19, 2024, 75 percent of the recovered penalties go to the LWDA and 25 percent to the aggrieved employees. (Lab. Code, § 2699, subd. (v)(1).) In this case, the PAGA notice was filed in 2023.

Additionally, the court finds that the proposed settlement class of approximately 272 persons is sufficiently numerous and its members are readily ascertainable from defendant's records. The court finds that the class has sufficient common questions of law and fact to support a community of interest, given their allegations of common employment policies and practices and the lessened manageability concerns in the settlement context. Plaintiffs and their counsel will be adequate representatives of the class. The court further finds that class treatment for settlement purposes will provide substantial benefits that render it a superior alternative to individual actions.

The court therefore conditionally certifies the following class for settlement purposes: "All individuals who are or were employed by Defendants as non-exempt employees in California during the Class Period." The Class Period for these purposes is defined as the period from November 15, 2019, through January 31, 2025.

The court will not approve the final apportionment of funds to the settlement class members who worked during the PAGA period and the LWDA until the final approval hearing. However, the Court does preliminarily approve of the parties' proposed distribution of the PAGA penalties to the class members in a manner proportional to the total number of pay periods worked by each class member.

**TENTATIVE RULING # 1: THE MOTION IS GRANTED. THE COURT SETS A HEARING FOR THE FINAL APPROVAL OF CLASS ACTION SETTLEMENT AT 1:30 P.M., FRIDAY, DECEMBER 19, 2025, IN DEPARTMENT FOUR. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR**

**IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.**

**2. NAME CHANGE OF GONZALEZ, 25CV0639**

**OSC Re: Name Change**

This matter was continued from May 9, 2025. There were no appearances at the last hearing.

As noted in the court's tentative ruling issued May 8, 2025, petitioner has not stated the reason for the requested name change. (Code Civ. Proc., § 1276, subd. (a)(2).) Additionally, there is no proof of publication in the court's file. (Code Civ. Proc., § 1277, subd. (a)(2)(A).)

**TENTATIVE RULING # 2: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JUNE 27, 2025, IN DEPARTMENT FOUR.**

**3. NAT'L CREDIT ACCEPTANCE v. OWEN, ET AL., SCL20070084**

**Order of Examination Hearing**

This matter was continued from February 28 and April 25, 2025, because both times, the judgment-debtor did not bring the documents necessary to proceed with the Order of Examination.

**TENTATIVE RULING # 3: THE JUDGMENT DEBTOR'S PERSONAL APPEARANCE IS REQUIRED AT 1:30 P.M., FRIDAY, JUNE 27, 2025, IN DEPARTMENT FOUR.**

**4. TYLER, ET AL. v. SMITH, ET AL., 25CV0549**

**Motion for Leave to File First Amended Cross-Complaint**

Before the court is the unopposed motion of defendants / cross-complainants Nicholas Smith, Judith Smith, and the Nicholas Dee and Judith Ann Smith Trust for leave to file the proposed first amended cross-complaint.

Cross-complainants state they recently realized that the fifth cause of action for a claim on plaintiff Zen Builders, LLC's bond against Hudson Insurance Company was inadvertently omitted from the cross-complaint and are now seeking to amend the cross-complaint to include said claim. Moreover, cross-complainants state that Hudson is a necessary party under Code of Civil Procedure section 389, subdivision (a) because it is the holder of the construction bond issued to plaintiff Zen Builders.

Good cause appearing, and absent objection, the motion is granted.

**TENTATIVE RULING # 4: MOTION IS GRANTED. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.**

**5. ONEMAIN FINANCIAL GROUP, LLC v. KRUEGER, 23CV0926**

**OSC Re: Dismissal**

This action was filed on June 8, 2023. To date, there is no proof of service of summons in the court's file.

**TENTATIVE RULING # 5: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JUNE 27, 2025, IN DEPARTMENT FOUR.**

**6. KUMAR v. KOHS, ET AL., SC20180225**

**Plaintiff's Motion for Attorney Fees and Costs**

Pursuant to Code of Civil Procedure section 128.5, subdivision (f)(1)(C), plaintiff moves the court to award him $21,509.65 in attorney fees and costs incurred in opposing defendants' motion for sanctions, which was brought under Code of Civil Procedure sections 128.5 and 128.7 (defendants' motion was filed Feb. 24, 2025, and denied May 2, 2025).

