Tentative Rulings for February 11, 2026
Department 501

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) ***The above rule also applies to cases listed in this "must appear" section.***

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

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(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

Begin at the next page

(20)

Tentative Ruling

Re: ***Polanco v. City of Fowler***
Superior Court Case No. 24CECG02037

Hearing Date: February 11, 2026 (Dept. 501)

Motion: by Defendant City of Fowler for Summary Judgment

Tentative Ruling:

To grant. Within seven days of service of the order by the clerk, defendant City of Fowler ("City") shall submit a proposed order dismissing the action.

Explanation:

In this personal injury action plaintiff alleges that as he was walking to school though a crosswalk, he was hit by an oncoming vehicle driven by Maria Salas. The Complaint alleges a sole cause of action for dangerous condition of public property. The only dangerous condition alleged in the government claim submitted to the City and in the Complaint is that the crosswalk lights were not working. (See Complaint ¶¶ 19-21; City's Exh. A.) The City now moves for summary judgment on the ground that the non-functioning crosswalk lights were trivial, and not the cause of the accident.

Initially, the court addresses the parties' evidentiary objections and plaintiff's counsel's improper post-reply filings.

The post-reply filings include evidentiary objections directed at statements or arguments made by the City in its reply brief. Evidentiary objections can only be made to the underlying evidence, not the facts contained within the separate statement or arguments in points and authorities. (See Cal. Rules of Court, rules 3.1352 and 3.1354.) Additionally, the objections do not state the exhibit, title, page and line number of the material objected to, as required by rule 3.1354(b). Further, some of the grounds for objection are just odd or nonsensical, such as "Calling for an Expert Opinion at pleading stage" (summary judgment clearly is not the pleading stage) or "Truth." The objections to the reply brief will be disregarded.

Plaintiff's counsel also filed request for judicial notice of a variety of documents that total about 300 pages. The opposition deadline was 12/18/2025 (Code Civ. Proc., § 437c, subd. (b)(2)) based on the original hearing date. There is no provision in the Code of Civil Procedure or section 437c for the filing of additional papers or evidence beyond the reply brief. In any case, there is no context for this additional evidence, or reference to it in the opposition papers. Does plaintiff's counsel expect the court to sift through this voluminous filing in support of evidence supporting plaintiff's opposition? Obviously that is not the court's role.

The court also notes that the City's objections to the Declaration of Dale Dunlap, an engineer testifying to the existence of a dangerous condition, are overruled. While

the objections are overruled, as discussed below, the declaration still fails to show the existence of a triable issue of material fact.

The relevant law is summarized well in the following opinion:

> A public entity may be liable for injuries caused by a dangerous condition of its property only as provided by statute. (*Thomas v. City of Richmond* (1995) 9 Cal.4th 1154, 1157 [40 Cal.Rptr.2d 442, 892 P.2d 1185]; *Peterson v. San Francisco Community College Dist.* (1984) 36 Cal.3d 799, 809 [205 Cal.Rptr. 842, 685 P.2d 1193].) Section 835 of the Tort Claims Act (Gov. Code, §§ 830-840.6 et seq.)[2] states, in pertinent part: "[A] public entity is liable for injury caused by a dangerous condition of its property if the plaintiff establishes that the property was in a dangerous condition at the time of the injury, that the injury was proximately caused by the dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred, and [¶] ... [¶] (b) The public entity had actual or constructive notice of the dangerous condition ...." Section 830, subdivision (a) defines "dangerous condition" to mean "a condition of property that creates a substantial (as distinguished from a minor, trivial or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable that it will be used." " '[W]hether a given set of facts and circumstances creates a dangerous condition is usually a question of fact and may only be resolved as a question of law if reasonable minds can come to but one conclusion.' " (*Peterson v. San Francisco Community College Dist.*, *supra*, 36 Cal.3d at p. 810.)
>
> "A condition is not dangerous within the meaning of this chapter unless it creates a hazard to those who foreseeably will use the property or adjacent property with due care. Thus, even though it is foreseeable that persons may use public property without due care, a public entity may not be held liable for failing to take precautions to protect such persons." (Cal. Law Revision Com. com., 32 West's Ann. Gov. Code (1995 ed.) foll. § 830, p. 299.) "[A]ny property can be dangerous if used in a sufficiently abnormal manner." (4 Cal. Law Revision Com. Rep. (Jan. 1963) p. 822.) A public entity is required only to make its property safe for "reasonably foreseeable careful use." (§ 830; 4 Cal. Law Revision Com. Rep., *supra*, p. 822.)
>
> "[A] public entity is only required to provide roads that are safe for reasonably foreseeable *careful* use." (*Chowdhury v. City of Los Angeles* (1995) 38 Cal.App.4th 1187, 1196 [45 Cal.Rptr.2d 657], italics added; 4 Cal. Law Revision Com. Rep., *supra*, p. 822.) The purpose of freeways is to " 'provide rapid transit for through traffic, uninterrupted by vehicles or pedestrians ....' " (See generally *People* ex rel. *Dept. of Transportation v. Wilson* (1994) 25 Cal.App.4th 977, 982 [31 Cal.Rptr.2d 52]; Sts. & Hy. Code, §§ 23.5, 100.1, 100.2, 100.3.) Generally, it is illegal for pedestrians to use a freeway. (Veh. Code, § 21960.)

