

Tentative Rulings for April 30, 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.*

24CECG00854 *Manveer Purewal v. Fresno Community Hospital and Medical Center*

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

(03)

Tentative Ruling

Re: ***In re: Jayden King***
Case No. 25CECG01613

Hearing Date: April 30, 2025 (Dept. 503)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To deny the petition to compromise the minor's claim, without prejudice.

Explanation:

No medical reports or records are attached to the petition, so the court does not have much information about the minor's injuries or his prognosis, as well as whether he may need more treatment in the future. The petition states that the minor is not fully recovered, which indicates that he might need further medical treatment. Therefore, petitioner needs to submit medical reports and records, as well as give the court more information about what the minor's condition is and whether he will need further treatment.

Also, petitioner's counsel has not filed a declaration in support of her request for attorney's fees. Rule of Court 7.955(b) sets forth the factors that the court may consider in determining whether the requested fees are reasonable. The attorney seeking fees must also provide a declaration that discusses these factors. (Cal. Rules of Court, rule 7.955(c).) The court must also consider the terms of the retainer agreement between petitioner and their counsel. (Cal. Rules of Court, rule 7.955(a)(2).)

Here, the attorney has not provided a declaration with a discussion of the factors and why her requested fees are reasonable. She seems to be simply requesting fees equal to 25% of the gross settlement after costs are deducted, which is not enough to show that the fees are reasonable. Therefore, the court orders counsel to provide a declaration in support of the requested fees, including a discussion of the factors in Rule 7.955(b). She should also provide a copy of the fee agreement.

Also, the petition contains no medical billing invoices or records about any medical liens. According to the petition, the minor incurred over \$6,700 in medical costs, which were negotiated down to \$1,900. However, without any records, there is no way for the court to confirm the amount of medical expenses and determine that the amount being paid out of the gross settlement is reasonable. Therefore, the court orders counsel to provide documents regarding the medical costs, any liens, and any negotiated reductions.

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

(03)

Tentative Ruling

Re: **Ramirez v. Reintjes**
Case No. 23CECG02304

Hearing Date: April 30, 2025 (Dept. 503)

Motion: Defendant's Motion to Bifurcate Issues

Tentative Ruling:

To grant defendant's motion to bifurcate issues, with the issue of whether the statute of limitations bars plaintiff's claims being tried before the other issues in the case.

Explanation:

"In an action against a ... dentist, ... based upon the person's alleged professional negligence, ... if the answer pleads that the action is barred by the statute of limitations, and if any party so moves or the court upon its own motion requires, the issues raised thereby *must be tried separately and before any other issues in the case are tried*. If the issue raised by the statute of limitations is finally determined in favor of the plaintiff, the remaining issues shall then be tried." (Code Civ. Proc., § 597.5, italics added.)

"Unlike Code of Civil Procedure section 597, which gives the trial court discretion to order that affirmative defenses be heard and determined first, we conclude that section 597.5 is mandatory. Where any party moves under Code of Civil Procedure section 597.5 to have the statute of limitations issue heard and determined first, the trial judge has no alternative except to grant the motion." (*County of Kern v. Superior Court* (1978) 82 Cal.App.3d 396, 399–400, citation omitted.)

Here, defendant, who is a dentist being sued for malpractice, has filed his answer, which raises the affirmative defense of the statute of limitations, including the three-year/one-year statute under Code of Civil Procedure section 340.5. Therefore, defendant has raised the issue of the statute of limitations. He has now moved for a separate trial on the issue of whether the statute of limitations bars plaintiff's claim. As a result, he is entitled to a separate trial on the statute defense before the trial of the issues of liability and damages.

Plaintiff argues in opposition that defendant has not presented any evidence to show that holding a separate trial on the issue of the statute of limitations would serve the interests of judicial economy, efficiency, justice, or the convenience of the witnesses. Plaintiff argues that defendant has no chance of prevailing on the statute of limitations defense given that she did not discover the defendant's negligence until less than a year before she filed her complaint, and that it would be inconvenient for the witnesses, inefficient for the court, and prejudicial for her to have to hold two separate trials.

However, regardless of the likelihood that defendant will prevail on his statute of limitations defense or the potential inconvenience or prejudice that holding separate

trials might create, the language of section 597.5 is mandatory, so the court is required to grant defendant's motion for a separate trial on the issue of statute of limitations because he has raised the statute as a defense and he brings a motion for bifurcated trials. (*County of Kern v. Superior Court, supra*, 82 Cal.App.3d at pp. 399–400.)

