

Tentative Rulings for June 3, 2025  
Department 503

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)

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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.*

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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 503**

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(47)

**Tentative Ruling**

Re: Madden Yang vs. W & B, INC.  
Superior Court Case No. 23CECG02443

Hearing Date: June 3, 2025 (Dept. 503)

Motion: Petition to Compromise the Claim of Madden Young.

**Tentative Ruling:**

To grant petition. Order signed. No appearance necessary.

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** 5/28/2025.  
(Judge's initials) (Date)

(47)

**Tentative Ruling**

Re: David Elby Bass, an individual and successor in interest to  
Ellen Norene Bass, deceased vs. Billie Huskey et al  
Superior Court Case No. 24CECG03349

Hearing Date: June 3, 2025 (Dept. 503)

Motion: Default Prove-Up

**Tentative Ruling:**

To deny without prejudice.

**Explanation:**

A default judgment cannot be entered if a defendant has responded to a lawsuit within the prescribed timeframe, such as by filing an answer, a demurrer, or other legal motions. When a defendant does respond, the case proceeds to a trial or other resolution based on the merits of the case. (California Code of Civil Procedure section 585(a)).

In this case, the City of Fresno has provided an answer, and a default judgment for quiet title without liens would be inappropriate.

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 5/28/2025.  
(Judge's initials) (Date)

(03)

**Tentative Ruling**

Re: **AAA Life Insurance Co. v. Pettit**  
Case No. 24CECG01673

Hearing Date: June 3, 2025 (Dept. 503)

Motion: Parties' Joint Motion for Entry of Judgment

**Tentative Ruling:**

To grant the appearing parties' joint motion for entry of judgment pursuant to the terms of their settlement agreement.

**Explanation:**

Under Code of Civil Procedure section 664.6, "If parties to pending litigation stipulate, in a writing signed by the parties outside the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If requested by the parties, the court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement."

"If the court determines that the parties entered into an enforceable settlement, it should grant the motion and enter a formal judgment pursuant to the terms of the settlement. The statute expressly provides for the court to 'enter judgment pursuant to the terms of the settlement.'" (*Hines v. Lukes* (2008) 167 Cal.App.4th 1174, 1182-1883, internal citations omitted.)

Here, the parties who have appeared in the action have entered into a written settlement agreement which provides for the division of the life insurance benefits that plaintiff AAA Life Insurance interpled with the court. (Exhibit A to Migliazzo decl.) All of the appearing parties have signed the written agreement. (*Ibid.*) The appearing parties have now moved jointly to enter a judgment pursuant to the terms of the settlement agreement. No party has opposed the motion. Therefore, the court intends to enter a judgment pursuant to the terms of the stipulation.

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** 5/29/2025.  
(Judge's initials) (Date)

(35)

**Tentative Ruling**

Re: ***Pena v. City of Fresno***  
Superior Court Case No. 22CECG03890

Hearing Date: June 3, 2025 (Dept. 503)

Motion: Petition to Compromise Minor's Claim

**Tentative Ruling:**

To deny without prejudice. Petitioner must file a new petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of the amended petition. In the event that oral argument is requested, both petitioner Martha Pena and plaintiff Marissa Pena are excused from appearing.

**Explanation:**

The following were not addressed from the prior petition, and remain as issues.

Item 8 indicates that minor plaintiff Marissa Pena ("plaintiff") has fully recovered from the injuries that are the subject of this litigation. As the petition notes in its instructions: "An original or a photocopy of any doctor's report containing a diagnosis of the claimant's injuries or a prognosis for the claimant's recovery, and a report of the claimant's current condition, must be attached to this petition as Attachment 8." Petitioner Martha Pena ("petitioner") fails to attach requisite medical records reflecting plaintiff's current condition in relation to the described trauma injury to plaintiff's hand and arm.

