

FILED
Superior Court of California
County of Los Angeles

03/26/2026

David W. Slayton, Executive Officer / Clerk of Court

By: A. Rosas Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

Wang v. Yuejie, Inc.
25STCV01728

Dept. 12 SSC

Hon. Carolyn B. Kuhl

Date of Hearing: March 25, 2026

Motion for Leave for Precertification Discovery

Court's Ruling: The Motion is denied. Plaintiff's former counsel is free to make appropriate informal efforts to find a new class representative. If Plaintiff's former counsel is unable to substitute a new class representative within 90 days of this order, any party may request dismissal of the class allegations under California Rules of Court, rule 3.770.

Plaintiff filed this putative class action on January 21, 2025, asserting claims against Defendants for alleged violations of the Labor Code, including a PAGA claim. The Complaint was drafted by Tony Zhao and Linz Zhan of Emanate Law Group (Counsel).

In response to written discovery served on June 11, 2025, Defendants produced "approximately 500 pages of documents before the October 21, 2025 mediation. These documents included timekeeping and payroll records for putative class members and aggrieved employees, as well as relevant employment policies." (Zhan Decl., ¶ 9.) In order to prepare for mediation, Counsel reviewed this production. (Zhan Decl., ¶¶ 10-12.)

On October 22, 2025, Plaintiff individually filed a MC-050 form substitution of attorney, notifying this court and all parties that she has chosen to represent herself. However, Counsel did not sign or consent to this substitution. Accordingly, Plaintiff continued to be represented by Counsel. (Code Civ. Proc., § 284; see also Cal. Prac. Guide Civ. Pro. Before Trial (The Rutter Group) Ch. 9(I)-G ¶ 9:380 ["If mutual consent is not obtainable, a court order is required. Either the client or attorney may seek

such order upon noticed motion served on the other and upon all other parties who have appeared in the case”].)

On November 5, 2025, Plaintiff, without the assistance of counsel, filed a motion seeking to be removed from this action. No hearing was ever set for the motion that was filed by Plaintiff. In a declaration filed in support of that motion, Plaintiff claims that she “retained former counsel solely for an individual wage claim, not a class action nor a PAGA representative action.” (Wang Decl., filed Nov. 5, 2025.) Plaintiff further claims that she “never gave informed authorization to serve as a class representative or PAGA representative.” (Wang Decl., filed Nov. 5, 2025.) The declaration is signed under penalty of perjury. Plaintiff subsequently filed further documentation in support of her motion. (See “Supplemental Filing,” Nov. 7, 2025.) One of the documents is the “fee agreement” between Plaintiff and Counsel from September 6, 2024, which does not mention class or PAGA claims.

Counsel now disputes Plaintiff’s factual claims. Counsel claims that Plaintiff agreed to “proceeding on a class and representative basis” (Supp. Zhan Decl., ¶ 5.) Counsel states that there is documentation supporting this factual claim that can be submitted for in camera review if the court so wishes.

At a status conference on November 18, 2025, Plaintiff’s counsel failed to appear and Plaintiff appeared in propria persona.

On December 15, 2025, Counsel filed a MC-050 form substitution of attorney which includes signatures by both Plaintiff and Counsel. Plaintiff is thus no longer represented by Counsel in this action.

On January 12, 2026, Counsel—who longer represents any party in this action—filed the instant Motion, requesting leave to identify and substitute a new class representative. Counsel seeks an order requiring Defendant to provide the names of putative class members to a third-party administrator for the purposes of a *Belaire-West* opt-out procedure meant to identify a new class representative that can be represented by Counsel in this action.