Also, while plaintiff contends that defendant has no evidence to support the statute of limitations defense, defendant has filed a separate motion for summary judgment, which cites to plaintiff's own deposition testimony indicating that she discovered the alleged negligence more than a year before she filed her complaint. Therefore, it appears that there may be at least some evidence to support the statute of limitations defense, and holding a separate trial on that issue does not appear to be unnecessary or inefficient. In fact, if the case can be resolved on the statute of limitations issue without having to try the more complicated issues of liability, causation, and damages, then it could potentially save the parties and the court time and money. As a result, even if the court were to consider the questions of judicial economy, justice, and prejudice to the parties here, it would still grant the motion for bifurcation.

Consequently, the court intends to grant defendant's motion for bifurcation of the trial, with the statute of limitations issue being tried first.

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** 4/24/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: **Jesse Cobain v. Walmart, Inc.**
Superior Court Case No. 23CECG04440

Hearing Date: April 30, 2025 (Dept. 503)

Motion: By Defendant Walmart, Inc. to Compel Plaintiff Jesse Cobain's Responses to Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Production of Documents (Set One)

Tentative Ruling:

To grant Defendant Walmart, Inc.'s motions to compel for Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Production of Documents (Set One). Plaintiff Jesse Cobain is ordered to serve verified responses, without objections, to Defendant within 30 days of service of the minute order by the clerk.

Explanation:

Here, Plaintiff was properly served discovery on June 27, 2024. As of the filing of the motions on February 24, 2025, no responses had been received. Nothing has been filed indicating that the responses were received and no opposition was filed.

Plaintiff has had sufficient time to respond to the discovery propounded by Defendant, and has not done so. Failing to respond to discovery within the 30-day time limit waives objections to the discovery, including claims of privilege and work product protection. (Code Civ. Proc., § 2030.290, subd. (a) [interrogatories]; Code Civ. Proc., § 2031.300, subd. (a) [production demands]; see *Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 905–906.) Here, Plaintiff did not respond to the discovery requests. Plaintiff is ordered to provide responses, without objections.

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 4/28/2025.
(Judge's initials) (Date)

(41)

Tentative Ruling

Re: ***Lo Thao v. Carlos Hernandez, D.D.S.***
Superior Court Case No. 24CECG04354

Hearing Date: April 30, 2025 (Dept. 503)

Motion: Demurrer and Motion to Strike by Defendants

Tentative Ruling:

To overrule the demurrer with Defendants granted leave to answer within 10 days. The time to answer shall run from the date of service by the clerk of the minute order.

To grant Defendants' motion to strike the prayer for punitive damages. The striking of the punitive damages prayer is without prejudice to Plaintiffs filing a motion under Code of Civil Procedure section 425.13, subdivision (a).

Explanation:

Lo Cha Thao and Yang Mee Thao (Plaintiffs), filed a complaint with seven causes of action against Carlos Hernandez, D.D.S. and H&H Dentistry (Defendants). The complaint arises from a claim of dental malpractice, specifically Plaintiffs allege Defendants extracted the wrong tooth. Defendants demurred and filed a motion to strike Plaintiffs' prayer for punitive damages.

Meet and Confer

Defendants' counsel filed and served a declaration describing the unsuccessful efforts made to schedule a telephonic conference with Plaintiffs' counsel to discuss the complaint's perceived deficiencies. Thereafter, Plaintiffs' counsel explained Plaintiffs had instructed him to cease work, then later reauthorized him to continue representation. Given the delay cause by the pause in representation, the parties stipulated to extend the response time and continue the hearing on the demurrer and motion to strike. The meet-and-confer declarations fail to establish the requirement to meet and confer in person or by telephone. However, Code of Civil Procedure section 430.41, subdivision (a)(4) provides that this "shall not be grounds to overrule or sustain the demurrer." Because It appears that no resolution could be reached informally, the court has considered the merits of Defendants' demurrer and motion to strike. However, in the future, the parties are advised to meet and confer in person, by telephone, or by video conference, as required by the statute. (See also, Code Civ. Proc., §435.5, subd. (a)(4) [same for motion to strike].)

