

Tentative Rulings for April 30, 2025
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.

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Tentative Ruling

Re: ***Financial Pacific Leasing, Inc. v. Cheema, et al.***
Superior Court Case No. 24CECG05497

Hearing Date: April 30, 2025 (Dept. 501)

Motions (x3): by Plaintiff for Writ of Possession and Writs of Attachment

Tentative Ruling:

To deny in light of the entry of default against defendants Bahadur Singh Cheema and Cheema Transport, Inc., on March 4, 2025.

If oral argument is timely requested, such argument will be entertained on Thursday, May 1, 2025, at 3:30 p.m. in Department 501.

Explanation:

These motions request for prejudgment writ of possession and writ of attachment, which are proper to request *before* final adjudication of the claims sued upon. (*Kemp Bros. Const., Inc. v. Titan Elec. Corp.* (2007) 146 Cal.App.4th 1474, 1476.) However, after serving the moving papers on defendants, plaintiff requested entry of defendants' defaults. The clerk entered defaults against defendants Bahadur Singh Cheema and Cheema Transport, Inc., on March 4, 2025. The entry of default instantly cuts off a defendant's right to appear in the action or participate in the proceedings unless the default is set aside or judgment is entered (i.e., giving the defendant the right to appeal). (*Devlin v. Kearny Mesa AMC/Jeep/Renault, Inc.* (1984) 155 Cal.App.3d 381, 385.) Due process would not be served by allowing a plaintiff to give the defendants notice of a motion, but then cut off their right to defend themselves regarding that motion. Post-judgment enforcement procedures following judgment are available to plaintiff, if 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: DTT on 4/28/2025.
(Judge's initials) (Date)