> Although public entities may be held liable for injuries occurring to reasonably foreseeable users of the property, even when the property is used for a purpose for which it is not designed or which is illegal, liability may ensue only if the property creates a substantial risk of injury when it is used with due care. (See generally *Acosta v. County of Los Angeles* (1961) 56 Cal.2d 208, 210-211, 213 [14 Cal.Rptr. 433, 363 P.2d 473, 88 A.L.R.2d 1417]; *Torkelson v. City of Redlands* (1961) 198 Cal.App.2d 354, 359-360 [17 Cal.Rptr. 899]; see also Cal. Law Revision Com. com., 32 West's Ann. Gov. Code, *supra*, foll. § 830, p. 299.) Whether a condition creates a substantial risk of harm depends on how the general public would use the property exercising due care, including children who are held to a lower standard of care. (§ 830.) The standard is an objective one; a plaintiff's particular condition, such as ADHD, does not alter the standard.

(*Schonfeldt v. State of California* (1998) 61 Cal.App.4th 1462, 1465–1466.)

The undisputed evidence shows that at the time of the accident, it was daylight, it was not raining, and there were only a few clouds in the sky. (UMF 3.) Maria Salas was familiar with East Adams Avenue near the intersection with East Main Street in Fowler, and knew of the marked yellow crosswalk and that it was within a designated school zone before the subject incident. (UMF 4.) Prior to crossing the street, plaintiff pressed the button for the crosswalk lights at the intersection and observed that they were not operating. (UMF 6.) Plaintiff stood at the corner for about 30 seconds to observe traffic then started walking when she believed it was safe to do so. (UMF 7.) Plaintiff started walking through the intersection and was hit in the crosswalk. (UMF 8.) Salas told the responding officer at the scene that the sun was in her face and she had a hard time seeing leading up to the subject incident due to the brightness. (UMF 9.) She also had been having issues seeing in her peripheral vision since at least July 2022, following a stroke in 2021, which prevented her from seeing objects not directly in front of her, but was still driving "approximately" 30 miles per hour leading up to the collision. (UMF 10.) Since 2013, there have been no substantially similar reported collisions at or near the subject intersection. (UMF 11.)

At the start of the opposition, plaintiff summarizes the basis for the opposition and conclusion that a dangerous condition existed at the crosswalk:

> The combination of multiple poorly planned traffic problems has merged to create a Dangerous Condition in the City of Fowler at the crosswalk located at the intersection of Adams Avenue and N. Laker Lane/E. Main Street, which is at the center of this lawsuit. These include (1) numerous and conflicting changing speed limit signs in a residential area school zone that has two different grade schools along Adams Avenue and required crossing of Adams to reach the high school and middle school; (2) These constant changes range from 25-mph to 40-mph, with the area in question including a speed limit of 40-mph that by the time you see a 25-mph speed limit sign, it is nearly impossible to slow down; (3) In addition the 25-mph sign that suddenly appears is partially covered by shrubbery, making it difficult to notice; (4) finally on the day of the Incident, the crosswalk lights were inoperable. Taken together, a recipe for disaster was waiting for the wrong

> person to not be able to stop in time causing a terrible collision. The victim of such a collision was a young minor pedestrian, named Andrew Polanco.

(Oppo. 1:21-2:3.)

The problem with the opposition is that it attempts to expand the scope of the cause of action.

> The complaint limits the issues to be addressed at the motion for summary judgment. The rationale is clear: It is the allegations in the complaint to which the summary judgment motion must respond. (*Todd v. Dow* (1993) 19 Cal.App.4th 253, 258, 23 Cal.Rptr.2d 490.) Upon a motion for summary judgment, amendments to the pleadings are readily allowed. (*Kirby v. Albert D. Seeno Construction Co., supra*, 11 Cal.App.4th at p. 1069, fn. 7, 14 Cal.Rptr.2d 604.) If plaintiff wishes to expand the issues presented, it is incumbent on plaintiff to seek leave to amend the complaint either prior to the hearing on the motion for summary judgment, or at the hearing itself. (Ibid.) To allow a party to expand its pleadings by way of opposition papers creates, as it would here, an unwieldy process.

(*Laabs v. City of Victorville* (2008) 163 Cal.App.4th 1242, 1258.)

The Complaint only alleges that the subject location was a dangerous condition due to the inoperable crosswalk lights. The opposition relies on additional factors, numbered (1), (2) and (3) above. Those additional factors are not encompassed within the Complaint. Nor was it alleged in the government tort claim submitted by plaintiff to the City, which also only identified the inoperable crosswalk lights as creating a dangerous condition. (See City's Exh. A ["Circumstances of occurrence. Mr. Polanco was walking to school, crossing the crosswalk and the cross walk lights were not working. Mr. Polanco was hit by an oncoming vehicle. Had the lights been working the driver would have been warned to stop or brake."])

The government claim and Complaint speak only of the nonfunctioning crosswalk lights. The claim and pleading do not mention any facts involving speed limits or placement or speed limit signs, or obstruction of signage. Plaintiff cannot rely on these additional defects or conditions to defeat the motion. Since plaintiff's expert's opinion relies on these additional factors to reach his conclusion that a dangerous condition of public property existed (Dunlop Decl., ¶¶ 33-34), it is insufficient to raise a triable issue of fact.

