SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

COMPLEX Law and Motion Calendar
Honorable Mark A. McCannon
1050 Mission Road, South San Francisco, CA 94080
Department 2, Courtroom K
Thursday 10/15/2026 at 3:00 pm

If you intend to appear on any case on this calendar, you must give notice by 4:00 pm the court day before the hearing pursuant to California Rules of Court, Rule 3.1308(a)(1), and San Mateo County L.R. 3.403(b).

Failure to comply with notice as outlined will result in no oral presentation.

Notice of Appearance and Courtesy Copies

1. **Email Dept2@SanMateoCourt.org before 4:00 pm the court day before with a copy to all parties or their counsel of record. The email must include the name of the case, the case number, and the name of the party contesting the tentative ruling OR call (650) 261-5102 before 4:00 pm the court day before and follow the instructions on the message.**

2. **Courtesy Copies: You must email a copy of any reply brief, or an Opposition to a Motion for Summary Judgment in an Unlawful Detainer matter to: LawAndMotionReplyBriefs@SanMateoCourt.org**

Day of Hearing

Appearances can be In Person or Remote. If appearing remotely by Zoom, please use your first and last name and mute your audio until your case is called. All parties must use a device with a camera if you are appearing remotely. Please login to the zoom hearing by 1:50 pm.

Remote Appearance Zoom Information

RECORDING OF A COURT PROCEEDING IS STRICTLY PROHIBITED.

https://sanmateocourt.zoomgov.com/
Meeting ID: 160 135 4419
Password: 845111

TO ASSIST THE COURT REPORTER, the parties are ORDERED to: (1) state their name each time they speak and only speak when directed by the Court; (2) not to interrupt the Court or anyone else; (3) speak slowly and clearly; (4) connect from a computer if at all possible, rather than a cell phone; (5) if a cell phone is absolutely necessary, the parties must be stationary and not driving or moving; (6) no speaker phones under any circumstances; (7) provide the name and citation of any cases referenced; and (8) spell all names, even common names.

Case **Title / Nature of Case**

3:00 PM
LINE: 1

25-CIV-02406 **SERGIO LOPEZ VS DAIRYLAND PRODUCE, LLC**

SERGIO LOPEZ	**MEHRDAD BOKHOUR**
DAIRYLAND PRODUCE, LLC	**ALEXANDER SIMON**

DEFENDAN DAIRYLAND PRODUCE, LLC'S MOTION TO COMPEL ARBITRATION OF INDIVIDUAL PAGA CLAIM AND STAY REPRESENTATIVE CLAIM OR, IN THE ALTERNATIVE, STAY ACTION PENDING ADJUDICATION OF FIRST-FILED CASE; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

TENTATIVE RULING:

Defendant Dairyland Produce, LLC's Motion is **GRANTED**. Plaintiff Sergio Lopez shall arbitrate the individual component of his PAGA claim. The representative, non-individual PAGA claim is **STAYED** pending completion of arbitration.

Defendant's requests for judicial notice are **GRANTED** as to the existence and contents of the court records submitted from the related action, *Sergio Lopez v. Dairyland Produce, LLC*, Case No. 25-CIV-00662. Defendant specifically submits the September 25, 2025 ruling compelling Plaintiff to arbitrate his individual claims in that action. Request for Judicial Notice DEF…

The Court notes that the moving and opposing papers continue to identify Department 11. The matter is assigned to Department 2, Northern Branch, Courtroom K, 1050 Mission Road, South San Francisco, California 94080.

FORMATION OF THE ARBITRATION AGREEMENT

Defendant has established by a preponderance of the evidence that Plaintiff entered into the Arbitration Agreement.

Human Resources Director Jennifer Farinha explains that Dairyland used the secure DayForce onboarding platform; each employee accessed the system through a unique username and employee-created password; Dairyland could not access the employee's password; and Plaintiff electronically signed the Arbitration Agreement through DocuSign on July 24, 2023. Defendant also produced the electronically signed agreement and audit information showing Plaintiff contemporaneously completed other personalized onboarding documents through the same account.

Plaintiff does not affirmatively deny that he electronically signed the agreement. He presently states that he does not recall whether the Arbitration Agreement was included among his onboarding documents. In the related class action, however, Plaintiff previously declared that the Arbitration Agreement was included within the onboarding documents he was required to complete. His present lack of recollection does not outweigh Defendant's documentary and electronic evidence of execution.

The Court therefore finds that the parties entered into the Arbitration Agreement.

DELEGATION OF ARBITRABILITY

The Arbitration Agreement expressly delegates threshold issues of arbitrability to the arbitrator. It provides that, except for enforceability of the Class Action Waiver and Representative Action Waiver, the arbitrator has the **exclusive authority** to resolve disputes concerning the agreement's formation, interpretation, applicability, enforceability, and the arbitrability of any claim.

Plaintiff argues that the exception for judicial determination of the class and representative waivers renders the delegation provision internally inconsistent and therefore not "clear and unmistakable." The Court disagrees. The exception defines the scope of the delegation; it does not assign the same gateway issue simultaneously to both the court and the arbitrator. The agreement plainly identifies the two issues reserved for judicial determination and delegates the remaining arbitrability issues to the arbitrator.

