

Tentative Rulings for July 14, 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.*

25CECG02136 *Shahabzada vs. Lyft, Inc. (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.

24CECG00946 *Rose DeLeon v. Fresno Community Hospital & Medical Center is continued to Tuesday, August 4, 2026, at 3:30 p.m. in Department 501.*

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Tentative Rulings for Department 501

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Tentative Ruling

Re: ***In re Julieta Tapia Avila***
Superior Court Case No. 26CU01664

Hearing Date: July 14, 2026 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

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

Explanation:

The petition at issue is denied without prejudice due to a number of deficiencies.

First, the numbers do not add up with regards to the medical expenses. According to the petition, total medical expenses before reductions total \$153,952.24, minus \$5,846.23 total medical expenses, minus \$9,554.98 in negotiated reductions, leaving \$4,384.68 to be paid from the settlement proceeds to satisfy a Medi-Cal lien. It is unclear what happened with the remaining \$138,551.03 that has not been paid. See Petition section 12a.

Second, the petition omits certain required filings, including Attachment 18b(2) and the required proposed Order to Deposit Funds in Blocked Account (MC355).

Third, the petition does not fill out required sections, including sections 7 and 11.

Fourth, the petition must contain full disclosure of all information that has any bearing on the reasonableness of the settlement. (Cal. Rules of Court, rule 7.950.) Given the representation that the minor is not fully recovered, petitioner shall provide a doctor's report of the her present condition.

Finally, the court notes that the petition is difficult to read. Counsel shall file a fully legible copy of any amended petition and attachments.

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 07/09/26 .
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***Arguello v. Moran Law Firm, LLP***
Case No. 24CECG02662

Hearing Date: July 14, 2026 (Dept. 501)

Motion: Plaintiff's Demurrer to Cross-Complaint

Plaintiff's Motion to Strike Punitive Damages from Cross-Complaint

Plaintiff's Special Motion to Strike Cross-Complaint (Anti-SLAPP Motion)

Plaintiff's Motion to Sever Trial of Cross-Complaint, or in the Alternative, Bifurcate the Trial of the Cross-Complaint from the Trial of the Complaint

Plaintiff's Motion for Partial Summary Judgment, or in the Alternative Summary Adjudication of Causes of Action Fifteen through Nineteen and Request for Declaration of Entitlement to Attorney's Fees

Tentative Ruling:

To continue plaintiff's motion for partial summary judgment or adjudication to December 15, 2026 to allow defendant to conduct plaintiff's deposition. (Code Civ. Proc., § 437c, subd. (h).) The opposition shall be filed by the close of business on November 25, 2026, and the reply shall be filed by the close of business on December 4, 2026.

To strike defendant's cross-complaint as improperly filed without leave of court. (Code Civ. Proc., §§ 436, 426.50.) To overrule plaintiff's demurrer and deny the motions regarding the cross-complaint, as they are moot in light of the order striking the cross-complaint.

Explanation:

Plaintiff's Motion for Partial Summary Judgment or Adjudication: Under Code of Civil Procedure section 437c, subdivision (h), "If it appears from the affidavits submitted in opposition to a motion for summary judgment or summary adjudication, or both, that facts essential to justify opposition may exist but cannot, for reasons stated, be presented, the court shall deny the motion, order a continuance to permit affidavits to be obtained or discovery to be had, or make any other order as may be just."

"To mitigate summary judgment's harshness, the statute's drafters included a provision making continuances—which are normally a matter within the broad discretion

of trial courts—virtually mandated ‘ “upon a good faith showing by affidavit that a continuance is needed to obtain facts essential to justify opposition to the motion.” [Citation.]’ ... The drafters’ inclusion of the italicized words ‘may’ and ‘shall’ leaves little room for doubt that such continuances are to be liberally granted. Indeed, as one court noted, ‘an opposing party can compel a continuance of a summary judgment motion’ by making a declaration meeting the requirements of section 437c, subdivision (h).” (*Bahl v. Bank of America* (2001) 89 Cal.App.4th 389, 395–396, citations omitted.)