There is an "overwhelming weight of authority [] strongly suggest[ing] that an intersection with a crosswalk but no signals, whether marked or unmarked, is *not* a dangerous condition within the meaning of the Government Claims Act even when it is located on a high-speed, high-traffic road, particularly in the absence of a history of other collisions." (*Thimon v. City of Newark* (2020) 44 Cal.App.5th 745, 762 (emphasis in original), discussing *Cerna v. City of Oakland* (2008) 161 Cal.App.4th 1340, *Salas v. Dept. of Transportation* (2011) 198 Cal.App.4th 1058, *Mixon v. Pacific Gas & Elec. Co.* (2012) 207 Cal.App.4th 124, and *Sun v. City of Oakland* (2008) 166 Cal.App.4th 1177.)

The court can only conclude that the City met its burden of showing there was no dangerous condition (based on the conditions challenged in the Complaint), and that plaintiff has failed to show the existence of a triable issue of fact.

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: DTT on 2/4/2026 .
(Judge's initials) (Date)

(20)

Tentative Ruling

Re: ***Erskine v. Cunnings***
Superior Court Case No. 25CECG01847

Hearing Date: February 11, 2026 (Dept. 501)

Motion: Demurrer to First Amended Complaint; Motion to Strike

Tentative Ruling:

To overrule the demurrer to the First Amended Complaint ("FAC"). (Code Civ. Proc., § 430.10, subd. (e).) To deny the motion to strike. (Code Civ. Proc., § 435, subd. (b)(1). Defendant shall file their answer to the FAC within 10 days of service of the order by the clerk.

Explanation:

Plaintiff Michael Erskine asserts a single cause of action for financial elder abuse against defendant Cheryl Cunnings. According to the FAC, on 6/22/2021 the parties entered into a well sharing agreement. Plaintiff sold 15 acres to the defendant and agreed to provide temporary access to his well until defendant could connect their water lines from adjacent property. Plaintiff informed defendant that the contract would need to be amended to reflect that the well easement was only temporary and would expire in the near term. Plaintiff expressly stated that he did not want to grant a permanent easement. But it turns out the agreement was for a permanent easement. The "GRANT OF EASEMENT AND WATERWELL SHARING AGREEMENT" was apparently signed by plaintiff and recorded by defendant on 6/28/2021.

The FAC clarifies that prior to signing the agreement, defendant assured plaintiff that "the agreement for well access was only temporary and would automatically terminate after Defendant's permanent water line was operational." (FAC ¶ 9.) When they met on 6/26/21 to sign the agreement, "Defendant told Plaintiff that the document titled 'Grant of Easement and Water Well Sharing Agreement' contained only the temporary terms previously discussed for escrow purposes. Defendant further stated that the signing was urgent to complete escrow that same day and that it was merely a formality required by the title company." (FAC ¶ 10.) In reliance on defendant's assurances, "Plaintiff signed the document, which Defendant personally presented in hard copy form at his residence and took directly to record with the Fresno County Recorder's Office later that same day." (FAC ¶ 11.) "At the time of signing, Plaintiff did not have his reading glasses and Defendant distracted him with unrelated discussions about closing escrow, preventing him from reading or understanding the permanent easement terms." (FAC ¶ 12.) Plaintiff alleges that this constituted financial elder abuse. (Welf. & Inst. Code, § 15610.30. subd. (a)(1)-(3).)

To state a claim for financial elder abuse under section 15610.30, plaintiff must allege: (i) the taking, secreting, appropriating, obtaining, or retaining of real or personal property of an elder or dependent adult; (ii) that the taking was for a wrongful use, with

intent to defraud, or by undue influence; and (iii) that the defendant knew or should have known that the conduct was likely to be harmful. (Welf. & Inst. Code, §§ 15610.30, subd. (a)(1)–(3); 15610.30, subd. (b).)

The FAC sufficiently alleges fraud and/or undue influence. Fraud is defined as "an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention ... of thereby depriving a person of property or legal rights or otherwise causing injury." (Civ. Code, § 3294, subd. (c)(3).)

Defendant asserts that fraud is not pled with particularity (see *Lazar v. Superior Court* (1996) 12 Cal.4th 631, 645) because "there is no allegation of: (i) A specific misrepresentation; (ii) When it was made; (iii) Where it was made; (iv) By what precise words; or (v) How Defendant misled Plaintiff." To the contrary, these elements clearly are specifically alleged. The FAC alleges that "On or about June 26, 2021, at approximately 3:00 p.m., while meeting with Plaintiff at his residence at 14700 West Barstow, Kerman, California, Defendant told Plaintiff that the document titled 'Grant of Easement and Water Well Sharing Agreement' contained only the temporary terms previously discussed …" (FAC ¶ 10.) It is a mischaracterization of the FAC to represent that the pleading does not allege the specific representation, when it was made, where it was made, the precise words, and how it misled plaintiff.

Additionally, the conduct alleged, specifically at paragraphs 9-12, can be characterized as rising to the level of undue influence, which is defined as "excessive persuasion that causes another person to act or refrain from acting by overcoming that person's free will and results in inequity." (Welf. & Inst. Code, § 15610.70(a).)

