

Tentative Rulings for July 8, 2026
Department 403

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.

24CECG03347 *Violet Gash v. California Teaching Fellows Foundation* is continued to Wednesday, August 12, 2026, at 3:30 p.m. in Department 403.

25CECG01570 *Foremost Insurance Company v. Miller-Phelen, Inc.* is continued to Wednesday, August 12, 2026, at 3:30 p.m. in Department 403.

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Tentative Rulings for Department 403

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Tentative Ruling

Re: **Chavez v. Villa**
Superior Court Case No. 25CECG03165

Hearing Date: July 8, 2026 (Dept. 403)

Motion: Defendant BDHOV, LP's Demurrer to the Complaint

Tentative Ruling:

To take off calendar as moot, due to plaintiff's filing of a First Amended Complaint on May 15, 2026. (*Sylmar Air Conditioning v. Pueblo Contracting Services, Inc.* (2004) 122 Cal.App.4th 1049, 1054; *People ex rel. Strathmann v. Acacia Research Corp.* (2012) 210 Cal.App.4th 487, 506.) Any challenges to the amended pleading must be raised by new motion(s).

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: SMC **on** July 7, 2026.
(Judge's initials) (Date)

(49)

Tentative Ruling

Re: ***In Matter of Fabian Lionel Rubalcava***
Superior Court Case No. 26CU01502

Hearing Date: July 8, 2026 (Dept. 403)

Motion: Petition to compromise minor's claim

Tentative Ruling:

To grant. Order signed. No appearances 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: SMC on July 7, 2026.
(Judge's initials) (Date)

(48)

Tentative Ruling

Re: ***Kesting v. Boots in the Park et al.***
Superior Court Case No. 23CECG03677

Hearing Date: July 8, 2026 (Dept. 403)

Motion: By Defendant Activated Events, LLC, to Set Aside Default

Tentative Ruling:

To deny. (Code Civ. Proc., § 473, subd. (b), (d).)

Explanation:

Defendant Activated Events, LLC ("Defendant") moves to set aside default, entered against it on May 22, 2025, pursuant to the discretionary relief afforded under, among other provisions, Code of Civil Procedure section 473, subdivision (d). Code of Civil Procedure, section 473, subdivision (d) provides that the court may set aside any void judgement or order.

Defendant submits that it is entitled to relief under Code of Civil Procedure section 473, subdivision (d) because defective service of summons rendered the entry of default void. Where there is not a valid service of summons, any judgment violates due process of law. (*Calvert v. Al Binali* (2018) 29 Cal.App.5th 954, 960-961.)

Where defendant is a limited liability company, Corporations Code section 17701.16 and Code of Civil Procedure section 413.10 *et seq.* control. Specifically, Code of Civil Procedure sections 415.10 and 415.20 apply to corporations and unincorporated associations. (See *also* Code Civ. Proc., § 416.40.) Service may be effected on the individual designated by the limited liability company as its agent. (Corp. Code, § 17701.16, subd. (b).) Where a defendant is a limited liability company, a copy of the summons and complaint may be served to a designated agent by personal service, substitute service, or service by mail with acknowledgement of receipt. (Code Civ. Proc., §§ 415.10, 415.20, subd. (a), and 415.30, subd. (a).) If the defendant is a corporate entity, service may be made in the first instance by substitute service. (Code Civ. Proc., § 415.20, subd. (a).) This does not require reasonable diligence. (*Compare id.*, § 415.20, subd. (b).) Substitute service is effective if copies of the summons and complaint are delivered to the person's office or left with a person who is apparently in charge who shall be informed of the contents thereof, and thereafter mailed to defendant. (*Id.*, § 415.20, subd. (a).)

Under Code of Civil Procedure section 415.20, subdivision (c), if the only address reasonably known for the person to be served is a private mailbox obtained through a commercial mail receiving agency, service of process may be effected on the first delivery attempt by leaving a copy of the summons and complaint with the commercial mailing receiving agency. Substantial compliance with the statutes governing service of summons may defeat a motion to set aside under section 473, subdivision (d). (*Ramos v. Homeward Residential, Inc.* (2014) 223 Cal.App.4th 1434, 1443.)

The proof of service of summons states that substituted service was effected at the address of a commercial mailbox in Costa Mesa, California on August 27, 2024. The proof of service lists that an unnamed clerk at a commercial mail receiving agency, Mailboxes & Shipping, was provided with copies of the summons, complaint, and other documents. Then, Plaintiffs mailed the proof of service of summons to the same commercial mailbox in Costa Mesa, California.

Defendant submits the following evidence.¹ Defendant is a limited liability company, and thus, Code of Civil Procedure sections 416.40 and 415.20 apply. Defendant's articles of organization, filed in 2010, designated Legalzoom.com, Inc. as its agent for service of process. Plaintiffs failed to effect service of the summons and complaint on Defendant's designated agent. Plaintiff argues that Defendant's designated agent at the time of service was Defendant's Chief Executive Officer, Steve Thacher, whose address was the commercial mailbox in Costa Mesa, California. However, the Statement of Information filed with the California Secretary of State that changed the agent for service of process to Steve Thacher was not filed until after, on December 27, 2024. Thus service was not competent on the Costa Mesa commercial mailbox at the time of service on August 27, 2024. Further, while a company may be served by leaving a copy of the summons and complaint with the commercial mail receiving agency under Code of Civil Procedure section 415.20, subdivision (c), this is only proper where it is the only address reasonably known. Because the aforementioned records were readily accessible on the website maintained by the California Secretary of State, service under Code of Civil Procedure section 415.20, subdivision (c), was not proper.

Plaintiffs James Kesting, Jordann Kesting, Kory Evans, and Anna Evans (collectively "Plaintiffs") oppose. Plaintiffs submit, as to relief under subdivision (d), the mailbox was the only address they could find. (Henrickson Decl., ¶ 3 and Ex. A.) Plaintiffs exhibit reports that the principal place of business was the only location information where papers were ultimately served. The exhibit is not refuted by any other evidence as to the principal place of business. On further inspection of the declaration of Steve Thacher, there are no statements that the Costa Mesa address was not the address of record at the time of service.²

Based on the above, the court finds that Code of Civil Procedure section 415.20, subdivision (c) applies. The only address reasonably ascertainable at the time of service was the Costa Mesa mailbox. Accordingly, service was proper, and the motion is denied as to relief under Code of Civil Procedure section 473, subdivision (d).³

¹ Defendant's Request for Judicial Notice is granted as to Exhibits F and G. All other exhibits are denied as not dispositive to the outcome.

² Further, the declaration is questionably competent under the laws of California. The declaration was submitted under penalty of perjury of the laws of the State of Tennessee.

³ The court issues no rulings as to Defendant's Objections to the Declaration of Roger Bonakdar, which were not dispositive.

Defendant further seeks relief under the discretionary provisions of Code of Civil Procedure section 473, subdivision (b). However, default was entered on May 22, 2025. This motion was made on March 3, 2026, which is outside the six month deadline provided for by statute. Therefore, the motion for discretionary relief is untimely and the court is without jurisdiction to grant it. The motion is denied as to Code of Civil Procedure section 473, subdivision (b).

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: SMC **on** July 7, 2026.
(Judge's initials) (Date)