Tentative Rulings for March 19, 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.***

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

22CECG02689 ***Kenneth Williams v. Shlomo Rechnitz*** **is continued to Thursday, April 16, 2026, at 3:30 p.m. in Department 501.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

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(03)

Tentative Ruling

Re: ***Daniels v. Ranchwood Homeowners Association***
Case No. 25CECG05589

Hearing Date: March 19, 2026 (Dept. 501)

Motion (x6): by Defendants to Quash Service of Summons

Tentative Ruling:

To grant the motions to quash service of the Summons and Complaint on defendants Efren Sanchez, Jennifer Sanchez, Sean Sanchez, Kevin He, Andrew Smith and Tye Faria.

Explanation:

Under Code of Civil Procedure section 415.20, subdivision (b), "[i]f a copy of the summons and complaint cannot with reasonable diligence be personally delivered to the person to be served, … a summons may be served by leaving a copy of the summons and complaint at the person's dwelling house, usual place of abode, *usual place of business*, or usual mailing address other than a United States Postal Service post office box, in the presence of a competent member of the household or a person apparently in charge of their office, place of business, or usual mailing address other than a United States Postal Service post office box, at least 18 years of age, who shall be informed of the contents thereof, and by thereafter mailing a copy of the summons and of the complaint by first-class mail, postage prepaid to the person to be served at the place where a copy of the summons and complaint were left." (Code Civ. Proc., § 415.20, subd. (b), italics added.)

"Although a proper basis for personal jurisdiction exists and notice is given in a manner which satisfies the constitutional requirements of due process, service of summons is not effective and the court does not acquire jurisdiction of the party unless the statutory requirements for service of summons are met." (*Schering Corp. v. Superior Court* (1975) 52 Cal.App.3d 737, 741, citation omitted.) Thus, where service is not made on the defendant's usual place of business or abode, service is ineffective and service of the summons and complaint should be quashed. (*Zirbes v. Stratton* (1986) 187 Cal.App.3d 1407, 1417.)

"It was uniformly held that these statutory requirements must be strictly complied with in order for jurisdiction over the person to be established by substitute means. Since the enactment of the Act, the language at issue has been construed in accordance with the earlier interpretation. In sum, these cases stand for the proposition that if during substantial periods of time the defendant was available for personal service the facts surrounding the attempts to serve the defendant must negative that any reasonable way existed to effectuate such service." (*Evartt v. Superior Court* (1979) 89 Cal.App.3d 795, 799–800, citations omitted.)

"Ordinarily, two or three attempts at personal service at a proper place and with correct pleadings should fully satisfy the requirement of reasonable diligence and allow substituted service to be made." (*Kremerman v. White* (2021) 71 Cal.App.5th 358, 373.) "'The evident purpose of Code of Civil Procedure section 415.20 is to permit service to be completed upon a good faith attempt at physical service on a responsible person. ...' Service must be made upon a person whose 'relationship with the person to be served makes it more likely than not that they will deliver process to the named party.'" (*Bein v. Brechtel-Jochim Group, Inc.* (1992) 6 Cal.App.4th 1387, 1393, citations omitted.) "[T]he burden is upon the plaintiff to show reasonable diligence to effect personal service and each case must be judged upon its own facts. 'No single formula nor mode of search can be said to constitute due diligence in every case.'" (*Evartt v. Superior Court* (1979) 89 Cal.App.3d 795, 801, citation omitted.)

However, "[i]t is established that a defendant will not be permitted to defeat service by rendering physical service impossible." (*Khourie, Crew & Jaeger v. Sabek, Inc*. (1990) 220 Cal.App.3d 1009, 1013.) "As stated in the Nov. 25, 1968, Report of the Judicial Council's Special Committee on Jurisdiction, pp. 14-15: "The provisions of this chapter should be liberally construed to effectuate service and uphold the jurisdiction of the court if actual notice has been received by the defendant, and in the last analysis the question of service should be resolved by considering each situation from a practical standpoint. ..."'" (*Pasadena Medi-Center Associates v. Superior Court* (1973) 9 Cal.3d 773, 778, citations omitted.) In addition, "minor, harmless deficiencies will not be allowed to defeat service." (*Bein v. Brechtel-Jochim Group, Inc. supra,* 6 Cal.App.4th at p. 1394, citation omitted.) Furthermore, a plaintiff is not required to make multiple attempts at service if it is clear that it would be futile to make more attempts at service because it is obvious that the defendant does not reside at the address. (*Ellard v. Conway* (2001) 94 Cal.App.4th 540, 545.)