Here, defense counsel has submitted his declaration, in which he states that he needs to conduct plaintiff’s deposition in order to test his claims that he worked overtime without pay, that he was denied meal and rest breaks, and that he was not timely paid his wages on separation, among other issues. (Dobbins decl., ¶¶ 5, 8.) Defendant contends that it is essential to take plaintiff’s deposition on these issues because plaintiff’s motion relies on his own declaration to prove his claim that he regularly worked over 50 hours per week, arrived early, stayed late, and worked through breaks. (*Id.* at ¶ 9.) “Defendant cannot fairly respond to those assertions without examining Plaintiff about the dates, calculations, records, tasks, interruptions, and assumptions underlying them.” Defense counsel also claims that the facts that defendant seeks are likely to exist, as plaintiff has claimed that he worked overtime and through meal and rest breaks, and that he is likely to have records or memory aids to help him reconstruct his work time. (*Id.* at ¶ 10.) Defendant has not been able to take plaintiff’s deposition despite diligent efforts to do so because plaintiff has filed an anti-SLAPP motion, which stayed discovery. (*Id.* at ¶ 11.) Plaintiff has taken the position that his deposition cannot go forward while the anti-SLAPP motion is pending.

Thus, defendant has made a sufficient showing that it needs a continuance to conduct discovery and take plaintiff’s deposition, which is likely to produce evidence that would be helpful in opposing plaintiff’s motion for summary judgment or adjudication. While plaintiff opposes the request for a continuance and argues that defendant has unreasonably refused to accept his offer to allow a limited deposition to be taken as long as it does not involve any questions related to the cross-complaint, defense counsel claims that any deposition would necessarily seek information about all of the claims and cross-claims, which involve overlapping issues. Defendant deserves to be allowed to conduct a deposition of plaintiff before having to oppose the summary judgment motion, as many of plaintiff’s wage and hour claims depend heavily on whether he actually worked overtime, worked through meal and rest breaks, and was not paid his final wages promptly on separation. It does not appear that defendant’s conduct in refusing to conduct a partial deposition of plaintiff is so unreasonable as to warrant denying its request for a continuance so that it can take plaintiff’s deposition. To deny the continuance would effectively deny defendant’s right to obtain facts that might allow it to determine if there are any triable issues of fact with regard to plaintiff’s wage and hour claims.

Also, to the extent that plaintiff argues that defendant does not need to take his deposition because defendant has not disputed most of the facts underlying his motion, plaintiff ignores the fact that much of his motion depends on whether he actually worked overtime, worked through meal and rest breaks, and was not timely paid his final wages after he was terminated. The only evidence that plaintiff submits to establish these key issues is his own declaration, as well as the declaration of his mother. Defendant needs to depose plaintiff in order to determine whether there are any disputed facts regarding

these issues. It would be a denial of defendant's due process rights to grant summary judgment without first allowing defendant to depose plaintiff and ask him about whether he actually worked overtime, worked through meal and rest breaks, and did not receive a timely final paycheck.

In addition, while plaintiff objects that there will not be enough time to continue the hearing date on the summary judgment motion and take his deposition before the trial begins on August 24, 2026, the court has now granted a continuance of the trial date until January of 2027. Thus, there is sufficient time to continue the summary judgment hearing and take plaintiff's deposition before the continued trial date.

Therefore, the court intends to grant the requested continuance and allow defendant to take plaintiff's deposition before the continued hearing date. The court will set the continued hearing on December 15, 2026, with defendant's opposition due November 25, 2026, and the reply due December 4, 2026.

Plaintiff's Demurrer, Motion to Strike, Special Motion to Strike, and Motion to Sever or Bifurcate the Trial on the Cross-Complaint: The court intends to strike defendant's cross-complaint *sua sponte* on the ground that defendant did not seek or obtain leave of court before filing the cross-complaint. Also, in light of the order striking the cross-complaint, the court finds that plaintiff's demurrer, motion to strike, special motion to strike, and motion to sever the trial of the cross-complaint are moot.

Normally, a defendant may file their cross-complaint against the plaintiff as a matter of right if they file it at the same time that they file their answer. (Code Civ. Proc., § 428.50, subd. (a).) However, if the defendant does not file the cross-complaint with their answer, they need to obtain leave of court to file the cross-complaint. (Code Civ. Proc., § 426.50.)