Demurrer

Defendants demur to the complaint's first, second, third, fourth, and sixth causes of action, contending they "are uncertain and constitute an attempt to split one cause

of action into multiple primary rights." (Dem., p. 1:24-25, capitalization omitted.) Thus, Defendants purport to raise both a general demurrer and a special demurrer for uncertainty. However, Defendants fail to specify exactly how or why the complaint is uncertain, which "will defeat a demurrer based on the grounds of uncertainty." (*Fenton v. Groveland Community Services Dist.* (1982) 135 Cal.App.3d 797, 809, *disapproved on other grounds by Katzberg v. Regents of University of California* (2002) 29 Cal.4th 300.) Thus, only a general demurrer is raised.

To support their general demurrer that Plaintiffs impermissibly split their cause of action, Defendants cite two cases that do not involve demurrers. First, Defendants cite *Bay Cities Paving & Grading, Inc. v. Lawyers' Mutual Ins. Co.* (1993) 5 Cal.4th 854, which raised the issue of whether an attorney's two omissions constituted one claim or two claims under the attorney's malpractice insurance policy. The court resolved the issue by finding the client had one primary right to be free of his attorney's negligence and the omissions constituted only one claim. Second, Defendants cite *Barrett v. Superior Court* (1990) 222 Cal.App.3d 1176, where the appellate court ruled the trial court erred by granting an order for summary judgment or summary adjudication of issues that deleted one of the plaintiffs' theories for recovery based on strict products liability. (*Id.* at p. 1181.)

Finally, Defendants cite in passing *Slater v. Blackwood* (1975) 15 Cal.3d 791, which held on demurrer that a second lawsuit was barred by res judicata because "the violation of a single primary right gives rise to but a single cause of action." (*Id.* at p. 795.)

Even where there are multiple legal theories upon which recovery might be predicated, one injury gives rise to only one claim for relief. "Hence a judgment for the defendant is a bar to a subsequent action by the plaintiff based on the same injury to the same right, even though he presents a different legal ground for relief." [Citations.]

(*Ibid.*)

As Plaintiffs correctly note, it is well-established "that a complaint may plead different theories on which relief is sought with legal propriety." (*Crogan v. Metz* (1956) 47 Cal.2d 398, 403.) "A complaint may properly plead facts conforming to several theories of recovery, and a single count may embrace multiple theories. [Citations.]" (*Flournoy v. State* (1969) 275 Cal.App.2d 806, 811.)

In their reply, Defendants cite *Crowley v. Kattleman* (1994) 8 Cal.4th 666, 678 (*Crowley*), for the proposition that "[u]nder California law, a single cause of action cannot be divided into multiple claims to obtain multiple recoveries or pursue separate suits." (Rpy., p. 1:27-28.) In *Crowley*, the California Supreme Court determined the trial court erred in sustaining a demurrer because the complaint stated a cause of action for malicious prosecution. (*Crowley, supra*, at p. 679.) The court in *Crowley* discussed the rule that a plaintiff may not "split" a cause of action by filing multiple lawsuits based on a violation of the same primary right. (*Id.* at pp. 681-682.) But the court clarified that under the modern practice of pleading "inconsistent counts," a plaintiff in doubt "remains free to allege any and all 'inconsistent counts' that a reasonable attorney would find legally tenable on the basis of the facts known to the plaintiff at the time." (*Id.* at p. 691.)

Finally, Defendants cite *Hamilton v. Asbestos Corp., Ltd.* (2000) 22 Cal.4th 1127, (*Hamilton*) for the rule that "[a] cause of action is defined by the primary right violated, not the number of legal theories of remedies sought." (Rpy. p. 2:1-2.) In *Hamilton*, the lower court appeared to have confused the rule against splitting a cause of action with the statute of limitations. As the California Supreme Court explained:

The rule against splitting a cause of action is neither an aspect, nor a restatement, of the statute of limitations; rather, it is in part a rule of *abatement* and in part a rule of *res judicata*.

(*Hamilton, supra*, at p. 1146, *italics original*.) The primary right theory is narrowly applied, usually when a plaintiff attempts to divide a primary right by enforcing it in two different lawsuits. (*Ibid.*)

Here, Defendants appear to have confused the rule against splitting a cause of action by filing multiple lawsuits with the rule permitting the plaintiff to allege inconsistent counts in a single action. As the court acknowledged in *Crowley*, a plaintiff remains free to plead inconsistent counts. (*Crowley, supra*, 8 Cal.4th at p. 691.) Therefore, the court overrules Defendants' general demurrer to the first, second, third, fourth, and sixth causes of action.