As defined, financial elder abuse includes taking or retaining of real or personal property of an elder for a wrongful use or by undue influence, including by means of an agreement. (Welf. & Instit. Code, § 15610.30, subd. (c).) The wrongful use or retention of recorded instruments affecting an elder's property may support a claim for financial elder abuse. In *Bonfigli v. Strachan* (2011) 192 Cal.App.4th 1302, 1307, 1315-1316, the Court of Appeal held that conduct involving wrongful encumbrances and interference with an elder's property rights can fall within the scope of the statute.

Accordingly, the court intends to overrule the demurrer.

Defendant also moves to strike the FAC as a whole because plaintiff's counsel missed the amendment filing deadline by 17 days, which plaintiff's counsel states was due to a calendaring error.

> The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper:
> ***
> (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court.

(Code Civ. Proc., § 436.)

While the amendment was filed late, the court is not going to effectively dismiss an otherwise meritorious action simply due to a missed filing deadline. This does not mean

that the court will continue to consider late-filed papers. This seems to be a recurring problem for plaintiff's counsel.

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: DTT on 2/9/2026 .
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Ahmad Skouti v. Alfred Lion***
Superior Court Case No. 25CECG05818

Hearing Date: February 11, 2026 (Dept. 501)

Motion: for Preliminary Injunction

Tentative Ruling:

To deny, without prejudice. To dissolve the temporary restraining order entered on January 29, 2026.

Explanation:

Plaintiff Ahmad Skouti ("plaintiff") seeks an order for preliminary injunction as to defendant Alfred Lion as the Trustee for the three Jeff Lion Trusts ("defendants"). The Complaint states two causes of action: (1) breach of contract, and (2) fraud. Plaintiff seeks to enjoin defendants from proceeding with any foreclosure sales pending resolution of the "Buttonwillow and Britton suit."

Legal Standards

A preliminary injunction may be granted any time before judgment upon affidavits that show sufficient grounds, and notice to the opposing parties. (Code Civ. Proc., § 527, subd. (a).) A preliminary injunction may issue at any stage of the proceedings to maintain the status quo until judgment. (*Id.*, § 526, subd. (a)(3).) The overarching concern of injunctions is to avoid injuries from the premature enforcement of a determination which may later be found to have been wrong. (*Daly v. San Bernardino County Bd. of Supervisors* (2021) 11 Cal.5th 1030, 1044.) The status quo runs from the time before the contested conduct began. (*Id.* at p. 1046.) Thus, a preliminary injunction issued to preserve the status quo seeks to maintain the conditions at the time the injunction would issue. (*See id.* at p. 1048.) Injunctive relief is available to prevent threatened injury and is not a remedy designed to right completed wrongs. (*Gafcon, Inc. v. Ponsor & Associates* (2002) 98 Cal.App.4th 1388, 1403, fn. 6.)

To decide whether to issue a preliminary injunction, the court weighs two factors: (1) the likelihood that the plaintiff will prevail on the merits at trial; and (2) the relative interim harm the applicant is likely to sustain if the injunction is denied as compared to the harm the opposing party is likely to suffer if the preliminary injunction is issued. (*E.g.*, *SB Liberty, LLC v. Isla Verde Assn., Inc.* (2013) 217 Cal.App.4th 272, 280.) The granting or denying of a preliminary injunction does not constitute an adjudication of the ultimate rights in controversy. (*Cohen v. Bd. of Supervisors* (1985) 40 Cal.3d 277, 286.) The burden of proof is on the plaintiff as moving party. (*O'Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1481.)

Likelihood of Success on the Merits

Although an Order to Show Cause ("OSC") directs the defendants "to show cause" why a preliminary injunction should not issue, the burden is on the plaintiff or moving party (here, plaintiff) to show all elements necessary to support issuance of a preliminary injunction. (*O'Connell v. Superior Court, supra,* 141 Cal.App.4th at p. 1481.)

Here, plaintiff has failed to meet his burden. While there was enough evidence provided to support issuance of a temporary restraining order, plaintiff failed to brief the required elements for issuance of a preliminary injunction. The moving papers do not address at all whether plaintiff is likely to succeed on the merits of his claims. Further, defendants' response to the OSC challenges the evidence on which plaintiff relies. The likelihood of plaintiff's success on the merits has not been demonstrated.

Balance of Harms

A determination of the balancing of harms does not need to be made if the moving party fails to show any likelihood of succeeding on the merits. (*Yu v. University of La Verne* (2011) 196 Cal.App.4th 779, 793.)

However, even when considered, the moving papers barely touch on the interim harm that plaintiff will suffer absent a preliminary injunction, solely representing that "[t]he interim harm to [plaintiff] Skouti of losing his farms is significant while the interim harm to [defendants] Lion Trusts if any is minimal." (Memo. P&A, 5:3-4.) Plaintiff argues that foreclosure sales would result in a windfall to defendants while he would lose his properties, and that there is no prejudice to defendants to wait for the final disposition of the Buttonwillow and Britton suit. (Skouti decl., ¶¶ 29-30.) Defendants argue in response that the trustee's sales would only be conducted to the extent that the sale proceeds satisfy the Note. (Response, 5:27, 6:1-3.)

For the foregoing reasons, the court finds that plaintiff has failed his burden as the moving party, as neither prong for a preliminary injunction was satisfied. The motion for preliminary injunction is denied in its entirety, but without prejudice.