The Court reaches the same conclusion reached in the related class action. There, the court expressly found this delegation clause clear and unmistakable and concluded that the carve-out for the class and representative waivers did not detract from the parties' intent to delegate arbitrability.

PLAINTIFF'S CHALLENGE TO THE DELEGATION PROVISION

Unlike in the earlier proceeding, Plaintiff now specifically argues that the delegation provision itself is unconscionable. The Court therefore considers that challenge.

There is some procedural unconscionability. Defendant acknowledges that execution of the Arbitration Agreement was a condition of employment and part of the onboarding process. Plaintiff also declares that he was presented with numerous onboarding documents, was not told he could negotiate the arbitration requirement, and was not provided a Spanish translation.

The degree of procedural unconscionability, however, is not sufficient by itself to invalidate the delegation provision. The Arbitration Agreement was a separate written agreement and expressly advised the employee, immediately above the signature portion, that execution waived jury, class, collective, and representative procedures and advised the employee to seek legal advice.

More importantly, Plaintiff has not established substantive unconscionability of the **delegation provision itself**.

Plaintiff argues that the delegation arrangement is one-sided because ordinary enforceability issues are sent to the arbitrator while enforceability of the class and representative waivers is reserved for the Court. But that allocation applies equally to both parties. Neither party may obtain judicial resolution of an issue expressly delegated to the arbitrator, and either party may obtain judicial resolution concerning the two waiver provisions. Plaintiff has not shown that this allocation is unreasonably favorable to Defendant.

Plaintiff also relies on the Arbitration Agreement's confidentiality requirement, injunctive-relief provision, broad scope, and other provisions to attack the delegation clause. Those arguments principally challenge the enforceability of the Arbitration Agreement as a whole. Plaintiff has not shown that those provisions render the

agreement to delegate arbitrability itself substantively unconscionable. Accordingly, once the delegation provision is enforced, Plaintiff's remaining challenges to the Arbitration Agreement are for the arbitrator to determine.

The Court therefore does not reach Plaintiff's agreement-wide unconscionability arguments concerning confidentiality, scope, injunctive relief, or other arbitral procedures.

REPRESENTATIVE ACTION WAIVER

The enforceability of the Representative Action Waiver is expressly excluded from the delegation provision and therefore remains for the Court.

The Arbitration Agreement contains a severability provision providing that if the Class Action Waiver or Representative Action Waiver is unenforceable, the waiver may be severed and the class, collective, or representative claims may proceed in court. The agreement further states that the parties do not agree to arbitrate class, collective, or representative claims.

The Court therefore severs the Representative Action Waiver to the extent it purports to prohibit Plaintiff from pursuing a non-individual PAGA claim in court. That does not invalidate the remainder of the Arbitration Agreement.

INDIVIDUAL AND REPRESENTATIVE PAGA CLAIMS

The individual component of Plaintiff's PAGA claim is subject to arbitration.

The non-individual representative claim remains before the Court. It is not dismissed. The related class action has already resulted in an order requiring these same parties to arbitrate Plaintiff's individual Labor Code claims arising from the same alleged violations underlying this PAGA action.

Resolution of Plaintiff's individual claims may bear directly on whether Plaintiff remains an aggrieved employee entitled to proceed with the representative PAGA claim. Accordingly, the representative claim shall remain stayed pending completion of arbitration.

DISPOSITION

Defendant Dairyland Produce, LLC's Motion to Compel Arbitration is **GRANTED**.

Plaintiff Sergio Lopez shall submit the **individual component of his PAGA claim to binding arbitration** pursuant to the parties' Arbitration Agreement.

The Representative Action Waiver is **severed to the extent it purports to prohibit Plaintiff from pursuing a non-individual PAGA claim in court**.

The remaining representative PAGA claim is **STAYED pending completion of arbitration**.

The parties shall notify the Court within **10 court days after completion of arbitration** so that further proceedings may be scheduled as appropriate.

If the tentative ruling is uncontested, it shall become the order of the Court. Defendant shall prepare a written order consistent with this ruling pursuant to California Rules of Court, rule 3.1312.

3:00 PM
LINE: 2

25-CIV-02406 **SERGIO LOPEZ VS DAIRYLAND PRODUCE, LLC**

SERGIO LOPEZ	**MEHRDAD BOKHOUR**
DAIRYLAND PRODUCE, LLC	**ALEXANDER SIMON**

COMPLEX CASE MANAGEMENT CONFERENCE

TENTATIVE RULING:

Parties are ordered to appear.

3:00 PM
LINE: 3

23-CIV-00188 JULIE NORDMAN VS BON APPETIT MANAGEMENT CO.

JULIE NORDMAN	**SARA EMI MINNE**
BON APPETIT MANAGEMENT CO.	**LONNIE GIAMELA**

COMPLIANCE / POST APPROVAL FINANCIAL HEARING

TENTATIVE RULING:

Parties are ordered to appear.

Posted: 2:05 P.M.