Defendants oppose the motion.

**1. Background**

On February 24, 2025, defendants Monica Kohs, Kelly Ramsey, and Elizabeth Pintar filed a joint motion for sanctions against plaintiff, including terminating sanctions, under Code of Civil Procedure sections 128.5 and 128.7. Defendants claimed plaintiff's lawsuit is frivolous under Code of Civil Procedure sections 128.5 and 128.7 because: (1) the suit is time barred under the 60-day deadline to challenge TRPA procedures under the Tahoe Regional Planning Compact; (2) even if the 60-day deadline under the TRPA Compact does not apply, plaintiff's action is still time-barred under the applicable state law statute of limitations; (3) plaintiff's claims are preempted by federal law; (4) defendant Ramsey is not liable because he was a good-faith purchaser; and (5) plaintiff's claim that he owns the coverage rights is frivolous.

Plaintiff opposed defendants' motion.

On April 25, 2025, defendants filed a reply, as well as an "offer of proof" containing over 600 pages of documents.

On May 2, 2025, the court adopted its tentative ruling denying defendants' motion as the final order. The court found that the 60-day deadline to challenge TRPA procedures does not apply (in the court's Apr. 12, 2024, ruling on defendants' motion for summary judgment, the court determined that the applicable statute of limitations was four years and that there was a triable issue of material fact as to whether plaintiff's

complaint is time-barred). The court noted that the parties previously litigated the preemption issued in federal court, which found that no substantial federal question exists in this case. Next, the court found that defendant Ramsey's claim that he is a good faith purchaser is a defense to plaintiff's claims and does not have any bearing on whether plaintiff's suit is frivolous. And lastly, the court found that plaintiff's claim that he owns the coverage rights is not frivolous, reasoning that, unless plaintiff's claims are time-barred, he is entitled to judgment as a matter of law on nearly every cause of action.

**2. Discussion**

Code of Civil Procedure section 128.5 provides in part: "If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees." (Id., subd. (f)(1)(C).)

Plaintiff was the prevailing party on defendants' motion for sanctions and, because most of defendants' claims had previously been litigated, the court finds that awarding sanctions to plaintiff under Code of Civil Procedure section 128.5, subdivision (f)(1)(C) for opposing defendants' motion is appropriate in this case.

Plaintiff's counsel declares his current hourly rate is $465 and he spent 37.25 hours opposing defendants' motion for sanctions (plus an additional five hours preparing the instant motion). (McGuffin Decl., ¶ 18 & Ex. 1.) Additionally, plaintiff's counsel declares he incurred $630.90 in costs related to defendants' motion. (McGuffin Decl., ¶ 19 & Ex. 1.)

Having reviewed and considered the declaration from plaintiff's counsel, the court finds that $11,059.20 is a reasonable sanction against defendants and defense counsel (23.75 hours of legal work at $465/hr., plus $15.45 in filing fees).

**TENTATIVE RULING # 6: PLAINTIFF'S MOTION IS GRANTED. PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 128.5, SUBDIVISION (f)(1)(C), DEFENDANTS AND DEFENSE COUNSEL ARE JOINTLY AND SEVERALLY LIABLE FOR THE PAYMENT OF $11,059.20 TO PLAINTIFF'S COUNSEL WITHIN 30 DAYS OF NOTICE OF ENTRY OF ORDER. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.**

**7. GABLER v. LENNEX, 23CV1351**

**OSC Re: Contempt / Failure to Comply**

On June 2, 2025, plaintiff / judgment creditor Scott Gabler filed a proof of service showing personal service of this continued hearing on defendant / judgment debtor on May 23, 2025.

**TENTATIVE RULING # 7: JUDGMENT DEBTOR'S PERSONAL APPEARANCE IS REQUIRED AT 1:30 P.M., FRIDAY, JUNE 27, 2025, IN DEPARTMENT FOUR.**