

SUPERIOR COURT OF CALIFORNIA - COUNTY OF FRESNO Civil Department - Non-Limited		Entered by:
TITLE OF CASE: Cruz Soto vs. Espinoza Brothers Food Distribution, Inc. / COMPLEX / CLASS ACTION		
LAW AND MOTION MINUTE ORDER		Case Number: 22CECG03830

Hearing Date: **August 7, 2025** Hearing Type: **Motion - Prelim Approval Class Settlement; Case Management Conference**
 Department: **503** Judge: **Jon M Skiles**
 Court Clerk: **J. Xiong** Reporter: **Not Reported**

Appearing Parties:	
Plaintiff: Not Present	Defendant: Not Present
Counsel:	Counsel:

☐ Off Calendar

☒ Continued to April 9, 2026 at 3:30 PM in Department 503 for Case Management Conference.

☒ Set for April 9, 2026 at 3:30 PM in Department 503 for Motion – Final Approval Class Settlement.

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

☐ Upon filing of points and authorities.

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

☐ Taken under advisement

☒ No party requested oral argument pursuant to Local Rule 2.2.5 and CRC 3.1308(a)(1).

☒ Tentative ruling becomes the order of the court. No further order is necessary.

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

☒ Service by the clerk will constitute notice of the order.

☒ See attached copy of the Tentative Ruling.

☐ Judgment debtor ___ sworn and examined.

☐ Judgment debtor ___ failed to appear.
 Bench warrant issued in the amount of \$ ___

JUDGMENT:

☐ Money damages ☐ Default ☐ Other ___ entered in the amount of:
 Principal \$___ Interest \$___ Costs \$___ Attorney fees \$___ Total \$___
☐ Claim of exemption ☐ granted ☐ denied. Court orders withholdings modified to \$___ per ___

FURTHER, COURT ORDERS:

☐ Monies held by levying officer to be ☐ released to judgment creditor. ☐ returned to judgment debtor.
☐ \$___ to be released to judgment creditor and balance returned to judgment debtor.

☒ Other: Counsel is to file an updated joint status report with the court 10 days before the next hearing. Upon Court's own motion, Zoom is authorized for the next status conference hearing.

(34)

Tentative Ruling

Re: **Soto v. Espinoza Brothers Food Distribution, Inc., et al.**
Superior Court Case No. 22CECG03830

Hearing Date: August 7, 2025 (Dept. 503)

Motion: by Plaintiffs for Preliminary Class Certification and Settlement Approval

Tentative Ruling:

To grant.

The motion for final approval and for an award of fees and costs will be heard on April 9, 2026 at 3:30 p.m. in Department 503. Papers for such motions need be filed and served no later than March 18, 2026.

Explanation:

Plaintiffs Cruz Soto and Monica Nanelly Garcia reached a settlement of their putative class action and PAGA action alleging wage and hour violations against their former employers, defendants Espinoza Brothers Food Distribution, Inc. and Espinoza Brothers Enterprises, LLC. Plaintiffs move to have the class certified for the purpose of settlement, and to have the court approve the settlement. From the gross settlement amount of \$190,000 the following payments will be made: \$66,500 (35%) to class counsel, \$18,790.76 litigation costs, \$7,500 to each class representative, \$7,750 to the Settlement Administrator ILYM Group, Inc. Ten thousand dollars is to be paid from the gross settlement to settle the PAGA claims and will be paid \$7,500 to the LWDA and \$2,500 in penalties apportioned to the aggrieved employees.

1. Class Certification

Settlements preceding class certification are scrutinized more carefully to make sure that absent class members' rights are adequately protected, although there is less scrutiny of manageability issues. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 240; see *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1803, fn. 9.) The trial court has a "fiduciary responsibility" as the guardian of the absentee class members' rights to decide whether to approve a settlement of a class action. (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 95.)

A precertification settlement may stipulate that a defined class be conditionally certified for settlement purposes. The court may make an order approving or denying certification of a provisional settlement class after the preliminary settlement hearing. (Cal. Rules of Court, rule 3.769(d).) Before the court may approve the settlement, however, the settlement class must satisfy the normal prerequisites for a class action. (*Amchem Products, Inc. v. Windsor* (1997) 521 US 591, 625-627.)