Discussion

Even where the named plaintiff in a putative class action is no longer able or willing to proceed on behalf of the class, the court often has the discretion to compel the defendant to provide the plaintiff’s counsel with a list of putative class members so that counsel can seek a new representative for the class. When a plaintiff files a putative class action, both the court

and the original plaintiff's counsel take on certain fiduciary responsibilities with respect to the absent putative class members. (See, e.g., *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129; *Pirjada v. Superior Court* (2011) 201 Cal.App.4th 1074, 1087 (*Pirjada*) [noting that plaintiff's counsel assumed a fiduciary duty to the members of the class by serving as counsel in a putative class action].) Thus, the fact that the original plaintiff in a putative class action can no longer serve as the class representative does not necessarily mean that plaintiff's counsel or the court is powerless to protect the interests of the putative class members.

However, "[p]recertification class discovery is not a matter of right. Class actions rest on considerations of equity and justice. Before allowing class counsel to find a viable class representative, trial courts must apply a balancing test and weigh the actual or potential abuse of the class action procedure against the potential benefits that might be gained." (*Starbucks Corp. v. Superior Court* (2011) 194 Cal.App.4th 820, 825; see also *Parris v. Superior Court* (2003) 109 Cal.App.4th 285, 300-301.)

Courts typically deny motions seeking class contact information where the original plaintiff never had standing to assert the class claims; courts do so in order to prevent "strangers to the litigation" from using the class action procedure as a "fishing expedition" by which they can find suitable class representatives *after* the litigation has been filed. (See *First American Title Ins. Co. v. Superior Court* (2007) 146 Cal.App.4th 1564, 1566, 1576-1577 (*First American*).) Such motions are denied because a court "cannot permit attorneys to make an 'end-run' around Proposition 64 by filing class actions in the name of private individuals who are not members of the classes they seek to represent and then using precertification discovery to obtain more appropriate plaintiffs." (*Id.* at p. 1577.)

Pirjada is illustrative of how these principles can be applied where the original plaintiff is unable or unwilling to proceed with the litigation. There, the plaintiff was not just an unsuitable class representative; instead, the plaintiff entered into an individual settlement with the defendant and instructed his counsel to dismiss his claims with prejudice. (*Pirjada, supra*, 201 Cal.App.4th at p. 1079.) Although its client had settled his claims, the plaintiff's counsel "did not dismiss the lawsuit," but instead "moved for an order providing notice to members of the proposed class that substitution of a suitable class representative was necessary." (*Id.*) The defendant then filed a motion to dismiss the action under California Rules of Court, rule 3.770, which motion was joined by the individual plaintiff. (*Id.* at p. 1080.) Despite the fact that the plaintiff's counsel was clearly no longer representing the named plaintiff, the trial court denied the defendant's and the plaintiff's motion to dismiss the class action. (*Id.*) Subsequently, the

plaintiff's counsel moved to compel the defendant to provide contact information for the putative class members. (*Id.*, at p. 1081.) The defendant opposed the motion to compel, claiming, inter alia, that the plaintiff's counsel "had no right and no standing to seek to compel [discovery] responses because the discovery had been served by [the plaintiff]." (*Id.*) The trial court exercised its discretion to deny the motion to compel, though it noted that counsel had been "given the opportunity to locate a representative informally." (*Id.* at pp. 1081-1082.)

The appellate court ultimately concluded that it was within the trial court's "broad discretion" to deny the motion to compel. (*Id.* at pp. 1087-1088.) However, the appellate court also explained that the trial court nonetheless had discretion to grant the motion and allow the plaintiff's counsel to seek contact information for the benefit of the putative class members:

As [defense] counsel surely knew, [the plaintiff's] agreement to request his lawyer dismiss the case with prejudice was not self-executing and, in fact, was only the first step in a process that requires court approval of any such dismissal [citation]. Because [the plaintiff], as well as his counsel, assumed a fiduciary duty to the members of the class when he sued on their behalf [citation], he may have been required by the court, as a condition of approval of his settlement, to assist in an effort to find a suitable substitute class representative. [Citations.] ... Accordingly, although it did not do so, in the circumstances presented here it would not have been an abuse of discretion for the superior court to have acted to safeguard the rights of potential class members by granting the motion to compel and requiring [the defendant] to provide names and contact information using the third party administrator, opt-out procedure approved by the Supreme Court [in prior cases].