Thus, if the proposed cross-complaint is compulsory, leave must normally be granted so long as defendant is acting in good faith. (*Ibid.*) However, the filing of a cross-complaint for malicious prosecution of the main action will not usually be allowed, as the entire main action has to be terminated in favor of the defendant before the malicious prosecution action may be filed, even if the plaintiff dismisses several of the claims, as long as the action proceeds on others. (*Babb v. Superior Court (Huntington)* (1971) 3 Cal.3d 841, 846; *Jenkins v. Pope* (1990) 217 Cal.App.3d 1292, 1299-1300.)

In the absence of stipulation, the defendant seeking leave to file a cross-complaint must file a noticed motion supported by points and authorities and a declaration of counsel, as well as a copy of the proposed cross-complaint. (Weil & Brown, Cal. Civ. Pro. Before Trial (The Rutter Group 2026) Ch. 6-D, Cross-Complaints, ¶ 6:560.) "The declarations of defendant's counsel should show that it would be 'in the interest of justice' to grant leave to file, and some reasonable excuse why the cross-complaint was not filed earlier (mistake, inadvertence, excusable neglect or, most commonly, *recent discovery of new facts*)." (*Id.* at ¶ 6:562, italics in original.)

In the present case, defendant filed its answer to the complaint on November 25, 2024. Defendant did not file a cross-complaint against plaintiff at the time it filed its answer. Instead, it waited until February 13, 2026, almost a year and a half later, before filing its cross-complaint for malicious prosecution and abuse of process against plaintiff. Defendant did not file a notice of motion for leave to file the cross-complaint, nor did it

Therefore, defendant has not complied with the procedures for filing a cross-complaint after it filed its answer, and the cross-complaint is not properly before the court. As a result, the court intends to strike the cross-complaint on its own motion as improperly filed. (Code Civ. Proc., § 436.) If defendant wishes to file a cross-complaint, it must file and serve a noticed motion with supporting points and authorities, evidence, and a copy of the proposed cross-complaint. In addition, defendant needs to make a showing that it should be allowed to file cross-complaint because it is in the interests of justice. The court will also deny the plaintiff's demurrer and motions related to the cross-complaint, as they are moot in light of the court's finding that the cross-complaint was improperly filed.

Tentative Ruling

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Tentative Ruling

Re: ***Doe v. Fresno Unified School District et al.***
Superior Court Case No. 23CECG03206

Hearing Date: July 14, 2026 (Dept. 501)

Motion: By Defendant Samuel Confectioner for Permanent Remote Appearance

Tentative Ruling:

To grant in part, as to the request for remote appearance at the August 7, 2026, Trial Readiness Conference. To deny on all other grounds.

Explanation:

Defendant Samuel Confectioner ("Defendant") filed the present motion for permanent remote appearance to request the court to allow Defendant to appear remotely at any non-evidentiary hearing. Defendant makes the motion based on Code of Civil Procedure section 367.75 and California Rules of Court, Rule 1.100.

Code of Civil Procedure section 367.75 permits a party to appear remotely if the party gives proper notice and the court permits it. California Rules of Court, Rule 1.100 lays out the rules for accommodations for people with disabilities. Normally requests under Code of Civil Procedure section 367.75 are done via filing Judicial Council Form *Notice of Remote Appearance (RA-010)* ("RA-010 Form") and requests under California Rules of Court, Rule 1.100 are done via Judicial Council Form *Disability Accommodation Request (MC-410)*. However, the court will still consider the motion before it.

The request is based on Defendant's disabilities, distance from Fresno, and doctor's note, by Dr. Unold. (Confectioner Decl., ¶¶ 2-7; Exh. A.) Defendant's disabilities and Dr. Unold's note support granting remote appearance when possible. However, none of the submitted evidence excuses Defendant from following the normal process, and submitting an RA-010 form for appropriate hearings. Each hearing requires its own analysis on whether a party needs to be present. That analysis cannot be generalized to all non-evidentiary hearings. Accordingly, Defendant's request for permanent remote appearance is denied.

Defendant additionally requests permission to appear remotely at a Mandatory Settlement Conference ("MSC") scheduled for July 14, 2026 and the Trial Readiness Conference ("TRC") scheduled for August 7, 2026. The MSC is off calendar and denied as moot. Defendant otherwise provides sufficient grounds based on health and distance, as well as notice to appear remotely at the TRC. Accordingly, Defendant's request to appear remotely at the TRC scheduled for August 7, 2026, is granted.

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

