

Tentative Rulings for August 19, 2025
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.

23CECG01771	<i>Diane Heskett v. Jaime Flores, JR</i> is continued to Wednesday, August 27, 2025, at 3:30 p.m. in Department 403.
23CECG00841	<i>Celso Tranquilino v. Antonio Almeida</i> is continued to Wednesday, August 27, 2025, at 3:30 p.m. in Department 403.
24CECG02097	<i>Antonio Cuevas v. Stairway Fabricators, Inc.</i> is continued to Wednesday, August 20, 2025, at 3:30 p.m. in Department 403.

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Tentative Ruling

Re: **Kimberly Rodriguez v City of Fresno**
Superior Court Case No. 24CECG00662

Hearing Date: August 19, 2025 (Dept. 403)

Motion: Petition to Compromise for Kimberly Rodriguez

Tentative Ruling:

To grant petition. Order signed. No appearance necessary. The court sets a status conference for Tuesday, November 18, 2025, at 3:30 p.m., in Department 403, for confirmation of deposit of the minors' funds into the blocked accounts. 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(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: img **on** 8-18-25.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: **Craig Boone v. Fresno Chrysler Jeep, Inc.**
Superior Court Case No. 24CECG04110

Hearing Date: August 19, 2025 (Dept. 403)

Motion: by Plaintiff to Compel Further Responses to Interrogatories

Tentative Ruling:

To grant the motion to compel further responses to Special Interrogatories Nos. 58, 59, and 60. Defendant Fresno Chrysler Jeep, Inc. is directed to serve further responses within 10 days of service of the order by the clerk.

Explanation:

Plaintiff Craig Boone ("plaintiff") brings this premises liability suit against Fresno Chrysler Jeep, Inc. ("defendant") following a slip-and-fall in defendant's service department. By this motion, plaintiff seeks a court order compelling defendant to provide further responses to his propounded Special Interrogatories, Set One, Nos. 58-60. Plaintiff seeks to obtain the addresses of customers in defendant's service department on the day of the subject incident, which defendant refuses to provide.

Defendant's Generic Objections are Overruled

Defendant in opposition foregoes arguing any of the generic objections made to the propounded special interrogatories at issue, which it bears the burden to demonstrate. The general objections of overbroad, vague, ambiguous, unduly burdensome, and interrogatory not reasonably calculated to lead to the discovery of admissible evidence are overruled. Defendant instead solely focuses on the issue of privacy.

Plaintiff's Right to Discovery Outweighs the Percipient Witnesses' Right to Privacy

Protection of informational privacy is the state Constitution's right of privacy's central concern. (*Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 35.) The party seeking information may raise in response whatever legitimate and important countervailing interest disclosure serves, while the party seeking protection may identify feasible alternatives that serve the same interests or protective measures that would diminish the loss of privacy. (*Id.*, at pp. 37-40.)

The burden is on "the party asserting a privacy interest to establish its extent and the seriousness of the prospective invasion," and then the court must "weigh the countervailing interests the opposing party identifies." (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 557.) A party seeking discovery of private information need not always establish a compelling interest or compelling need without regard to other considerations as stated in *Hill v. National Collegiate Athletic Association*, including the strength of the

privacy interest itself, the seriousness of the invasion, and the availability of alternatives and protective measures. (*Id.*, at pp. 557-558.) The more serious the invasion, the more substantial the showing of the need for the discovery that will be required before disclosure will be permitted. (*SCC Acquisitions, Inc. v. Superior Court* (2015) 243 Cal.App.4th 741, 755.)

At issue are special interrogatory nos. 58, 59, and 60, specifically to the extent they seek the addresses of customers who were at defendant's service center on the day of the subject incident. These customers have been identified by plaintiff as percipient witnesses. Defendant argues that these customers have a protected privacy interest, but does not discuss the extent of the invasion or the seriousness of the prospective invasion. The furthest defendant goes to address the impact of disclosure is to say that the trust between defendant and its customers is the basis for their continuing business relationship. (Opp., 3:21-25.)

Defendant bases its argument on the idea that its customers do not reasonably expect dissemination of their contact information, but by that reasoning defendant fails to explain why disclosure of the customers' names and phone numbers was allowable but providing their addresses is not. Providing the addresses sought does not appear to be a serious invasion of privacy, especially considering that other identifying information such as their names and phone numbers have already been produced by defendant.