(*Pirjada v. Superior Court* (2011) 201 Cal.App.4th 1074, 1086-1087.)

While Counsel is not, as a general matter, without the ability to seek a discovery order on behalf of the putative class members, the relevant balancing test as applied to the facts in this action weighs in favor of denying the instant Motion.

Plaintiff believes that she never authorized Counsel to pursue class and PAGA claims in her name. To be sure, Counsel disputes Plaintiff's recollection of the parties' agreements. Without resolving this attorney-

client dispute, this court can nonetheless conclude that there exists a risk that an attorney could abuse the class action procedure by improperly filing class and PAGA claims on an employee's behalf with the hope that either (1) the employee would acquiesce to class settlement, or (2) the attorney could simply move to compel disclosure of another employee that might, unlike the first employee, be willing to represent the putative class members. As Defendants put it, Counsel's position amounts to the principle that "[a]ny attorney in California can file unauthorized class and PAGA claims in a client's name, use that person as a placeholder, get discharged when the client discovers what happened, and then obtain court-ordered *Belaire-West* discovery to mine the defendant's employee records for a willing replacement." (Defs' Opp., at p. 14.) The court notes that there is no caselaw cited by Counsel in which a former counsel's precertification discovery motion was granted under these circumstances.

Unlike in *Pirjada*, here it is not clear that Plaintiff "assumed a fiduciary duty to the members of the class when [s]he sued on their behalf." (*Pirjada*, *supra*, 201 Cal.App.4th at p. 1087.) Instead, it is at least possible that this putative class action is more akin to a case where "strangers to the litigation" embark on a "fishing expedition" by which they hope to find a suitable class representative *after* the litigation is filed. (See *First American*, *supra*, 146 Cal.App.4th at pp. 1566, 1576-1577.)

While the risk of potential abuse of the class action procedure is clear, the potential benefits flowing from granting the Motion are less so. This is not a case where the court can conclude that a substantial amount of time and resources have been invested by the parties. Counsel recounts certain delays in accomplishing mediation which led Counsel to propound formal discovery. However, Counsel's only real investment comes in in the form of Counsel's review of Defendant's discovery responses, but Counsel has failed to sufficiently quantify that work by specifying the hours spent. This court cannot conclude that a significant amount of work would be wasted if this class were dismissed and putative class members subsequently filed their own cases against Defendants.

Moreover, unlike the counsel in *CashCall, Inc. v. Superior Court* (2008) 159 Cal.App.4th 273, 293, a case which involved "secret monitoring of telephone calls," Counsel here has failed to show that the putative class members will likely be unable to discover whether they have suffered wage-and-hour violations if they are not contacted by Counsel pursuant to a *Belaire-West* opt out process. Here, Plaintiff was able to file the alleged class claims without having access to the discovery that was ultimately obtained by Counsel in this litigation. The reasons why Plaintiff allegedly

was improperly characterized as exempt would be apparent to an employee who was aware of his legal rights.

Finally, Counsel fails to demonstrate that *American Pipe* tolling would not apply to the putative class members' claims that were alleged in this action; the court thus cannot conclude that dismissal of the class claims here would immediately result in waiver of putative class members' right to bring such claims in their own actions. (See, e.g., *Hildebrandt v. Staples the Office Superstore, LLC* (2020) 58 Cal.App.5th 128, 136, discussing the application of *American Pipe & Const. Co. v. Utah* (1974) 414 U.S. 538 ["the statute of limitations is tolled from the time of commencement of the suit to the time of denial of certification for all purported members of the class who either make timely motions to intervene in the surviving individual action ..., or who timely file their individual actions"], internal citations and quotation marks omitted.) Counsel has failed to cite any authority suggesting that putative class members' claims would not be tolled simply because Plaintiff may have not been willing to serve as a class representative at the time she filed this litigation.

Date : 3/26/2026



A handwritten signature in black ink that reads "Carolyn B. Kuhl".

Carolyn B. Kuhl / Judge
Judge of the Los Angeles Superior Court