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

Plaintiffs bear the burden of establishing the propriety of class treatment with admissible evidence. (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470 [trial court's ruling on certification supported by substantial evidence generally not disturbed on appeal]; *Lockheed Martin Corp. v. Superior Court* (2003) 29 Cal.4th 1096, 1107-1108 [plaintiff's burden to produce substantial evidence].)

The court has previously considered the evidence submitted to support preliminary class certification for purposes of settlement and found class certification is the superior method of resolving this case. The request to certify the class for the purpose of approving the settlement as granted on June 4, 2025.

2. Settlement Approval

"[I]n the final analysis it is the Court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing litigation. The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129.) "[T]o protect the interests of absent class members, the court must independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished ... [therefore] the factual record must be before the ... court must be sufficiently developed." (*Id.* at p. 130.)

The court previously found the gross settlement amount of \$190,000, inclusive of the class and PAGA claims was fair and reasonable for purposes of settlement approval. Additionally, the proposed class notice has been found adequate.

Plaintiffs' counsel seeks up to \$66,500 (35% of the gross settlement) in attorneys' fees, and actual costs of \$18,790.76. Thirty-five percent is within the range of fees that have been approved by other courts in class actions, which frequently approve fees based on a percentage of the common fund. (*City & County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-11; *Quinn v. State* (1975) 15 Cal.3d 162, 168; see also *Apple Computer, Inc. v. Superior Court* (2005) 126 Cal.App.4th 1253, 1270; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26.)

While it is true that courts have found fee awards based on a percentage of the common fund are reasonable, the California Supreme Court has also found that the trial court has discretion to conduct a lodestar "cross-check" to double check the reasonableness of the requested fees. (*Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th

480, 503-504 [although class counsel may obtain fees based on a percentage of the class settlement, courts may also perform a lodestar cross-check to ensure that the fees are reasonable in light of the number of hours worked and the attorneys' reasonable hourly rates].)

The court prefers to do a lodestar analysis as a cross-check on the reasonableness of the fees. In support of preliminary approval, the Supplemental Declaration of John G. Yslas provides the qualifications for each of the attorneys and a chart summarizing the rates and hours billed by each attorney of the Wilshire Law Firm, APLC. The evidence provided is sufficient to support preliminary approval. Counsel shall provide an updated lodestar analysis with the final approval motion and documentation of all costs sought to be recovered.

The motion seeks preliminary approval of a \$7,500 enhancement payments to each plaintiff. Plaintiffs' declarations submitted on May 12, 2025 in support of the preliminary approval of the settlement describe similar concerns of future employability after participation in a lawsuit against their employer and working an estimated 50 hours to assist in the prosecution of the case. (Garcia Decl., ¶¶ 12-13, 17; Soto Decl., ¶¶ 12, 15-16.) The enhancement payments requested are greater in proportion to the gross settlement than the usual 1.5%. Although this doesn't prevent granting preliminary approval, plaintiffs' declarations submitted with a motion for final approval should include evidence of more than speculative risk in future employability to support an incentive award greatly disproportionate to the payments to class members. The court may award less than the agreed upon amount on final approval.

The settlement allocates \$7,750 to settlement administration costs paid to ILYM Group, Inc., and provides ILYM's quote. (Mullins Decl., ¶¶ 9-10, Exh. C.) The administrator shall provide an update of the expected total actual costs with the final approval motion.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling

Issued By: JS **on** 8/1/2025
(Judge's initials) (Date)

SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO Civil Unlimited Department, Central Division 1130 "O" Street Fresno, California 93724-0002 (559) 457-1900	FOR COURT USE ONLY
TITLE OF CASE: Cruz Soto vs. Espinoza Brothers Food Distribution, Inc. / COMPLEX / CLASS ACTION	
CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE	CASE NUMBER: 22CECG03830

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

- ☒ I certify that, pursuant to California Rules of Court, rule 2.251, and Code of Civil Procedure section 1010.6, the following document(s) have been electronically served by the Superior Court of California, County of Fresno. The list of electronically served recipients are listed below.
- ☐ Placed in a sealed envelope and:
- ☐ Deposited with the United States Postal Service, mailed first class, postage fully prepaid and addressed as shown below.
- ☐ Placed for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this court's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

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

Date: **August 8, 2025**

Clerk, by J. Xiong, Deputy

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☐ Clerk's Certificate of Mailing Additional Address Page Attached