In the present case, plaintiff first attempted to have the six defendants served at either 1190 South Winery Avenue or 1151 South Chestnut Avenue in Fresno. (See proofs of service for defendants.) According to the process server, these addresses are both for the same apartment complex, which covers an entire block. (See proofs of service of Efren Sanchez, Jennifer Sanchez and Sean Sanchez.) The process server was unable to get inside the complex because it is gated. (*Ibid*.) He tried to get into the complex for about 30 minutes on December 15, 2025, but was unable to get inside. (*Ibid*.) His subsequent attempts to serve defendants at the apartment complex were also unsuccessful. (*Ibid*.) The process server then served all six defendants at their "usual place of business" at 4949 E. Kings Canyon Road in Fresno by substituting service on the person apparently in charge of the business, Geoffrey Sims. (*Ibid*.)

Under Evidence Code section 647, "[t]he return of a process server registered pursuant to Chapter 16 (commencing with Section 22350) of Division 8 of the Business and Professions Code upon process or notice establishes a presumption, affecting the burden of producing evidence, of the facts stated in the return." (Evid. Code, § 647.)

Thus, "'if the notice was served by a registered process server, plaintiff may take advantage of a statutory presumption: The registered process server's proof of service can be introduced as a business record, thereby creating a presumption affecting defendant's burden of producing evidence. [¶] If defendant does not introduce rebuttal

evidence, the trier of fact must find for plaintiff in accordance with the presumption. Conversely, the presumption is dispelled by defendant's introduction of rebuttal evidence, and the burden shifts back to plaintiff to put the person who served the notice on the stand to testify to proper service.'" (*Palm Property Investments, LLC v. Yadegar* (2011) 194 Cal.App.4th 1419, 1427, citations omitted.)

Here, declaration of the process server in the proofs of service is enough to establish a rebuttable presumption that service was completed as described in the declaration. Thus, there is a presumption that the server properly served defendants at their usual place of business.

However, defendants have provided their own declarations stating that 4949 East Kings Canyon Road is *not* their usual place of business. In addition, all of the moving defendants except for Andrew Smith state that they do not reside, and have never resided at, the address where the process server attempted to serve them. (See declarations of Efren Sanchez, Jennifer Sanchez, Sean Sanchez, Kevin He, Andrew Smith and Tye Faria.) Thus, defendants have provided sufficient evidence to rebut the presumption that the process server served defendant at their usual place of business.

Ultimately, the question of whether the defendants were properly served by substitution at their usual place of business is a question of fact that the court needs to resolve by considering the evidence and assessing credibility of the declarants. Plaintiff contends that defendants' declarations are insufficient to overcome the presumption in favor of valid service created by the process server's declaration, citing to *Lee v. Yan* (2025) 115 Cal.App.5th 975.

In *Lee v. Yan*, the Court of Appeal held that defendant Yan "failed to overcome the presumption of proper service created by the sworn proof of service." (*Id*. at p. 978, citations omitted.) "The question was whether the process server had served a person in charge of Yan's 'usual place of business.' (Code Civ. Proc., § 415.20, subd. (b).) The process server's declaration averred just that." (*Ibid*.)

The Court of Appeal also found that, although Yan denied that she was served at her usual place of business, she had made several inconsistent statements that undermined her credibility and failed to rebut the process server's claim that he served her properly. (*Ibid*.) Thus, the Court of Appeal found that "[t]he trial court had grounds for concluding Yan was incredible. We defer to this finding. The trial court was right to rule service was proper." (*Id.* at p. 979.)

