

Tentative Rulings for July 8, 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.*

23CECG02079 *Ray Thacker v. Jose Anguiano* (Dept. 501)

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

24CECG01966 *N.F. v. Lea Gruber* is continued to Wednesday August 5, 2026, at 3:30 p.m. in Department 501.

25CECG01860 *Eric Hull v. General Motors LLC* is continued to Wednesday, August 19, 2026, at 3:30 p.m. in Department 501.

25CECG04836 *Cassandra Danielle Green v. Tuff Shed, Inc.* is continued to Thursday, July 30, 2026, at 3:30 p.m. in Department 501.

24CECG05453 *Armen Bedrosian, Medical Doctor v. Saint Agnes Medical Center* is continued to Wednesday, July 15, 2026, at 3:30 p.m. in Department 501.

25CECG02335 *Alyssa Herrera v. ASFC LLC* is continued to Wednesday, July 15, 2026, at 3:30 p.m. in Department 501.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

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Tentative Ruling

Re: ***In the Matter of Jazleen Martinez***
Superior Court Case No. 25CECG05696

Hearing Date: July 8, 2026 (Dept. 501)

Motion: Expedited Petition to Compromise Claim of Minor

Tentative Ruling:

To deny the petition, without prejudice, for the reasons explained below. In the event that oral argument is requested the minor is excused from appearing.

Explanation:

The judgment or total settlement stated in the petition (item nos. 11 and 12) exceeds the \$50,000 qualifying limitation required for expedited relief (Cal. Rules of Court, rule 7.950.5(a)(8); see also, Petn., Item 3(g), and neither counsel's declaration nor the other attached documents provide sufficient justification for applying the limited exceptions. The petition states the total recovery for all parties is \$130,000 and the minor claimant is not receiving the single person limit. (Cal. Rules of Court, rule 7.950.5(a)(8)(A).

As such, 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: KCK on 07/07/26
(Judge's initials) (Date)

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Tentative Ruling

Re: **Gracie's Cabin LLC v. Figueroa et al.**
Superior Court Case No. 25CECG01545

Hearing Date: July 8, 2026 (Dept. 501)

Motion: By Cross-Complainant Alex Ray Figueroa to Set Aside Dismissal

Tentative Ruling:

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

Explanation:

Cross-complainant Alex Ray Figueroa ("Cross-Complainant") seeks of relief under Code of Civil Procedure section 473, subdivision (b) from judgment of dismissal. Following a successful demurrer against the Second Amended Cross-Complaint, cross-defendants Gracie's Cabin LLC, Robert Fedoris, and Peak Trust Company-NV (together "Cross-Defendants") obtained a judgment of dismissal.

Code of Civil Procedure section 473, subdivision (b) provides, in pertinent part:

The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken.

...

Notwithstanding any other requirements of this section, the court shall, whenever an application for relief is made no more than six months after entry of judgment, is in proper form, and is accompanied by an attorney's sworn affidavit attesting to his or her mistake, inadvertence, surprise, or neglect, vacate any (1) resulting default entered by the clerk against his or her client, and which will result in entry of a default judgment, or (2) resulting default judgment or dismissal entered against his or her client, unless the court finds that the default or dismissal was not in fact caused by the attorney's mistake, inadvertence, surprise, or neglect. (emphasis added)

Thus, under Code of Civil Procedure section 473, subdivision (b), the court is empowered to relieve a party "upon such terms as may be just . . . from a judgment, dismissal, order or other proceeding taken against him or her through his or her mistake,

inadvertence, surprise or excusable neglect." Relief under section 473, subdivision (b) can be based either on: an 'attorney affidavit of fault,' in which event, relief is mandatory; or declarations or other evidence showing 'mistake, inadvertence, surprise or excusable neglect,' in which event relief is discretionary.

Mandatory Relief

Mandatory relief pursuant to section 473, subdivision (b) occurs where the entry of default was solely caused by the attorney, i.e., the party did not contribute in any way. (See *Lang v. Hochman* (2000) 77 Cal.App.4th 1225, 1248; *Todd v. Thrifty Corp.* (1995) 34 Cal.App.4th 986, 991.) Public policy dictates that disposition on the merits be favored over judicial efficiency. (*Bahl v. Bank of America* (2001) 89 Cal.App.4th 389, 392.) Thus, absent a straightforward admission of fault by the attorney, there can be no relief under the mandatory provision of section 473. (*State Farm Fire & Casualty Co. v. Pietak* (2001) 90 Cal.App.4th 600, 609-610.)

Here, counsel submits on a prior affidavit of fault. The affidavit of fault however was in response to the court's Order to Show Cause. This is not equivalent to accepting admission of fault as to the outcome of the demurrer. However, the substance of the affidavit does take ownership of the outcome. The affidavit was a straightforward admission of fault, and further suggests that the party did not contribute in any way.