Motion to Strike

Defendants move the court for an order striking the prayer for punitive damages for failure to obtain a court order pursuant to Code of Civil Procedure section 425.13, which provides, in part:

(a) In any action for damages arising out of the professional negligence of a health care provider, no claim for punitive damages shall be included in a complaint or other pleading unless the court enters an order allowing an amended pleading that includes a claim for punitive damages to be filed.

Plaintiffs' complaint is an action for damages arising from the manner in which Defendants provided professional services. Therefore, it is subject to the requirements of Code of Civil Procedure section 425.13. Plaintiffs made no effort to follow this procedure and filed no opposition to Defendants' motion. Plaintiffs may make the proper motion, but leave to amend will not be granted in response to this motion to strike. The court grants Defendants' motion to strike the prayer for punitive damages without prejudice to Plaintiffs' right to make a motion under section 425.13.

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 4/28/2025
(Judge's initials) (Date)

(20)

Tentative Ruling

Re: ***Aviles v. Trybunalau et al.***
Superior Court Case No. 19CECG02630

Hearing Date: April 30, 2025 (Dept. 503)

Motion: Motion for Final Approval of Class Settlement

Tentative Ruling:

To grant final approval of the settlement and certification of the class, as set forth in the proposed Judgment and Order submitted, except \$5,000 is awarded as enhancement payment to plaintiff. The court will sign the proposed judgment, corrected accordingly.

To set a hearing at April 1, 2026, at 3:30 p.m. in Department 503 as a hearing date for an Amended Judgment pursuant to Code of Civil Procedure section 384. A verified report of payouts of settlement funds and a proposed amended judgment shall be submitted no later than March 16, 2026.

Explanation:

"Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement." (Cal. Rules of Court, rule 3.769(g).) "The trial court has broad discretion to determine whether a class action settlement is fair. It should consider factors such as the strength of plaintiffs' case; the risk, expense, complexity and likely duration of further litigation; the risk of maintaining class action status through trial; the amount offered in settlement; the extent of discovery completed and the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of the class members to the proposed settlement." (*Reed v. United Teachers Los Angeles* (2012) 208 Cal.App.4th 322, 336.)

The court has already considered these factors and found the settlement to be fair and reasonable.

As a general rule, the lodestar method is the primary method for calculating the amount of class counsel's attorney's fees; however, the percentage-of-the benefit approach may be proper when there is a common fund. In some cases, it may be appropriate, when the monetary value of the class benefit can be determined with a reasonable degree of certainty, such as this one, for the judge to cross-check or adjust the lodestar amount in comparison to a percentage of the common fund to ensure that the fee awarded is reasonable and within the range of fees freely negotiated in the legal marketplace in comparable litigation. (See *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 488–497; *Roos v. Honewell Int'l, Inc.* (2015) 241 Cal.App.4th 1472, 1490–1494; *In re Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557.)

The lodestar analysis is based on a "careful compilation of the time spent and reasonable hourly compensation of each attorney ... involved in the presentation of the

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Tentative Ruling

Re: **Guzman v. Zepeda**
Superior Court Case No. 23CECG04604

Hearing Date: April 30, 2025 (Dept. 503)

Motion: for Final Default Judgment

Tentative Ruling:

To grant. Within 20 days, plaintiff shall lodge a form of final judgment which includes the granting of the items specified in Explanation below, with the time to run from the clerk's service of the minute order adopting this Tentative Ruling.

Explanation:

In this partition action, an interlocutory judgment issued on September 11, 2024, which ordered the subject property to be sold by the real estate agent of plaintiff's choosing and specifying that the property is held by plaintiff and defendant as tenants in common. The plaintiff and defendant each hold an undivided one-half interest in the property. The court retained jurisdiction to issue final judgment of the remaining accounting issues as to the disbursement of the proceeds of the sale, order payment of liens, and to order reimbursement of attorney fees. A further order was entered on January 15, 2025, appointing the court clerk to act as elisor to execute the necessary documents on behalf of defendant and modifying the interlocutory judgment to allow for the payment of specified liens from escrow upon completion of the sale.

Now plaintiff Jacqueline Guzman seeks final judgment as to the disbursement of the remaining \$154,982.49 in funds after the sale of the property with credits for mortgage payments, property tax payments and repairs funded entirely by plaintiff, her contribution to the down payment, and payment of attorney's fees and costs.

