

3 Joseph Clapp, Esq, SBN 99194
4 Aiman-Smith & Marcy
5 7677 Oakport St. Suite 1000
6 Oakland, CA 94621
7 T 510.590.7115
8 F 510.562.6830
9 jc@asmlawyers.com

10 Attorneys for Plaintiff
11 LARRY JENKINS

12 SUPERIOR COURT OF CALIFORNIA
13 COUNTY OF SAN JOAQUIN
14 UNLIMITED JURISDICTION

15 LARRY JENKINS, an individual,

16 Plaintiff,

17 v.

18 SUNVIEW LOGISTICS INC., a
19 corporation; SPEED INTERMODAL, a
20 business entity, form unknown; and
21 DOES 1-25, inclusive,

22 Defendants.

Case No. STK-CV-UOE-2023-0012580

**Notice of Motion and Motion for Order
Approving the Dismissal of Class and PAGA
Claims Without Prejudice**

Date:

Time: 9:00

Dept.: 10B

Judge: Hon. Blanca Banuelos

1 TO EACH PARTY AND ATTORNEY OF RECORD:

2 PLEASE TAKE NOTICE THAT Plaintiff Larry Jenkins hereby moves for an order
3 approving the dismissal, without prejudice, of the class claims and of the PAGA (Labor
4 Code Sec. 2698 *et seq.*)_claims contained in his Complaint. This motion is made on the
5 ground that Plaintiff Larry Jenkins is not willing to bear the burden or the responsibility of
6 being a class representative, and he is not willing to bear the burden or the responsibility of
7 being a relator in a PAGA action. The portion of the motion for approval of the dismissal of
8 the class claims is made pursuant to C.C.P Section 581(e) and C.R.C. 3.770, and the portion
9 of the motion for approval of the dismissal of the PAGA claims is made pursuant to C.C.P.
10 Section 581(e) and Labor Code Section 2699(s)(2). This motion is based on the attached
11 Supporting Memorandum, on the accompanying Declaration of Joseph Clapp, on the
12 accompanying Declaration of Larry Jenkins, and on the papers on file in this action. The
13 hearing on this motion will take place on October __, 2025, at 9:00 a.m., in Department
14 10B of the above-captioned court.
15

16 Respectfully submitted,

17
18 Dated: September 5, 2025

19
20
21
22
23
24
25
26
27
28
AIMAN-SMITH MARCY
A PROFESSIONAL CORPORATION

29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

Supporting Memorandum

1. Before trial a plaintiff may dismiss, without prejudice, any cause of action asserted in his Complaint. C.C.P. Sec. 581(e).

2. The dismissal of an entire class action or any cause of action in a class action requires

1 court approval. C.R.C. 3.770(a).

2 3. If the court has not ruled on class certification, and if the court finds that the dismissal
3 will not prejudice class members, then the action may be dismissed without notice to the class
4 members. C.R.C. 3.770(c).

5 4. Requests for dismissal must be accompanied by a declaration setting forth the facts on
6 which the party relies. The declaration must clearly state whether consideration, direct or indirect, is
7 being given for the dismissal and must describe the consideration in detail. C.R.C. 3.770(a).

8 5. The superior court shall review and approve any settlement of any civil action filed
9 pursuant to PAGA. The proposed settlement shall be submitted to the Labor and Workforce
10 Development Agency at the same time it is submitted to the court. Labor Code Sec. 2699(s)(2).
11

12
13 Respectfully submitted,

14
15 Dated: September 5, 2025

16
17
18
19
20
21
22
23
24
25
26
27
28
AIMAN-SMITH MARCY
A PROFESSIONAL CORPORATION

Joseph Clapp, Esq.
Attorneys for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

I, the undersigned, hereby declare: I am employed in the County of Alameda, California; I am over eighteen years of age and not a party to the within action. I am either admitted to practice before this Court or employed in the office of an attorney admitted to practice in this Court. My business address is 7677 Oakport, Suite 1150, Oakland, California 94621.

On this date, I served the following:

**Notice of Motion and Motion for Order Approving the Dismissal
of Class and PAGA Claims Without Prejudice**

addressed as follows:

Paul J. Bauer, Esq. Michael J. Conway, Esq. Sagaser, Watkins & Wieland PC 5260 North Palm Ave., Ste. 400 Fresno, CA 93704	<i>Attorneys for Defendants</i> Sunview Logistics Inc. and Speed Intermodal
---	---

X [By U.S. Mail]] I caused such envelope, with postage fully prepaid, to be placed in the United States mail at Oakland, California.

_____ [By E-Mail]] I caused such document to be electronically transmitted via the Internet to (email address) from Oakland, California.

_____ [By Electronic Transmission] I hereby certify that on this date, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and service via transmittal of a Notice of Electronic Filing.

_____ [By Overnight Delivery] UPS and or FedEx is a provider of overnight delivery services. I placed the above described document(s) in an envelope or package designated for use by UPS and/or FedEx, and delivered said designated envelope to an authorized Office or drop box of UPS at Oakland, California, with delivery fees for overnight delivery fully prepaid, and addressed to the addressee(s) above.

_____ [By Personal Service] I caused such envelope to be delivered by hand to the above address.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: September 5, 2025

Joseph Clapp