

Tentative Rulings for January 13, 2026
Department 502

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.***

23CECG03095 *Vivint Solar Developer, LLC v. Torres* (Dept. 502) A tentative ruling has been prepared for review before the hearing.

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

24CECG05576 *Nancy Blann v. Ford Motor Company* is continued to Wednesday, January 14, 2026, at 3:30 p.m. in Department 502.

25CECG03095 *Antonio Oblea v. HMC Fresh Foods, LLC* is continued to Thursday, February 19, 2026, at 3:30 p.m. in Department 502.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(27)

Tentative Ruling

Re: ***Sarah Gray v. Demetrio Ordas***
Superior Court Case No. 23CECG04116

Hearing Date: January 13, 2026 (Dept. 502)

Motion: Summary Judgment

Tentative Ruling:

This motion is taken off calendar as it does not appear from the court's record that moving papers were 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** 01/12/26.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: **Vivint Solar Developer, LLC v. George Torres**
Superior Court Case No. 23CECG03095

Hearing Date: January 13, 2026 (Dept. 502)

Motion: Default Prove-Up

Tentative Ruling:

To deny without prejudice.

Explanation:

A defaulting defendant admits only facts well pleaded in the complaint. (*Molen v. Friedman* (1998) 64 Cal.App.4th 1149, 1153-1154.) It is erroneous to grant a default judgment where the complaint fails to state a cause of action. (*Rose v. Lawton* (1963) 215 Cal.App.2d 18, 19-20; *Williams v. Foss* (1924) 69 Cal.App. 705, 707-708.)

Where a cause of action is stated in the complaint, a plaintiff merely needs to introduce evidence establishing a *prima facie* case for damages. (*Johnson v. Stanhiser* (1999) 72 Cal.App.4th 357, 361.)

Judgment cannot exceed the relief demanded in the complaint; the demand in the prayer and demand allegations set the limit of the judgment amount (but the prayer controls). (Code Civ. Proc. § 580(a); *Barragan v. Banco BCH* (1996) 188 Cal.App.3d 283, 305.)

Civil Code of Procedure section 585(b) states: "The plaintiff [after default has been entered against the defendant] may apply to the court for the relief demanded in the complaint. The court shall hear the evidence offered by the plaintiff, and shall render judgment in the plaintiff's favor for that relief, not exceeding the amount stated in the complaint, in the statement required by Section 425.11, or in the statement provided for by Section 425.115, as appears by the evidence to be just. (Code Civ. Proc. §585(b).)

Here, Plaintiff Vivint Solar Developer, LLC's complaint states a cause of action for breach of contract against Defendant George Torres, however the evidence submitted does not support the judgment requested.

Plaintiff is seeking to have judgment entered against defendant in the principal amount of \$25,389 and an additional \$1,305 in costs and \$1,250 in attorney fees. In support of the request for judgment plaintiff submits the declaration of Recovery Supervisor Alma Madera who does not clearly state that she is a custodian of records for plaintiff but indicates she is familiar with the "loan transaction" at issue. There is no loan alleged in the complaint. Nonetheless she provides some foundation for the Residential Solar Power Purchase Agreement (hereinafter "Agreement") attached to the declaration as Exhibit A.

The terms of the Agreement indicate a customer is in default after failing to make a payment and cure the failure within ten days after written notice by plaintiff or the customer's failure to perform his obligations under the agreement and failure to cure within 30 days of plaintiff's giving written notification of the failure. (Madera Decl., Ex. A, Agreement, § 6(b)(i).) In support of finding defendant George Torres is in default of the agreement, Madera attests to Torres' failure to make payments and plaintiff sending Torres a deactivation notice reflecting his payments are 755 days delinquent. (*Id.*, ¶¶ 10-13, 15, 16-17, Ex. B, C.) To the extent the deactivation notice is intended to be considered plaintiff's written notice to defendant as described in section 6(b)(i) of the Agreement, it does not demonstrate plaintiff Vivint Solar Developer, LLC provided written notice of the default. The notice attached as Exhibit B to Madera's declaration names only Sunrun as the sender and there is no evidence of any relationship between Sunrun and either party. As a result, there is insufficient evidence that defendant was given written notice of the failure to timely pay or failure to perform his obligations under the Agreement by plaintiff, consistent with the Agreement to deem defendant in default.

The principal amount sought in judgment of \$25,389.00 is adequately supported by Madera's declaration explaining the calculation of the amount owing on the Agreement following defendant's alleged default. (Madera Decl., ¶¶ 16-18.)

The costs of \$1,305 are adequately supported with evidence. (Madera Decl., ¶¶ 21-22, Ex. D.)

Plaintiff requests \$1,250 as attorney fees in connection with the judgment. Although this amount is less than what would be allowed under the court's local rules, there is no reference to the Agreement allowing for the recovery of attorney fees in the event of default and, more importantly, the complaint fails to pray for attorney fees as damages.

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** 01/12/26.
(Judge's initials) (Date)

Tentative Ruling

Re: **Ron Miller Enterprises Inc. v. Alexandra Bobadilla**
Superior Court Case No. 24CECG02665

Hearing Date: January 13, 2026 (Dept. 502)

Motion: by Plaintiff for an Award of Attorney Fees and Costs

Tentative Ruling:

To deny, without prejudice.

Explanation:

After prevailing on summary judgment, plaintiff Ron Miller Enterprises Inc. ("plaintiff") moves for an award of attorney's fees and costs.