In opposition, Cross-Defendants submit that the mandatory relief provisions are peculiar to defaults, in spite of the plain language of the statute including judgments of dismissal. Cross-Defendants cite to *Leader v. Health Industries of America, Inc.* for the premise. (*Leader v. Health Industries of America, Inc.* (2001) 89 Cal.App.4th 603 ("Leader").) In *Leader*, the appellate court considered, among other things, the use of Code of Civil Procedure section 473, subdivision (b), and particularly as to the mandatory relief provisions. In addressing the issues of the case, the *Leader* court examined the history of the mandatory relief provisions. Among other things, the *Leader* court noted that the State Bar of California, who sponsored the amendment, argued, "it is illogical and arbitrary to allow mandatory relief for defendants when a default judgment has been entered... and not to provide comparable relief to plaintiffs whose cases are dismissed for the same reason." (*Id.* at p. 618 citing *Generale Bank Nederland v. Eyes of the Beholder Ltd.* (1998) 61 Cal.App.4th 1384, 1396 (emphasis original).) In other words, "[t]here is no evidence the amendment was intended to be a catch-all remedy for every case of poor judgment on the part of counsel which results in a dismissal." (*Leader, supra*, 89 Cal.App.4th at p. 618.) The *Leader* court thereafter affirmed the position that the relief afforded under these provisions are comparable to the relief afforded to a defaulted defendant. (*Id.* at p. 619 citing *Peltier v. McCloud River R.R. Co.* (1995) 34 Cal.App.4th 1809, 1820-1821.) The *Leader* court further found that the Legislature intended to reach only those dismissals which occur through failure to oppose a dismissal motion, the only dismissals which are procedurally equivalent to a default. (*Leader, supra*, 89 Cal.App.4th at p. 620 [citing in comparison to, among other situations, *Castro v. Sacramento County Fire Protection Dist.*, (1996) 47 Cal.App.4th 927, 933 on dismissals based on statutes of limitation].)

On reply, Cross-Complainant refers to *Gotschall v. Daley* to counter reliance on *Leader* and for the specific premise that mandatory relief extends to where a party fails

to oppose a dismissal motion. (*Gotschall v. Daley* (2002) 96 Cal.App.4th 479, 483-484.) However, there, the court expressly acknowledges the findings of *Leader* and noted that the facts there, counsel did not fail to oppose the dismissal motion. As here, Cross-Complainant's opposition was filed and heard, and Cross-Complainant failed to meet his burden. (*Id.* at pp. 483-484.) "Lack of success in contesting a motion does not equate to plaintiff losing his day in court." (*Id.* at p. 484.)

For the above reasons, the court finds that mandatory relief is inapplicable. The motion is therefore denied as to mandatory relief grounds. The court turns to discretionary relief.

Discretionary Relief

"While [Code of Civil Procedure section 473 relief] is remedial and to be liberally construed [citation], the moving party must show 'mistake, inadvertence, surprise or excusable neglect.' ... 'It is the duty of every party desiring to resist an action or to participate in a judicial proceeding to take timely and adequate steps to retain counsel or to act in his own person to avoid an undesirable judgment. Unless in arranging for his defense he has shown he has exercised such reasonable diligence as a man of ordinary prudence usually bestows upon important business his motion for relief under section 473 will be denied. ...' (*Luz v. Lopes* (1960) 55 Cal.2d 54, 62.)

Excusable neglect" is the most common ground for obtaining discretionary relief from default. The issue boils down to whether the moving party has shown a reasonable excuse for the default. (*Davis v. Thayer* (1980) 113 Cal.App.3d 892, 905.) "The word 'excusable' means just that: inexcusable neglect prevents relief." (*Carroll v. Abbott Laboratories, Inc.* (1982) 32 Cal.3d 892, 895.) "Excusable neglect" is generally defined as an error " "a reasonably prudent person under the same or similar circumstances might have made." " [Citation.] (*Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 258.) "The burden of establishing excusable neglect is upon the party seeking relief who must prove it by a preponderance of the evidence." (*Iott v. Franklin* (1988) 206 Cal.App.3d 521, 528, fn. omitted.)

Here, the moving papers makes no specific arguments as to discretionary relief, aside from noting that excusable neglect or attorney fault are grounds for relief. The court construes this statement as seeking relief based on mistake and excusable neglect. Nothing in the moving papers or the record suggests either occurred. The affidavit of fault, which the court notes again was not for the purposes of the present relief sought, but to address the court's Order to Show Cause, recites intentional behavior to utilize artificial intelligence to prepare the opposition papers. In any event, none of the behavior attested to constitutes excusable behavior. These are situations from which ordinary prudence could have, and should have, guarded against.

On reply, Cross-Complainant does not submit any further specific argument. Rather, Cross-Complainant apparently concedes that for conduct to be excusable, the standard is met where the attorney's error resulted from circumstances beyond normal professional negligence. (*Carroll v. Abbott Laboratories, Inc.*, *supra*, 32 Cal.3d at p. 898 [stating that "a party who seeks relief under section 473 on the basis of mistake or inadvertence of counsel must demonstrate that such mistake, inadvertence, or general

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Tentative Ruling

Re: **Rodriguez v. Foster Poultry Farms, LLC**
Superior Court Case No. 24CECG02025

Hearing Date: July 8, 2026 (Dept. 501)

Motion: Motion for Relief from Waiver of Objections

Tentative Ruling:

To take off calendar, as no moving papers have been filed.

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: KCK **on** 07/07/26.
(Judge's initials) (Date)