Plaintiff's declaration shows she has paid all expenses for the property, including the mortgage, property taxes, and incidental repairs beginning December 2020 through the sale of the property in January 2025. (Guzman Decl., ¶ 9.) Plaintiff is requesting the final disbursement of proceeds reimburse defendant's share of the mortgage payments in the amount of \$32,640.38 and supports the amount with evidence of mortgage payments from December 2020 through December 2024. (Guzman Decl., ¶¶ 10-14, Exh. C-G.) Plaintiff requests reimbursement of property taxes paid in 2022, 2023 and 2024 and as evidence produces the Mortgage Interest Statement from her mortgage or, Pennymac Loan Services, LLC stating the amount of real estate taxes paid for the property. (Guzman Decl., ¶ 16, Exh. H.) This is not a separate tax bill from the city, but rather reflects the amount paid out of the escrow account by Pennymac to the city which is incorporated into the monthly mortgage payments. The Pennymac mortgage statements included with Exhibits C through G indicate the payment includes principal, interest and payments to escrow for taxes and insurance. As such, it appears the requested amounts of property taxes to be reimbursed are incorporated into the

mortgage payments to be reimbursed. Plaintiff additionally requests reimbursement for defendant's share of the cost of a new stove (\$665.81) and repairs (\$74.33) in the amount of \$370.07. (Guzman Decl., ¶ 17, Exh. I, J.) The amount requested is supported with evidence and will be credited to plaintiff.

Plaintiff and defendant each hold an undivided one-half interest in the property as tenants in common. On this basis, plaintiff requests her contribution of \$7,000 toward the down payment of the property. (Guzman Decl., ¶ 3, Exh. A.) The amount will be credited to her from the proceeds of the sale.

Plaintiff requests reimbursement of rent received by defendant from May 2023 through December 2024 from the tenant in the second unit of the duplex, defendant's mother. The amount sought is \$8,500, reflecting half the \$850 payments over a period of 20 months. (Guzman Decl., ¶ 8.) However, plaintiff attests to having received the rent payments directly from the tenant up to May 2023 following defendant's December 2020 departure from the property. Thus, plaintiff was receiving rent directly for 29 months and makes no representation that she was paying half the rental income to defendant during this time. During the 29 months plaintiff received the rent payment she received a total of \$24,650 from the tenant. Defendant would be entitled to his one-half share or \$12,325. After offsetting the \$8,500 in rent owed by defendant to plaintiff, plaintiff owes to defendant \$3,825.

Costs of partition include reasonable attorney fees incurred or paid by a party for the common benefit, reasonable costs of a title report, and other disbursements or expenses the court determines were **incurred or paid for the common benefit**. (Code Civ. Proc., § 874.010, subds. (a), (d), (e).) Such costs can be ordered paid prior to judgment, or included and specified in the judgment. (Code Civ. Proc., § 874.110.) "Except as otherwise provided in this article, the court shall apportion the costs of partition among the parties in proportion to their interests or make such other apportionment as may be equitable." (Code Civ. Proc., § 874.040.)

Attorney Katherine Cervantes' declaration requests attorney fees of \$50,257.10 be paid from the proceeds of the sale and attests to the hours reflected in the attached billing records representing reasonable and necessary work in the prosecution and defense of the action. (Cervantes Decl., ¶¶ 44, 46.) Counsel attests to the qualifications and reasonable hourly rates of herself, attorney Lenden Webb, law clerk Stella Nguyen, and paralegal Madeleine Dearien. (Cervantes Decl., ¶¶ 39-42.)

The court has thoroughly examined the 118 pages of billing records attached to the declaration. In addition to the four named timekeepers in Ms. Cervantes' declaration the records include 19 additional timekeepers whose qualifications to seek attorney fees at any rate is without support. Many of the entries from the additional timekeepers, and some from the four named timekeepers, are clerical in nature and cannot be claimed as attorney fees. Styling a billing entry as "drafting calendar entries," or "draft of email" to confirm an appointment." or "receipt and organization of [document]" does not remove the task from those considered clerical. The billing entries are replete with double billing for every participant in an "office conference." Although counsel had made some "professional courtesy discounts" to the billing entries, many clerical tasks, double entries, and entries with no discernable purpose for the litigation remain. Importantly, it does not

appear counsel made efforts to limit the time billed to only those services rendered for the common benefit of both parties. The majority of time billed appears to be for tasks exclusive to the prosecution of plaintiff's case against defendant, rather than tasks performed for the common benefit. This is to be expected and this is the service plaintiff retained counsel to provide. The court believes those tasks for the common benefit of both parties are limited to the approval of the interlocutory and final judgment and tasks related to the sale and execution of sale documents.