The amount of attorney's fees awarded is a matter within the court's discretion. (*Clayton Development Co. v. Falvey* (1988) 206 Cal.App.3d 438, 447.) In determining the reasonable amount to award, "the court should consider ... 'the nature of the litigation, its difficulty, the amount involved, the skill required and the skill employed in handling the litigation, the attention given, the success of the attorney's efforts, his learning, his age, and his experience in the particular type of work demanded [citation]; the intricacies and importance of the litigation, the labor and necessity for skilled legal training and ability in trying the cause, and the time consumed.' " (*Ibid.*) An award of costs must be "reasonably necessary to the conduct of the litigation" and per (c)(3), shall be "reasonable" in amount. (Code Civ. Proc. § 1033.5(c)(2).) Plaintiff as the moving party bears the burden to prove the reasonableness of the number of hours devoted to this action. (*Concepcion v. AmScan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1325.)

A trial court may not rubberstamp a request for attorney fees, and must determine the number of hours reasonably expended. (*Donahue v. Donahue* (2010) 182 Cal.App.4th 259, 271.) A court assessing attorney's fees begins with a touchstone or lodestar figure, based on the "careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case." (*Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25, 48.) Lodestar refers to the "number of hours reasonably expended multiplied by the reasonable hourly rate" of an attorney. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1096.)

Counsel for plaintiff seeks to set the lodestar at \$19,940.46. Counsel submits a total of what appears to be 57.4 hours of billed time,¹ based on the invoices attached to the motion as Exhibit 1, billed only by counsel. Counsel submits his hourly rate at \$300.00 per hour. A significant portion of counsel's practice includes representation of commercial lenders, as in the present action. (Taylor Decl., ¶ 2.)

¹ Plaintiff's counsel does not attest to a total number of hours in his declaration.

Reasonable hourly compensation is the "hourly prevailing rate for private attorneys in the community conducting noncontingent litigation of the same type" (Ketchum v. Moses, *supra*, 24 Cal.4th at p. 1133.) Ordinarily, "the value of an attorney's time . . . is reflected in his normal billing rate." (Mandel v. Lackner (1979) 92 Cal.App.3d 747, 761.) Counsel's rate of \$300.00 per hour appears reasonable.

Counsel has submitted invoices that were billed to and paid by plaintiff. (Taylor Decl., ¶ 4, see Motion Exh. 1.) Defendant has not submitted any opposition to the motion or challenges to any of the billing entries. The court has reviewed the entries and the requested amount of fees and costs.

The court's first issue is that the invoices each include a 5% fee increase in addition to the billed "hours spent x hourly rate" – there is no justification provided for why these increases were added to the invoices and recoverable by this motion. Second, the total balance of the nine attached invoices is \$19,940.46, which is equal to the purported lodestar figure sought. However, the invoices not only include the unexplained 5% increase, but also include the costs for various filings, service, remote appearances, and court call appearances. In addition to attorney's fees, plaintiff separately seeks costs of \$1,435.00, and does not explain whether these costs are being sought twice or why they are being included in the lodestar figure for attorney's fees. A third related issue is that plaintiff failed to submit a memorandum of costs, which plaintiff was ordered to file along with this motion. (See Tentative Ruling dated September 10, 2025.)

By the format in which plaintiff presents its billable hours and costs, it is not clear why costs are included in the lodestar, why the 5% increase on each invoice is recoverable, and no memorandum of costs was filed. The court intends to deny 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: KCK **on** 01/12/26.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re:

Erica Casique v. Planet Home Lending, LLC
Superior Court Case No. 25CECG05765

Hearing Date:

January 13, 2026 (Dept. 502)

Motion:

Petition for Relief from Financial Obligations During Military Service

Tentative Ruling:

To continue the matter to Thursday, February 19, 2026, in Department 502, to allow petitioner and defendant time to exchange necessary documentation.

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** 01/12/26.
(Judge's initials) (Date)

(20)

Tentative Ruling

Re:

Pena v. Espinosa

Superior Court Case No. 25CECG02325

Hearing Date:

January 13, 2026 (Dept. 502)

Motion:

Demurrer to Complaint

Tentative Ruling:

To overrule the general demurrs to the first and second cause of action. (Code Civ. Proc., § 430.10, subd. (e).) To sustain the special demurrer to the second cause of action with leave to amend, with plaintiff granted 10 days' leave to amend. (Code Civ. Proc., § 430.10, subd. (f).) 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:

Plaintiff filed this action alleging causes of action for partition of real property by sale and conversion of unspecified personal property.

It is a basic principle that in ruling on a demurrer can be utilized where the complaint itself discloses some defect in the causes of action alleged. (See *Guardian North Bay, Inc. v. Superior Court* (2001) 94 Cal.App.4th 963, 971-972.) The court can consider matters subject to a request for judicial notice. (Code Civ. Proc., § 430.30, subd. (a).) Other than that, the court cannot consider facts extrinsic to the complaint. (*Ion Equip. Corp. v. Nelson* (1980) 110 Cal.App.3d 868, 881.) The court cannot consider facts asserted in a memorandum or declaration in support of the demurrer. In this case the demurrs to the first and second causes of action are premised on facts set forth in a declaration by defendant's attorney. (See *Horton Decl.*, ¶¶ 5-12.) The court will not consider this information, and for that reason the general demurrs are overruled.

The court will however sustain the special demurrer to the cause of action for conversion. The Complaint vaguely alleges that "Plaintiff is a one-half owner of personal property and has the right of possession thereof as he is the one-half owner of the property." (Complaint ¶ 24.) Plaintiff alleges that defendants denied plaintiff access to his personal property without providing plaintiff his share. (Complaint ¶ 25.) While the Complaint need not include an itemized list of the converted property, the Complaint is entirely vague and gives no notice as to what property is at issue. Is it the real property at issue in the first cause of action? Is it personal property within the residence? Or is it something else entirely?

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** 01/12/26.
(Judge's initials) (Date)