In the present case, there is no evidence that would tend to undermine defendants' statements that they never resided at the addresses where the process server tried to serve them, and that 4949 East Kings Canyon Road is not their usual place of business. Plaintiff does not point to any inconsistent statements or other evidence that defendants lack credibility. She has not presented any evidence showing that defendants actually resided at the addresses where the process server first attempted to serve them. She does contend that defendants are members of the Ranchwood HOA Board, which meets on the second Monday of each month at 6 p.m. at the United Way of Fresno County, which is located at 4949 East Kings Canyon Road. (Garcia decl., ¶¶ 2, 3.)

However, just because defendants are allegedly members of the Ranchwood HOA Board, which allegedly meets once a month at the United Way at 4949 East Kings Canyon Road, does not necessarily mean that defendants' "usual place of business" is 4949 East Kings Canyon Road. At most, it shows that defendants participate at HOA Board meetings at 4949 East Kings Canyon Road once a month, not that their "usual place of business" is located at that address.

Neither party has cited to any cases that provide clarification of the meaning of the phrase "usual place of business." However, according to the Comments to section 415.20, subdivision (b), "[t]he term 'usual place of business' includes a defendant's *customary place of employment* as well as his own business enterprise." (Judicial Council's Comment to Code Civ. Proc., § 415.20, subd. (b), italics added.) Thus, the phrase "usual place of employment" in the statute appears to be intended to refer to the location where the defendant is regularly and customarily employed, not where they appear once a month for Board meetings. In the present case, the fact that defendants attend an HOA Board meeting once a month at the address where they were served by substitution does not show that they are "customarily employed" at that address. It is not clear from the evidence whether defendants even work full-time as Board members, or if they have other regular employment. Under a common sense interpretation of the plain language of the statute, "usual place of employment" means the place where defendants usually and customarily work, not where they appear once a month in the evening for HOA Board meetings.

Therefore, the court intends to find that plaintiff did not properly serve defendants by substitution at 4949 East Kings Canyon Road in Fresno. As a result, the court finds that it does not have personal jurisdiction over defendants Efren Sanchez, Jennifer Sanchez, Sean Sanchez, Kevin He, Andrew Smith or Tye Faria, and it will quash service of the Summons and Complaint on each of those defendants.

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: DTT on 3/16/2026.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re: ***Mendoza v. Tinoco***
Superior Court Case No. 21CECG02567

Hearing Date: March 19, 2026 (Dept. 501)

Motion: Default Prove-Up

Tentative Ruling:

To deny without prejudice.

Explanation:

A complaint to quiet title must be verified and must include: (i) a description of the property including both its legal description and its street address or common designation; (ii) plaintiff's title and the basis upon which it is asserted;1 (iii) the adverse claims as against which a determination is sought; (iv) the date as of which a determination is sought and, if other than the date the complaint is filed, a statement why the determination is sought as of that date; and (v) a prayer for determination of plaintiff's title against the adverse claims. (Code Civ. Proc., § 761.020.) A plaintiff commencing a quiet title action must also immediately record a lis pendens with the county recorder of the county in which the subject property is located. (Code Civ. Proc., § 761.010, subd. (b).) Plaintiff does little to comply with these procedural requirements other than to provide the common designation of the property and to indicate that her ownership in 50% of the property is in fee. (Compl., ¶¶4-5.)

Additionally, "[t]he plaintiff has the burden of establishing his claim to the property, and he must prove his title by 'clear and convincing proof. . ." (*Murray v. Murray* (1994) 26 Cal.App.4th 1062, 1067.) " 'The owner of the legal title to property is presumed to be the owner of the full beneficial title. This presumption may be rebutted only by clear and convincing proof.' " (*Id*. at pp. 1066-67, citing Evid. Code, § 662.) Here, however, plaintiff concedes in the Complaint that she deeded 50% of the subject property to defendant. (Compl., ¶6.) The Complaint is devoid of any allegations rebutting defendant's 50% interest. Nor does plaintiff provide any evidence for the same. Therefore, plaintiff fails to provide any basis for a determination of quiet title on the property against defendant.

Accordingly, the application for default judgment is denied 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: DTT on 3/17/2026.
(Judge's initials) (Date)