

Tentative Rulings for August 19, 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)

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.

22CECG02123 *Roger Hernandez v. Western Power Sports, Inc.* is continued to Thursday, August 21, 2025, at 3:30 p.m. in Department 503.

25CECG02293 *Scott Schroeder v. Randall King* is continued to Thursday, August 21, 2025, at 3:30 p.m. in Department 503.

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Tentative Rulings for Department 503

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Tentative Ruling

Re: **Henry Ortiz v. M Xpress Inc.**
Superior Court Case No. 24CECG04233

Hearing Date: August 19, 2025 (Dept. 503)

Motion: Defendant Transportation Solutions, Inc.'s Demurrer

Tentative Ruling:

To continue to Thursday, September 25, 2025 at 3:30 p.m. in Department 503, in order to allow Defendant to meet and confer in person or by telephone, as required. If this resolves the issues, Defendant shall call the court to take the demurrer off calendar. If it does not resolve the issues, counsel for Defendant shall file a declaration on or before September 11, 2025, stating, with detail, the efforts made.

Explanation:

Code of Civil Procedure section 430.41 makes it clear that meet and confer must be conducted "in person or by telephone." (*Id.*, subd. (a).) The moving party is not excused from this requirement unless they show that the plaintiff failed to respond to the meet and confer request or otherwise failed to meet and confer in good faith. (*Id.*, subd. (a)(3)(B).) While counsel indicates he sent a meet and confer letter, this does not comply with the requirement that meet and confer occur either in person or by telephone. The parties must engage in good faith meet and confer, in person or by telephone, as set forth in the statute. The court's normal practice in such instances is to take the motion off calendar, subject to being re-calendared once the parties have met and conferred. However, given the congestion in the court's calendar currently, the court will instead continue the hearing to allow the parties to meet and confer, and only if efforts are unsuccessful will it rule on the merits.

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 8/8/2025.
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***Tri-Counties Bank v. Billingsley***
Case No. 23CECG00640

Hearing Date: August 19, 2025 (Dept. 503)

Motion: Plaintiff's Motion for a Charging Order

Tentative Ruling:

To grant plaintiff's motion for a charging order.

Explanation:

"If a money judgment is rendered against a partner or member but not against the partnership or limited liability company, the judgment debtor's interest in the partnership or limited liability company may be applied toward the satisfaction of the judgment by an order charging the judgment debtor's interest pursuant to Section 15907.03, 16504, or 17705.03 of the Corporations Code." (Code Civ. Proc., § 708.310.)

Also, under Corporations Code section 17705.03, "On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor." (Corp. Code, § 17705.03, subd. (a).)

Here, plaintiff obtained a judgment of over \$2 million against defendant Billingsley, and defendant has failed to pay any part of the judgment despite multiple efforts by plaintiff to collect. (Gomez decl., ¶¶3, 11.) Defendant has failed to appear at two separate examinations, despite being ordered to appear. (*Id.* at ¶¶ 4-8.) However, defendant apparently has interests in several business entities, which he admitted were his assets in his marital settlement agreement. (Exhibit 6 to Plaintiff's Request for Judicial Notice. The court intends to take judicial notice of the MSA as a part of the court file in case no. 22CEFL01116.)

Therefore, the court intends to grant the charging order against defendant's business interests, requiring that any distributions that are due or will become due to defendant from his business interests to be paid directly to plaintiff Tri Counties Bank until the judgment and all accrued interest is paid in full.

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** 8/12/2025.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Barrett Daffin Frappier Treder & Weiss LLP v. Consumer Defense Law Group, et al.***
Superior Court Case No. 23CECG02043

Hearing Date: August 19, 2025 (Dept. 503)

Motion: by Plaintiff to Discharge Interpleader and Award Attorneys' Fees and Costs

Tentative Ruling:

To grant. Plaintiff shall submit a proposed order reflecting an award of attorney fees and costs in the sum of \$5,745.13 and a balance of \$60,670.46 to be deposited with the court.

Explanation:

Plaintiff seeks an order under Code of Civil Procedure section 386 discharging it from liability for funds deposited with the court and dismissing it from this action.

The court finds that plaintiff has complied with the requirements of section 386 and is entitled to be discharged from any further liability to defendants and dismissed from this action.

Plaintiff is entitled to an award of attorney's fees and costs to cover the cost of bringing and litigating the present action. Under Code of Civil Procedure section 386.6, subdivision (a), "In ordering the discharge of such party, the court may, in its discretion, award such party his costs and reasonable attorney fees from the amount in dispute which has been deposited with the court." (Code Civ. Proc., § 386.6, subd. (a).)

Here, plaintiff requests a total of \$6,195.46 in attorney fees and costs be paid from the surplus funds to be deposited with the court. This sum includes an anticipated \$450 for appearance at the hearing on the motion at bench. (Vermillion Decl., ¶¶ 18-18, Exh. 6.) The court intends to reduce the fee award by the amount sought for appearance at this motion, anticipating the appearance is not necessary as the unopposed motion is to be granted.

Plaintiff shall submit a revised proposed order reflecting attorney fees and costs to be awarded in the amount of \$5,745.13 and a balance of \$60,670.46 to be deposited with the court.

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** 8/14/2025.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re: ***Sandra Silva v Paintbrush, LLC***
Superior Court Case No. 22CECG04113

Hearing Date: August 19, 2025 (Dept. 503)

Motion: By Plaintiff for leave to file a First Amended Complaint

Tentative Ruling: To Grant

To grant, with the exception that the court does not grant the request to direct the clerk to file the document (the proposed First Amended Complaint) that is attached, nor does it grant the request to deem the First Amended Complaint filed as of the date of the order. Instead, plaintiff must separately file the First Amended Complaint within 10 days from the clerk's service of the minute order granting this motion. New allegations/language must be set in **boldface** type.

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 8/15/2025.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***In re Priya Lee***
Superior Court Case No. 25CECG03499

Hearing Date: August 19, 2025 (Dept. 503)

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: JS on 8/18/2025.
(Judge's initials) (Date)