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: DTT on 2/9/2026.
(Judge's initials) (Date)

(29)

Tentative Ruling

Re: ***Villalovos v. AC Health, Inc.***
Superior Court Case No. 23CECG04586

Hearing Date: February 11, 2026 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant the Petition and sign the proposed orders. No appearances necessary.

The court sets a status conference for Tuesday, May 12, at 3:30 p.m., in Department 501, for confirmation of deposit of claimant's funds into the blocked account. If petitioner files the Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) at least five court days before the hearing, the status conference will come off calendar.

Pursuant to California Rules of Court, rule 3.1312, and Code of Civil Procedure section 1019.5(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: DTT on 2/9/2026.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Orlonzo Hedrington v. William Woolman***
Superior Court Case No. 25CECG01717

Hearing Date: February 11, 2025 (Dept. 501)

Motion: by Plaintiff Orlonzo Hedrington
(1) for Reconsideration of Demurrer and Motion to Strike
(2) for Summary Adjudication on Issue of Negligence
(3) for SB 235 and CCP 437c(h) re: Discovery
(4) to Vacate Prior Judgment

Tentative Ruling:

To deny the motion for reconsideration. (Code Civ. Proc., § 1008.) To deny the motions on the issues of negligence, discovery, and to vacate prior judgment. (Cal. Rules of Court, rule 3.1112(a).)

Explanation:

Failure to File Notices of Motions

"[T]he papers filed in support of a motion must consist of at least the following: (1) A notice of hearing on the motion; (2) The motion itself; and (3) A memorandum in support of the motion." (Cal. Rules of Court, rule 3.1112(a).) "A litigant is permitted to present his own case, but, in so doing, should be restricted to the same rules of evidence and procedure as is required of those qualified to practice law before our courts; otherwise, ignorance is unjustly rewarded." (*Monastero v. Los Angeles Transit Co*. (1955) 131 Cal.App.2d 156, 161, internal citations omitted.)

Plaintiff Orlonzo Hedrington failed to file and serve Notices for any of his four motions on calendar.

Improper Service of Moving Papers

Further, plaintiff filed proofs of service for the motions on calendar on November 24, 2025, and December 12, 2025, respectively. Service was only performed on defendant William Woolman, and not on defendants Megan Dutra, Angie Marvilla or Tom Holt, who appear to be parties to the motions on issues of negligence, discovery, and the 2014 judgment. Mr. Woolman was not the attorney of record for defendants Dutra, Marvilla and Holt at the time of service. Therefore, service on defendants Dutra, Marvilla and Holt is improper.

Mr. Woolman contests that he was properly served with the motions. Mr. Woolman's special motion to strike as to the entire Complaint was granted on November 5, 2025; therefore, he is effectively no longer a party to this action and the motions on specific issues cannot be brought against him. Regarding the motion to vacate

judgment, the motion is not clear to what judgment plaintiff refers and whether Mr. Woolman was a party to that judgment.

However, as to the motion for reconsideration of his demurrer and special motion to strike, Mr. Woolman is party to that motion and in his opposition made an argument as to the merits, thereby waiving any defect in service of the motion, including that no Notice was filed. (See *Alliance Bank v. Murray* (1984) 161 Cal.App.3d 1, 7 [" 'It is well settled that the appearance of a party at the hearing of a motion and his or her opposition to the motion on its merits is a waiver of any defects or irregularities in the notice of motion.' [citation] This rule applies even when no notice was given at all." (emphasis added)].)

Motion for Reconsideration

Plaintiff argues that he "did not brief anti-slapp for I was for sure that defendants were time-barred[.]" (Amended Mtn. for Reconsideration/Hedrington Decl., ¶ 11.) Mr. Woolman argues that plaintiff's motion for reconsideration is frivolous, as it fails to set forth new facts unavailable at the time of the prior motion and/or new law. (Opp., 2:6-7.)

Pursuant to Code of Civil Procedure section 1008, a losing party may bring a motion to reconsider, and a different order may be entered, if, subject to the following conditions, the motion is:

(1) brought before the same judge that made the order;
(2) made within 10 days after service upon the party of notice of the entry of the order;
(3) based on new or different facts, circumstances, or law; and
(4) made and decided before entry of judgment.

Code of Civil Procedure section 1008 is jurisdictional. (*Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1499.) A party requesting the court reconsider its prior orders must provide new evidence and a satisfactory explanation for why the evidence was not previously presented. (*Mink v. Superior Court* (1992) 2 Cal.App.4th 1338, 1342; *New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212-213; *Garcia v. Hejmadi* (1997) 58 Cal.App.4th 674, 690.) The burden has been compared to "that of a party seeking a new trial on the ground of newly discovered evidence: the information must be such that the moving party could not, with reasonable diligence, have discovered or produced it at the trial." (*New York Times Co. v. Superior Court, supra*, 135 Cal.App.4th 206, 212-213.)

Plaintiff has not demonstrated that his motion for reconsideration of the special motion to strike and demurrer is based on new or different facts, circumstances or law. Plaintiff merely details his timeline and delays in serving defendant Woolman with the Summons and Complaint, and that he did not oppose the motions due to his mistaken belief that "defendants were time-barred." (Amended Mtn. for Reconsideration/ Hedrington Decl., ¶ 11.) A *pro per* litigant's misunderstanding or lack of knowledge of the legal process and procedures is an insufficient reason for him to fail to respond. (*Monastero v. Los Angeles Transit Co., supra*, 131 Cal.App.2d at p. 161, internal citations omitted.) Plaintiff has failed to meet the bar for reconsideration, and therefore his motion

for reconsideration of the demurrer and special motion to strike granted in favor of defendant Woolman is denied.

