

**Tentative Rulings for August 20, 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.

---

(Tentative Rulings begin at the next page)

## **Tentative Rulings for Department 503**

Begin at the next page

(20)

**Tentative Ruling**

Re: ***Jones v. Clear Recon Corp. et al.***  
Superior Court Case No. 24CECG04140

Hearing Date: August 20, 2025 (Dept. 503)

Motion: Unopposed Demurrer to First Amended Complaint

**Tentative Ruling:**

To sustain without leave to amend as to defendant PHH Mortgage Corporation. (Code Civ. Proc., § 430.10, subd. (e).) Within five days of service of the order by the clerk, demurring defendant shall submit a proposed judgment consistent with the court's order.

**Explanation:**

The First Amended Complaint ("FAC") alleges a single cause of action for injunctive relief preventing the foreclosure of property belonging to plaintiff's deceased grandmother.

An injunction or restraining order will issue if: (1) plaintiff is likely to prevail at trial and (2) plaintiff will be harmed more if the restraining order/injunction does not issue than the defendants would be harmed if it did. (*Association for Los Angeles Deputy Sheriffs v. County of Los Angeles* (2008) 166 Cal.App.4th 1625.) Plaintiff must also show: (1) the inadequacy of any other remedy; and (2) the necessity to preserve the status quo. (*Vo v. City of Garden Grove* (2004) 115 Cal.App.4th 425, 435, quoting *Cohen v. Board of Supervisors* (1985) 40 Cal.3d 277, 286.)

First and foremost, the FAC does not allege that plaintiff has standing to sue. "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 FAC, plaintiff is not the owner of the property or the borrower on the mortgage loan. The FAC does not allege that plaintiff currently has any interest in the property to have standing to sue, or show that foreclosure may not proceed when the property is in probate.

Second the purpose of a preliminary injunction is to preserve the status quo pending a decision on the merits. (*MaJor v. Miraverde Homeowners Ass'n.* (1992) 7 Cal.App.4th 618, 623.) The foreclosure sale that plaintiff seeks to enjoin took place on October 4, 2024. (RJN Exh. 11.) The cause of action is moot – there is nothing to enjoin at this point. And plaintiff alleges no wrongdoing on demurring defendant's part. Injunctive relief is a remedy, not a cause of action. (*MaJor, supra.*) The FAC alleges no cause of action on which injunctive relief can be based.

The court intends to sustain the demurrer without leave to amend. Plaintiff has filed no opposition to the demurrer, and the prayer for injunctive relief is clearly moot at this point.

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 8/13/2025  
(Judge's initials) (Date)

(35)

**Tentative Ruling**

Re: ***Emerzerian Woodworking v. Brown et al.***  
Superior Court Case No. 25CECG01893/COMPLEX

Hearing Date: August 20, 2025 (Dept. 503)

Motion: (1) By Defendant Citizens Business Bank on Demurrer to Complaint  
(2) By Defendant American Express National Bank on Demurrer to Complaint

**Tentative Ruling:**

To overrule each demurrer as moot. (Code Civ. Proc. § 472, subd. (a).)

**Explanation:**

A party may amend its pleading any time after a demurrer or motion to strike is filed but before the demurrer or motion to strike is heard if the amended pleading is filed and served no later than the date for filing an opposition. (Code Civ. Proc. § 472, subd. (a).) Here, plaintiffs Emerzian Woodworking, Inc., Mouse Cart, LLC, Tom Emerzian and Gail Emerzian (together "Plaintiffs") filed a stipulation on July 9, 2025, prior to the expiration on time to file an opposition to either pending demurrer, to allow for filing of an amended pleading in response to the demurrers on or before July 21, 2025. On July 21, 2025, Plaintiffs filed a First Amended Complaint in lieu of an opposition to the demurrers filed by each of defendant Citizens Business Bank and American Express National Bank. Accordingly, the demurrers are overruled as mooted by a superseding pleading.

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)

(47)

**Tentative Ruling**

Re: **Benny Valles, JR v Mary Haynes**  
Superior Court Case No. 24CECG00474

Hearing Date: August 20, 2025 (Dept. 503)

Motion: By Plaintiff to Compel Responses to Form Interrogatories, and  
to Compel Attendance to Deposition

**Tentative Ruling:**

To grant. Within 10 days, defendants Jeffrey Valles and Mary Haynes shall each respond to the First Set of Form Interrogatories.

To grant plaintiff's motion to compel defendants to testimony with production of documents.

To impose reasonable sanctions in the sum of \$1,310 against defendants Jeffrey Valles and Mary Haynes and in favor of plaintiffs, Benny G Valles, Jr and Karen M Valles, and to be paid to plaintiffs' counsel within 30 days of service of the minute order by the clerk.

**Explanation**

Defendants have still not provided responses to the First Set of Form Interrogatories. Defendants also walked out early on the date of deposition on June 9, 2025, without producing documents requested for the deposition.

Accordingly, an order compelling defendants to provide responses without objections (Code Civ. Proc., § 2030.290, subd. (b)) and compelling defendants to testimony with production of documents (Code Civ. Proc., § 2025.450, subd. (b)), is warranted, and reasonable sanctions must be imposed

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 8.15.2025**

Issued By: JS on 8/15/2025.  
(Judge's initials) (Date)

(47)

**Tentative Ruling**

Re: ***Murillo v. Gerjarusak***  
Superior Court Case No. 23CECG05203

Hearing Date: August 20, 2025 (Dept. 503)

Motions (x2): Petitions to Compromise Disputed Claim of a Minor

**Tentative Ruling:**

To grant petition. Order signed. No appearance 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)

(37)

**Tentative Ruling**

Re: **WestAmerica Bank v. Carolyn Webster**  
Superior Court Case No. 25CECG00084

Hearing Date: August 20, 2025 (Dept. 503)

Motion: By Plaintiff WestAmerica Bank for Summary Judgment or, in  
the Alternative, Summary Adjudication

**Tentative Ruling:**

To deny, without prejudice.

**Explanation:**

Service of the motion was untimely. A motion for summary judgment requires 91 days' notice where it is served out of state by mail. (Code Civ. Proc., § 437c, subd. (a)(2).) Here, the Proof of Service for the Notice of Motion and Motion, Memorandum, and Declarations indicates these were served by mail to an out of state address on May 5, 2025 and the Separate Statement and Request for Judicial Notice were on May 2, 2025. The motion was filed on May 2, 2025. As such, it appears the May 5, 2025 date was an error and it is more likely the motion was served by mail entirely on May 2, 2025. This motion was originally scheduled for July 31, 2025, but continued by the Court. On the tentative rulings, where the Court continued this matter, it says, "The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date." (Tentative Rulings for July 31, 2025, Department 503.) As such, service should have been made by May 1, 2025. Therefore, the motion is untimely. The Court denies the motion, 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: JS on 8/18 /2025.  
(Judge's initials) (Date)