

Tentative Rulings for April 30, 2026
Department 403

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.

23CECG00025 *Abel Perez v. Roberto Perez* is continued to Thursday, May 21, 2026, at 3:30 p.m. in Department 403.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 403

Begin at the next page

(20)

Tentative Ruling

Re: ***Brar v. Chahal et al.***
Superior Court Case No. 21CECG02329

Hearing Date: April 30, 2026 (Dept. 403)

Motion: By Plaintiff to Compel Compliance with Subpoena

Tentative Ruling:

To continue the motion to June 8, 2026, at 3:30 p.m. in Department 403. Nine court days before the continued hearing defendant shall submit, in lieu of a responsive separate statement of items in dispute, an opposition that succinctly summarizes the document categories in dispute and the objections that defendants contend defeat each document category. Plaintiff may file a reply within five court days of the continued hearing.

Explanation:

At this stage the court will address the argument that the motion is not timely filed and for that reason must be denied.

On February 1, 2024, plaintiff served a third-party deposition subpoena for production of business records on defendants' accountant, Amandeep Singh ("Amandeep"), setting the date for production as March 11, 2024. Amandeep did not produce any documents by that deadline. (Freeman Decl., at ¶17.) Amandeep withheld production of the documents sought by the subpoena until "Defendants' objections have been resolved." (Id. ¶18.) Defendants submitted objections to the subpoena on July 11, 2024. (Id. ¶ 6.) Plaintiff's counsel Freeman states that, "[s]ince February 1, 2024, Plaintiff and Amandeep have agreed to multiple extensions of Plaintiff's deadline to file a motion to compel compliance with the Subpoena, the latest of which was on December 12, 2025, when Amandeep agreed to extend Plaintiff's deadline to file a motion to compel compliance with the Subpoena to March 15, 2026." (Id. Exh. D.) The motion was filed on March 12, 2026.

The motion appears to be brought under both Code of Civil Procedure sections 1987.1 and 2025.480. Which is the relevant statute is not dispositive of the timeliness of the motion, as we are well beyond the 20 and 60 day timeframes set forth in the two statutes. (See Code Civ. Proc., §§ 1987.1, subd. (a), (g), 2025.480, subd. (b).)


Defendants' contention that the motion is untimely because the nonparty deponent cannot extend the deadline by agreement is not supported by either case relied upon by the opposition. While *Thai v. Richmond City Center, L.P.* (2022) 86 Cal.App.5th 282, 291, fn. 5, stated that the filing deadline is jurisdictional, the case did not address whether it can be extended by agreement. And *Board of Registered Nursing v. Superior Court* (2021) 59 Cal.App.5th 1011, 1035, fn. 5, expressly offered no opinion on the

issue. Accordingly, plaintiff correctly points out that defendants have provided no authority for the proposition that a party issuer of a subpoena and the witness cannot agree to extend the deadline to move to compel under either statutory scheme. That basis for the untimeliness objection should be rejected.

The court is not prepared to rule on defendants' objections at this time. Plaintiff's separate statement of items in dispute is 997 pages long. Defendants opted not to file a responsive separate statement, standing on their untimeliness argument, but then in the points and authorities generally argue the merits of their objections. The objections are addressed in a summary fashion. There are 371 individual requests – 10 requests for documents for each of 37 businesses. (Freeman Decl., ¶¶ 2-5, Exh. A.) Defendants contend that the subpoena seeks documents that are privileged, confidential and private, that the subpoena is absurdly overbroad, seeks the production of personal records of consumers. But defendants tie none of the objections to any particular document demands in the subpoena. This generalized discussion by defendant is not helpful. Nor would a responsive separate statement, likely much longer than plaintiff's, be helpful. The court would prefer to be provided a concise summary of the document demands at issue, with analysis of the objections that defendants contend defeat each demand. This document may be organized in whatever manner defense counsel feels would be thorough yet concise and useable to the court. (See Cal. Rules of Court, rule 3.1345(b)(2).)

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:  on 4-29-26 .

(Judge's initials)

(Date)

(47)

Tentative Ruling

Re: ***Maria Andrade vs Central Valley Sanitation Inc.***
Superior Court Case No. 24CECG03421

Hearing Date: April 30, 2026 (Dept. 403)

Motion: Plaintiffs' Application pursuant to California Code of Civil Procedure Section 473, subdivisions (a) and (b) for Relief from Error

Tentative Ruling:

To deny plaintiffs' motion for relief from error under Code of Civil Procedure section 473, subdivisions (a) and (b).

Explanation:

Plaintiffs are the heirs of decedent Jose Luis Andrade ("Andrade" or "decedent") and make a claim for wrongful death. Plaintiffs' wrongful death claim arises out of a collision between a semi-tractor-trailer truck operated by defendant Silvestre Zaragoza Uribe ("Uribe") and a Chevy Tahoe operated by plaintiffs' decedent Andrade.

Defendant, Fowler Packing Company, Inc. ("defendant" or "Fowler") filed a motion for summary judgment or, alternatively, summary adjudication to plaintiffs' Complaint/Causes of Action on December 9, 2025, on the basis that Fowler did not owe plaintiffs a duty of care because CVS and Uribe were not employees or agents of Fowler at the time of the accident. (Jennifer Hippo Decl., ¶13.)

On February 6, 2026, plaintiffs filed their opposition to Fowler's motion for summary judgment. (Hippo Decl., ¶14.)