Item 12 reports medical expenses. While the petition submits that \$12,262.61 of the charges totaling \$14,277.30 have been negotiated down, petitioner submits no proof that the various caregivers will accept the reduced amounts as reported. Only the hospital center, St. Agnes Medical Center is sufficiently supported, both in showing the hospital's zero-balance, as well as the Medi-Cal lien demonstrating payment and acceptable repayment of benefits received, for \$114.69. The billing records of Kevin Lester, M.D. do not reflect that this provider will accept \$500.00 in lieu of the \$2,570.00 charged. Neither do the records of: Valley Imaging Services show that it will accept \$100.00 in lieu of \$348.15; First Choice Therapy show that it will accept \$1,000.00 in lieu of \$5,339.00; and Fresno Imaging Center show that it will accept \$300.00 in lieu of \$1,430.00. In sum, petitioner fails to demonstrate amounts of medical expenses to be paid from the proposed settlement in the amount of \$2,014.69.

For the above reasons, the petition is denied, 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:** JS **on** 6/2/2025.  
(Judge's initials) (Date)

(35)

**Tentative Ruling**

Re: ***Great American Investments, Inc. v. Elalami et al.***  
Superior Court Case No. 21CECG03674

Hearing Date: June 3, 2025 (Dept. 503)

Motion: By Defendant Mamdouh Elalami for Reconsideration

**Tentative Ruling:**

To grant and affirm the February 4, 2025, order that the court lacks jurisdiction to enter an order granting leave to file a cross-complaint.

**Explanation:**

Defendant Mamdouh Elalami ("Defendant") seeks reconsideration of a prior order, taking Defendant's motion for leave to file a cross-complaint off calendar. Defendant moves under Code of Civil Procedure section 1008, which states in pertinent part:

When an application for an order has been made to a judge, or to a court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based on new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order. (Code Civ. Proc. § 1008, subd. (a).)

Defendant submits that he had no opportunity to be heard on matters discussed in the February 4, 2025, order constituting a basis to seek relief under Code of Civil Procedure section 1008. (*Kollander Const., Inc. v. Superior Court* (2002) 98 Cal.App.4th 304, 314, *overruled on other grounds by Le Francois v. Goel* (2005) 35 Cal.4th 1094.) The motion for reconsideration is granted.

Upon reconsideration, the court renews its finding that it lacks jurisdiction to enter the order requested. Defendant submits that the proposed cross-complaint is not affected by the judgment, now taken up on appeal, and in any event would be severable because they are ancillary or collateral. (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 191.) As such, Defendant concludes that the proposed cross-complaint can proceed because the appeal will have no effect on his claims.

On the face of the proposed cross-complaint, the allegations state that Defendant entered into a lease with plaintiff Great American Investments, Inc., for a term of 30 years. (Sarabian Decl. to the original motion, Ex. 1, Proposed Cross-Complaint, ¶ 4.) The material term to the lease upon which the causes of action rely is that the tenant is obligated to deliver possession of the premises in the same condition as it was received.



(*Ibid.*) This is precisely the reason stated on reply to the original motion, and by Plaintiff in opposition to the present motion, that:

It makes little sense to litigate the issue of the fire while ownership remained in dispute. Any litigation regarding what should occur on the Property after the fire – whether it be monetary damages or specific performance – would be adjudicated separately, and after it was determined who lawfully owned the Property. (Reply Brief to the original motion, p. 4:17-20.)

Indeed, on the first cause of action for the proposed cross-complaint, it is alleged that Plaintiff breached the lease by, among other things, “failing to return the Property in the same condition it was received.” (Sarabian Decl. to the original motion, Ex. 1, Proposed Cross-Complaint, ¶ 10.) These questions of ownership are, as Defendant originally conceded, implicated by the judgment entered confirming the arbitration award, which as Defendant notes in these moving papers, that the property in question is to be transferred. (See *also* Mamdough Reply Decl. to the original motion, ¶ 2 [stating that he waited to see who would own the property, and against whom the claim might lie].) The court concludes again that the issues proposed by the cross-complaint are materially related to facts found and conclusions of laws made in the judgment now pending appeal. This is bolstered by Defendant’s arguments that the appeal seeks to reverse the arbitrator’s award for payment on the property in question.

For the above reasons, the court, upon reconsideration, affirms its prior finding that to consider the motion would be to act in excess of its limited jurisdiction pending appeal.<sup>1</sup>

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** 6/2/2025.  
(Judge's initials) (Date)

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<sup>1</sup> The court notes that, to the extent Defendant feels his claims are unaffected by the appeal or the merits of the existing action, such claims would not be compulsory. (Code Civ. Proc. § 426.10, subd. (c).)