Plaintiff states that the purpose of seeking this information is not limited to identifying witnesses to his fall, but also in regard to the “conditions in FCJ’s service department that day.” (Reply, 1:13.) These customers are also relevant to plaintiff’s determination of whether certain signage or other warnings were present in the service department on the day of the incident. (Motion, 4:5-6.) The customers at defendant’s premises on the day of the incident are percipient witnesses. The discovery statutes explicitly make the contact information of percipient witnesses a proper subject of discovery. (*Williams v. Superior Court* (2017) 3 Cal.5th 531, 544, citing *Pioneer Electronics (USA), Inc. v. Superior Court* (2007) 40 Cal.4th 360, 374; see also Code Civ. Proc., § 2017.010.)

Plaintiff does not dispute that the percipient witnesses have a privacy interest here, but purports that this specific information is outweighed by his right to discovery. (Separate Stmt., 5:4, 5:11-13.) Defendant does not dispute that plaintiff has *an* interest in contacting these customers. (Opp., 3:26.) Defendant does not carry its burden to demonstrate that the extent of the invasion or the seriousness of the prospective invasion outweighs plaintiff's right to discovery. The motion to compel further responses to special interrogatory numbers 58, 59, and 60 is therefore 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 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: img on 8-18-25
(Judge's initials) (Date)

(20)

Tentative Ruling

Re: ***Jones v. Clear Recon Corp. et al.***
Superior Court Case No. 24CECG04822

Hearing Date: August 19, 2025 (Dept. 403)

Motion: Unopposed Demurrer to Complaint

Tentative Ruling:

To sustain with plaintiff granted 10 days' leave to file a first amended complaint as to defendant PHH Mortgage Corporation. (Code Civ. Proc., § 430.10, subd. (e).) The time in which the complaint may be amended will run from service of the order by the clerk. All new allegations shall be in **boldface** type.

Explanation:

The Complaint alleges a single cause of action for wrongful foreclosure arising from the foreclosure sale of property apparently belonging to plaintiff's grandmother, who is deceased. Defendant PHH Mortgage Corporation, servicer of the mortgage on the subject property, demurs to the Complaint.

The elements of a wrongful foreclosure cause of action are: " '(1) [T]he trustee or mortgagee caused an illegal, fraudulent, or willfully oppressive sale of real property pursuant to a power of sale in a mortgage or deed of trust; (2) the party attacking the sale (usually but not always the trustor or mortgagor) was prejudiced or harmed; and (3) in cases where the trustor or mortgagor challenges the sale, the trustor or mortgagor tendered the amount of the secured indebtedness or was excused from tendering.' " (*Sciarratta v. U.S. Bank National Assn.* (2016) 247 Cal.App.4th 552, 561–562.)

First and foremost, the Complaint does not allege that plaintiff has standing to sue for wrongful foreclosure. "Every action must be prosecuted in the name of the real party in interest." (Code Civ. Proc., § 367; see *Dino v. Pelayo* (2006) 145 Cal.App.4th 347, 353 fn. 2; *Cloud v. Northrop Grumman Corp.* (1998) 67 Cal.App.4th 995, 1004.) Generally, the real party in interest is the person who has the right to sue under the substantive law. It is the person who owns or holds title to the claim or property involved, as opposed to others who may be interested or benefited by the litigation. (*Gantman v. United Pac. Ins. Co.* (1991) 232 Cal.App.3d 1560, 1566.) From the allegations of the Complaint, plaintiff is not the owner of the property or the borrower on the mortgage loan. The Complaint does not allege that plaintiff has any interest in the Property to have standing to sue, or show that foreclosure may not proceed when the property is in probate.

Moreover, an action to set aside a trustee's sale for irregularities in sale notice or procedure should be accompanied by an offer to pay the full amount of the debt for which the property was security." (*Arnolds Management Corp. v. Eischen* (1984) 158 Cal.App.3d 575, 581.) The Complaint fails to allege that plaintiff has tendered, or has offered to tender, the debt secured by the property.

For these reasons, plaintiff is unable to state a claim for wrongful foreclosure. The court intends to sustain the demurrer with leave to amend.

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: Img on 8-18-25
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***In re Jaxson Karr***
Superior Court Case No. 25CECG02772

Hearing Date: August 19, 2025 (Dept. 403)

Motion: Petition to Compromise the Claim of Minor

Tentative Ruling:

To grant the petition. 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: Img on 8-18-25
(Judge's initials) (Date)