After reviewing the billing entries, the court finds it reasonable to reduce the hours claimed to those reasonable *and* incurred for the common benefit. The court reduces hours billed by Attorney Cervantes to 9.8 and, after applying the changing hourly rate as litigation progressed, calculates fees of \$4,389 for work performed. The court reduces hours billed by law clerk Nguyen to 15.9 and, after applying the changing hourly rate as litigation progressed, calculates fees of \$3,757.50 for work performed. The court reduces hours billed by Attorney Webb to 0.6 and, after applying the changing hourly rate as litigation progressed, calculates fees of \$405 for work performed. The court reduces hours billed by Paralegal Dearien to 17.4 and, after applying the changing hourly rate as litigation progressed, calculates fees of \$4,258 for work performed. This results in a total of \$12,809.50 in reasonable fees incurred for the common benefit.

Of the \$1,594.10 in costs sought, the court finds it appropriate to reduce the amount by the \$75 in costs for "soft background checks" of defendant as not incurred for the common benefit. The result is \$1,519.10 in costs incurred for the common benefit.

The fees and costs incurred for the common benefit are to be borne by the parties in proportion to their interest in the property or as otherwise shown to be equitable. (Code Civ. Proc., § 874.040.) As such, each party shall have half the fees and costs paid from their share of the sale proceeds. It is unclear from the moving papers if plaintiff has paid the attorney fees and costs in full as litigation has continued or if counsel has billed in anticipation of receiving payment directly from the sale proceeds. In the event plaintiff has paid for the fees and costs, an additional payment of attorney fees in the amount of \$12,809.50 and costs in the amount of \$1,519.10 should be credited to her in the final judgment. Otherwise, if the fees and costs have not been paid they are to be paid from the sale proceeds to Webb Law Group, APC.

The chart below represents the disbursement of each party's one-half share of the \$154,982.49 sale proceeds, after credits and reductions based upon the evidence submitted by plaintiff.

Plaintiff Guzman		Defendant Zepeda
\$77,491.25	Sale Proceeds	\$77,491.24
+\$7,000	Down Payment	-\$7,000
+32,640.38	Mortgage Payments	-\$32,640.38
+\$370.07	Repairs	-\$370.07
-\$3,825	Rent Income	+\$3,825
-\$6,404.75	Attorney Fees	-\$6,404.75
-\$759.55	Costs	-\$759.55
\$106,512.40	Final Share of Proceeds	\$34,141.49

\$120,841.00	Reimbursing for Fees/Costs if paid by plaintiff	\$34,141.49
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The court believes that all things necessary to complete partition of the property have been completed, but for final distribution of the sale proceeds as requested in this motion. Therefore, it is appropriate for plaintiff to present a final judgment for the court to sign, to completely close this case.

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 4/28/2025.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: **Andres Gutierrez v. Omar Jamil**
Superior Court Case No. 23CECG01333

Hearing Date: April 30, 2025 (Dept. 503)

Motion: Status Conference re: Expedited Petition to Compromise Claim of Minor Ammy Herrera *(No Acknowledgement of Receipt of Order and Funds for Deposit in Blocked Account [MC-356])*

Tentative Ruling:

The status conference shall go forward as currently scheduled. Counsel shall be prepared to explain the status of the blocked account and provide a reasonable excuse for not filing the Acknowledgement of Receipt of Order and Funds for Deposit in Blocked Account [MC-356] as ordered by the court. Should counsel not appear, this court may consider and impose sanctions.

Explanation:

This court's December 11, 2024 order approving the expedited petition to compromise the claim of Minor Ammy Herrera included an attachment which plainly stated this hearing would come off calendar provided that counsel file the necessary Judicial Council form. According to the court's record, the required form has not been filed – neither has counsel offered an excuse for its absence. Consequently, the court must allocate precious courtroom time to inquire into the status of the blocked account – an exercise which could have been accomplished via uncomplicated and typically well-followed procedures.

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 4/29/2025.
(Judge's initials) (Date)