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**Tentative Ruling**

Re: **G.A.V. v. Keith Benton Robinson**  
Superior Court Case No. 24CECG00133

Hearing Date: June 3, 2025 (Dept. 503)

Motion: Petition to Approve Compromise of Disputed Claim of Minor

**Tentative Ruling:**

To deny, without prejudice. Petitioner must file an amended petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of the amended petition. (Super. Ct. Fresno County, Local Rules, rule 2.8.4.)

**Explanation:**

*Item 8: Minor's Treatment and Recovery*

Petitioner does not adequately describe the minor's treatment or provide medical reports to evidence the initial treatment, follow ups, and/or predicted future medical procedures. Petitioner offers no evidence of the claimant's current condition. "An original or a photocopy of any doctor's report containing a diagnosis of the claimant's injuries or a prognosis for the claimant's recovery, and a report of the claimant's current condition, must be attached to this petition as Attachment 8." (Petrn., Item 8, emphasis added.) Petitioner must attach medical documentation.

*Item 12: Medical Expenses and Reductions*

The petition does not list any of the medical providers and a breakdown of their charges/expenses at Item 12b(5). The petition does not include copies of any doctor's reports to justify the minor's medical expenses or establish any predicted future medical care. The petition describes medical expenses paid by Medi-Cal who have allegedly agreed to a reduction. Petitioner does not provide evidence of the negotiated reduction. The petition states that Medi-Cal paid \$76,396.93 and petitioner paid \$12,857.93. The petition lists total medical expenses at \$114,439.93. This leaves \$25,185.07 in outstanding medical expenses unaccounted for. Petitioner must clarify and support the medical expenses sought to be reimbursed from the minor's settlement, including evidence of all medical expenses charged, paid, and reduced.

*Item 18: Annuity*

The petition requests that the funds be placed in a structured annuity with Arcadia Settlements Group ("Arcadia"). However, the proposal from Arcadia for the structured settlement (see Attachment 18b(3) to the original petition) states "This proposal is valid until May 6, 2025." The petition was filed May 12, 2025, and the attached proposal had expired even prior to filing. Petitioner filed an amendment to this attachment updating

the payment amounts for the structured settlement – however, the amended terms are not clearly made, proposed, or approved by Arcadia, nor is there a date included on the proposal to ensure that such terms have not expired.

*Declaration re: Attorney's Fees*

In determining a reasonable attorney's fee, there are nonexclusive factors the court considers. (Cal. Rules of Court, rule 7.955(b).) Counsel's declaration accompanying the petition does not sufficiently comply with the factors set forth in CRC 7.955(b) explaining the basis of the attorney fees requested. Mr. Christofferson attaches a copy of the attorney/client retainer agreement, indicating that his firm will be receiving 1/3 of the settlement pursuant to signed agreement. This amount is unjustifiably high and there is no good reason to exceed the standard 25%. Mr. Christofferson only attempts to justify this by stating that he is well-practiced in the area of personal injury with a background in pedestrian auto accident matters. The only "unique challenge" of the case mentioned is his inclusion of FUSD and City of Fresno as defendants to the action. Without further and sufficient justification, the Court is not inclined to award a heightened amount of attorney's fees.

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** 6/2/2025.  
(Judge's initials) (Date)

(27)

**Tentative Ruling**

Re: **Manuel Hernandez v. Union Pacific Railroad Co**  
Superior Court Case No. 24CECG02944

Hearing Date: June 3, 2025 (Dept. 503)

Motion: Applications of (1) Joseph Michael Sayler, and (2) Taylor Brandt Cunningham to Appear *Pro Hac Vice* on Behalf of Plaintiff

**Tentative Ruling:**

To deny, without prejudice.

**Explanation:**

Although moving counsel (Candice Bond) insists payment has been made to the state bar, there is no evidence of payment, nor is the amount paid specified. In addition, although both applicants claim to have attached evidence of their good standing to their declarations, such evidence is omitted. Accordingly, both applications are denied. (Cal. Rules of Court, rule 9.40.)

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 6/2/2025.  
(Judge's initials) (Date)