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: DTT on 2/9/2026.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Gutierrez v. Rodriguez et al.***
Superior Court Case No. 24CECG02467

Hearing Date: February 11, 2026 (Dept. 501)

Motion: by Plaintiff Antonette Gutierrez for Summary Judgment

Tentative Ruling:

To grant. Plaintiff Antonette Gutierrez is directed to submit a proposed judgment within five days of service of the order by the clerk.

Explanation:

Plaintiff Antonette Gutierrez ("plaintiff") seeks summary judgment of her Complaint[1] comprising primarily of two causes of action, to quiet title, and for declaratory relief.[2]

A trial court shall grant summary judgment where there are no triable issues of material fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc. §437c(c); *Schacter v. Citigroup* (2009) 47 Cal.4th 610, 618.) The issue to be determined by the trial court in consideration of a motion for summary judgment is whether or not any facts have been presented which give rise to a triable issue, and not to pass upon or determine the true facts in the case. (*Petersen v. City of Vallejo* (1968) 259 Cal.App.2d 757, 775.)

A plaintiff moving for summary judgment or adjudication of a cause of action must "prove[] each element of the cause of action entitling the party to judgment on that cause of action." (*Paramount Petroleum Corp. v. Super. Ct.* (2014) 227 Cal.App.4th 226, 241; Code Civ. Proc., § 437c, subd. (p)(1).) The moving party bears the burden of furnishing supporting documents that establish that the claims of the adverse party are entirely without merit on any legal theory. (*Lipson v. Superior Court* (1982) 31 Cal.3d 362, 374.) Only when the initial burden of production is met, does the burden shift to the responding party to demonstrate the existence of a triable issue of material fact. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850-51.)

Affidavits of the moving party must be strictly construed and those of the opponent liberally construed. (*Petersen*, *supra*, 259 Cal.App.2d at p. 775.) The opposing affidavit must be accepted as true, and need not be composed wholly of strictly evidentiary facts. (*Ibid.*) Any doubts are to be resolved against the moving party. The facts in the affidavits shall be set forth with particularity. (*Ibid.*) The movant's affidavit must

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[1] The court previously granted plaintiff's Request for Judicial Notice of Exhibits A to D, N, and O to CC, except Exhibit W.

[2] The second cause of action, for an injunction, is a form of relief, and not a cause of action. (*Camp v. Bd. of Supervisors* (1981) 123 Cal.App.3d 334, 356.)

state all of the requisite evidentiary facts and not merely the ultimate facts or conclusions of law or conclusions of fact. (*Ibid.*) All doubts as to the propriety of granting the motion are to be resolved in favor of the party opposing the motion. (*Hamburg v. Wal-Mart Stores, Inc.* (2004) 116 Cal.App.4th 497, 502.)

Plaintiff submits that there are no triable issues of material fact as to the ownership of the subject real property. Plaintiff submits facts and evidence chaining custody and ownership of the subject real property to 1988. (Plaintiff's Undisputed Material Facts ["UMF"] Nos. 61-66.) Based on the moving papers, the court finds that plaintiff satisfies her moving burden to prove all of the elements to quiet title, and to seek declaratory relief thereon. The burden shifts to defendant Alice Rodriguez ("defendant").

Defendant challenges that plaintiff may not recover on a quiet title action unless defendant is in possession of the subject real property. Defendant's authority does not stand for the premise and is contrary to law. It is merely sufficient to allege a quiet title action by stating that the plaintiff is the owner and in possession of land. (*South Shore Land Co. v. Petersen* (1964) 226 Cal.App.2d 725, 740.) As plaintiff notes on reply, a mere allegation that a defendant has claimed an adverse interest without right is also sufficient. (*See White v. Lantz* (1932) 126 Cal.App. 693, 697.) It has been long and well established that possession is not require to obtain relief on a quiet title cause of action. (*E.g., Hyatt v. Colkins* (1917) 174 Cal. 580, 581 ["As to the point that the complaint does not state that the plaintiff was in possession of the property, it was unnecessary to do so. An action to quiet title may be brought by one out of possession."])

Neither does defendant's secondary challenge, that plaintiff fails to identify the date in which the determination of title is sought, have merit. (Code Civ. Proc., § 761.020, subd. (d).) The Complaint, on its face, states "Plaintiff seeks a determination of her fee simple title in this action as of the date of the filing of the complaint." (Complaint, ¶ 8 [emphasis added].) Plaintiff submits UMF No. 70, that as of June 7, 2024, the filing date of the Complaint, record title was vested in plaintiff. Defendant's response to UMF No. 70 is not well taken as this is a statement of fact. Moreover, the evidence shows that the Finance and Thrift settlement agreement had no effect, as defendant suggests, of "restoring Rita's 50% interest and interest of all other[s] including Alice Rodriguez['s] 25% interest." (Plaintiff's Compendium of Evidence, Ex. Y, ¶ 4 [showing that, upon full payment by Rita Renteria , title shall transfer "to her"].) Nothing in the settlement agreement suggests that any other interest was restored or otherwise contemplated, except as to acknowledge that, at that time, Finance and Thrift Company was the record owner of the subject real property by virtue of a non-judicial foreclosure sale. (*Ibid.*)

Moreover, as counsel of record for defendant submits into evidence as a fact witness, present at the time of the settlement, the settlement was approved by a federal bankruptcy court. (Nunez Decl., ¶ 9.) The parties appear to have given effect and performed in accordance to that settlement. (*Id.*, ¶ 10.) As defendant notes, "Finance and Thrift Company will, upon receipt of full payment pursuant to the terms hereof, give up all rights that it acquired by virtue of the July 15, 1988 sale." (Plaintiff's Compendium of Evidence, Ex. Y, ¶ 14.) The meaning of this term is self-evident, and not as defendant suggests. Giving up the rights obtained due to the foreclosure sale does not have the additional effect of restoring all rights to Rita Renteria "and other parties." As noted above, upon full payment, Finance and Thrift Company would transfer its interest to Rita

Renteria, either as a purchase, or as a redemption of a deed of trust. (*Id.*, Ex. Y, ¶ 4.) Neither of these is a restoration of a prior state.

Based on the above, the court finds that defendant fails to meet the shifted burden to show a triable issue as to her contested ownership. The facts are not sufficiently disputed that Finance and Thrift Company had full ownership; Finance and Thrift Company thereafter conveyed the interest to Rita Renteria; Rita Renteria then conveyed her interest to Leroy and Erlinda Gutierrez; upon the passing of Leroy Gutierrez, sole interest was held by Erlinda Gutierrez; Erlinda Gutierrez then conveyed the interest to her trust; and the trust named that Raymond Renteria was to have a life estate in the subject real property, and thereafter conveyed to plaintiff. (Plaintiff's UMF No. 61-70.) As these facts pertain to both the quiet title and declaratory relief causes of action, the motion for summary judgment is granted.[3]

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.

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[3] Whether any document executed by Erlinda Gutierrez is subject to scrutiny falls outside of the scope of the claims as presented here. Defendant has not established that her interest was affected by any act of Erlinda Gutierrez to create a triable issue as to defendant's interest. Rather, defendant's interest at best, is merely inferred to have predated Finance and Thrift Company's interest, long before any interests arose with Erlinda Gutierrez. (*See* Nunez Decl., ¶ 14.)

All objections were not material to the disposition of this motion, and no ruling is issued. (Code Civ. Proc., § 437c, subd. (q).)

(35)

Tentative Ruling

Re: ***Espino-Lozano v. Ford Motor Company***
Superior Court Case No. 24CECG01668

Hearing Date: February 11, 2026 (Dept. 501)

Motion: By Plaintiff Enedelida Espino-Lozano for Attorney Fees

Tentative Ruling:

To grant and award $19,890.20 in fees in favor of plaintiff Enedelida Espino-Lozano.

Explanation:

Plaintiff Enedelida Espino-Lozano ("plaintiff") seeks an award of attorney fees pursuant Civil Code section 1794, subdivision (d) following entry of a stipulated judgment with defendant Ford Motor Company ("defendant").

The amount of attorney's fees awarded is a matter within the court's discretion. (*Clayton Development Co. v. Falvey* (1988) 206 Cal.App.3d 438, 447.) In determining the reasonable amount to award, "the court should consider ... 'the nature of the litigation, its difficulty, the amount involved, the skill required and the skill employed in handling the litigation, the attention given, the success of the attorney's efforts, his learning, his age, and his experience in the particular type of work demanded [citation]; the intricacies and importance of the litigation, the labor and necessity for skilled legal training and ability in trying the cause, and the time consumed.'" (*Ibid*.) An award of costs must be "reasonably necessary to the conduct of the litigation" and per (c)(3), shall be "reasonable" in amount. (Code Civ. Proc. § 1033.5(c)(2).) Plaintiff as the moving party bears the burden to prove the reasonableness of the number of hours devoted to this action. (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1325.)

A trial court may not rubberstamp a request for attorney fees, and must determine the number of hours reasonably expended. (*Donahue v. Donahue* (2010) 182 Cal.App.4th 259, 271.) A court assessing attorney's fees begins with a touchstone or lodestar figure, based on the 'careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case." (*Serrano v. Priest* (*Serrano III*) (1977) 20 Cal.3d 25, 48.) Lodestar refers to the "number of hours reasonably expended multiplied by the reasonable hourly rate" of an attorney. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1096.)

Counsel for plaintiff seeks to set the lodestar at $36,857.50. Counsel submits a total of 79 hours of billed time across four timekeepers. Counsel predominately practice in consumer protection claims, such as the present action. (Eredia Decl., ¶¶ 33-35.) As to attorneys, counsel submits hourly rates of $400 to $415 for Gabriel Eredia, and $500 to $540 for Nancy Zhang. As to paralegals, counsel submits hourly rates of $210 to $215 for Jasmine Ochoa, and no information was provided for Kenneth Lima. Lima appears to bill at $215. The court finds that some of the hourly rates are high. The reasonable hourly rate

is that prevailing in the community for similar work. (*PLCM Group v. Drexler*, *supra*, 22 Cal.4th at p. 1095.) The court sets Eredia's rate at $300, Ochoa's rate at $150, and Lima's rate at $125.

Following a careful review of the entries submitted, the court finds that several entries are: purely clerical in nature (*e.g.*, Eredia Decl., Ex. 4, pp. 7 [requesting the case manager schedule a telephone call with the client], 12 [calendaring a motion to compel deadline]), 18 [reviewing the online docket for future hearings]); are excessively billed (*id.*, Ex. 4, pp. 5-6, [1.2 hours to prepare a two-paragraph judgment], 9 [0.5 for five proofs of service], 27 [0.6 to fill out a form stipulation for ADR with related email]); have no discernable purpose (*e.g.*, *id.*, Ex. 4, pp. 5 [review of a proof of service], 6 [preparation of a proof of service of an acceptance of a settlement], 8 [paralegal review of received documents unassociated to any further tasks, throughout], 23 [review of a conformed copy of a notice that plaintiff filed]); double billed tasks (*e.g.*, *id.*, Ex. 4, p. 21 [attorney and paralegal review of meet and confer letter]); internal communications (*e.g.*, *id.*, Ex. 4, p. 23 [emails to case manager and paralegal for task allocations]); not attorney fees, but costs (*e.g.*, *id.*, Ex. 4, p. 31); time billed for translation services (*id.*, Ex. 4, p. 6); or were purely educational (*id.*, Ex. 4, p. 18 [shadowing a meet and confer conference]). Based on the above, the court does not credit 26.2 hours. The court credits 3 hours for consideration of the opposition and preparation of the reply brief. In light of the rate reduction and reasonably billed time, the lodestar is set at $18,082.00.[1] Costs, which are not fees, were removed from the calculations.

Plaintiff did not expressly seek a lodestar multiplier, but noted the matter was taken on contigency. Defendant opposed the imposition of one. As stated by the California Supreme Court regarding lodestar multipliers, sometimes referred to as fee enhancements:

> …the trial court is *not required* to include a fee enhancement to the basic lodestar figure for contingent risk, exceptional skill, or other factors, although it retains discretion to do so in the appropriate case; moreover, the party seeking a fee enhancement bears the burden of proof. In each case, the trial court should consider whether, and to what extent, the attorney and client have been able to mitigate the risk of nonpayment, e.g., because the client has agreed to pay some portion of the lodestar amount regardless of outcome. It should also consider the degree to which the relevant market compensates for contingency risk, extraordinary skill, or other factors under *Serrano III*. We emphasize that when determining the appropriate enhancement, a trial court should not consider these factors to the extent they are already encompassed within the lodestar. The factor of extraordinary skill, in particular, appears susceptible to improper double counting; for the most part, the difficulty of a legal question and the quality of representation are already encompassed in the lodestar. A more difficult legal question typically requires more attorney hours, and a more skillful and

[1] Defendant objects to the inclusion of any billing post-settlement offer. The court finds that the entries were either in contemplation of the settlement offered, or were for the purposes of the fee motion, which was contemplated by the terms of the settlement. No time is discounted as a consequence of post-acceptance of the offer.

> experienced attorney will command a higher hourly rate. (*See Margolin v. Regional Planning Com.* (1982) 134 Cal.App.3d 999, 1004, 185 Cal.Rptr. 145.) Indeed, the " 'reasonable hourly rate [used to calculate the lodestar] is the product of a multiplicity of factors ... the level of skill necessary, time limitations, the amount to be obtained in the litigation, the attorney's reputation, and the undesirability of the case.' " (*Ibid*.) Thus, a trial court should award a multiplier for exceptional representation only when the quality of representation far exceeds the quality of representation that would have been provided by an attorney of comparable skill and experience billing at the hourly rate used in the lodestar calculation. Otherwise, the fee award will result in unfair double counting and be unreasonable. Nor should a fee enhancement be imposed for the purpose of punishing the losing party. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138-1139 [emphasis original].)

Once a lodestar is fixed, the lodestar may be adjusted based on certain factors, including: (1) the novelty and difficulty of the questions involved; (2) the skill displayed in presenting them; (3) the extent to which the nature of the litigation precluded other employment by the attorneys; and (4) the contingent nature of the fee award. (*Id.* at p. 1132, *citing Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25, 49.)

Here, plaintiff only submits that counsel took the matter on contingency, and obtained full compensation. Plaintiff further suggests that there was undue delay in settling this matter. The court acknowledges the contingent risk taken by counsel, but finds the outcome to be ordinary to the statutory relief afforded in these actions. Though plaintiff suggests undue delay, the timeline supports a finding that all parties treated the matter as proceeding to trial. The steady nature of the discovery conducted suggests as much. This would not constitute a delay, much less undue delay. Moreover, plaintiff does not suggest that the delay precluded other employment. Over the roughly 23 months between the first engagement with the client to the date of hearing on this motion, the firm spent, on average, 3.4 hours per month on the matter. Such a time commitment does not support the conclusion that this action was so involved as to preclude commitment to other work. The court applies a multiplier of 1.1. The motion for an award of attorney fees is granted in the amount of $19,810.20.

Costs were not sought to be confirmed. The matter of costs is left to operations of law. (Cal. Rules of Ct., rule 3.1700(b)(4).)[2]

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: DTT on 2/10/2026.
(Judge's initials) (Date)

[2] All objections were not material to the disposition of the motion, and no rulings are issued.