On February 13, 2026, Fowler filed its reply papers including objections to Plaintiffs' evidence noting Plaintiffs' failure to properly cite evidence disputing any material facts. After receipt of the reply papers, (Hippo Decl., ¶15.) Plaintiffs' counsel filed a notice of errata regarding plaintiffs' response to Fowler's initial separate statement of undisputed material facts blaming an issue with the "cloud" file on February 17, 2026. (Hippo Decl., ¶16.) On February 18, 2026, Fowler filed its objection to plaintiffs' errata. (Hippo Decl., ¶17.)

On February 25, 2026, the Court issued a tentative ruling granting Fowler's motion for summary judgment. (Hippo Decl., ¶18.) The hearing on the motion went forward on February 26, 2026. (*bid.*) On March 9, 2026, the Court issued a six-page Final Ruling detailing the reasoning for granting the motion for summary judgment. (*Id.*, Exhibit 1.)

Plaintiffs now seek relief from error under Code of Civil Procedure section 473, subdivisions (a) and (b).

Relief under Code of Civil Procedure section 473, subdivision (b) is either mandatory or discretionary. Plaintiffs do not show grounds for mandatory relief. By its terms, Code of Civil Procedure section 473, subdivision (b) only offers mandatory relief for defaults and resulting default judgments. Thus, mandatory relief is unavailable here. *English v. IKON Business Solutions, Inc.* (2001) 94 Cal.App.4th 130, 133, as modified on December 27, 2001 (*English*), held that “the mandatory provision of section 473(b) does not apply to summary judgments because a summary judgment is neither a ‘default,’ nor a ‘default judgment,’ nor a ‘dismissal’ within the meaning of section 473(b).”

With respect to the discretionary relief provisions, “[a] party who seeks relief under section 473 on the basis of mistake or inadvertence of counsel must demonstrate that such mistake, inadvertence, or general neglect was excusable because the negligence of the attorney is imputed to his client and may not be offered by the latter as a basis for relief.” [Citation.] In determining whether the attorney’s mistake or inadvertence was excusable, ‘the court inquires whether “a reasonably prudent person under the same or similar circumstances” might have made the same error.’ [Citation.] In other words, the discretionary relief provision of section 473 only permits relief from attorney error ‘fairly imputable to the client, i.e., mistakes anyone could have made.’ [Citation.] ‘Conduct falling below the professional standard of care, such as failure to timely object or to properly advance an argument, is not therefore excusable. To hold otherwise would be to eliminate the express statutory requirement of excusability and effectively eviscerate the concept of attorney malpractice.’” (*Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 258 [finding excusable mistake where counsel provided a settlement offer for judgment “against” his client, as opposed to “in favor of”, since this was a clerical mistake].)

However, mere neglect or negligence is not a sufficient ground for relief. (*Martin v. Johnson* (1979) 88 Cal.App.3d 595, 606-607 [no abuse of discretion in refusing to vacate summary judgment due to attorney’s error in submitting declarations not within the personal knowledge of the declarant].)

The basis of plaintiffs’ relief sought under Code of Civil Procedure section 473 subdivision (b) is that plaintiffs’ attorney mistakenly uploaded an earlier version of the “Separate Statement of Undisputed Material Facts” rather than the most up to date version:

I reviewed the final opposition package before it was electronically filed and served. However, in reviewing the filed set I did not detect that, due to the cloud-saving issue described above, the version of the SSUMF that was actually attached and uploaded was the earlier draft version rather than the Corrected SSUMF that I had finished at approximately 9:52 a.m. on February 6, 2026. That failure to notice that the wrong version of the SSUMF was used is my error alone.

(Dustin Thordarson Decl., ¶ 7.)

Plaintiffs further cite *Parkview Villas Assn., Inc. v. State Farm Fire & Casualty Co.* (2005) 133 Cal.App.4th 1197 for the proposition that it is an abuse of discretion to grant summary judgment where the plaintiffs could have supposedly cured the defect in their Separate Statement of Undisputed Material Facts.

In *Parkview*, the Court of Appeal reversed a grant of summary judgment which was based on a “‘lack of admissible evidence in opposition to the motion’ “ stemming from the plaintiff’s “ ‘inadequate statement of undisputed material facts.’ “ (*Parkview, supra*, 133 Cal.App.4th at pp. 1201-1202.) The plaintiff’s separate statement required the court “‘to comb the 37 pages of declarations and hundreds of pages of attached documents to unearth evidence supporting plaintiff’s position.’ “ (*Id.* at p. 1208.) However, the court and the moving party never brought the deficiencies in the separate statement to the attention of the plaintiff. Rather, the court ruled that the separate statement was deficient for the first time on a motion for reconsideration. (*Ibid.*)

Parkview is readily distinguishable. Although the Court granted Fowler’s Objection No. 7, objecting to the entirety of plaintiffs’ Responses to Fowler’s Separate Statement and Additional Undisputed Material Facts for failure to comply with California Rules of Court, Rule 3.1350(f)(2) and Code of Civil Procedure Section 437c(b)(3), the Court’s Final Ruling shows that the Court reviewed and considered the evidence provided by plaintiffs in the Separate Statement and found it unpersuasive. (Hippo Decl., Exhibit 1.) The Court’s current approach was expressly endorsed by the Court of Appeal in *Parkview*: “‘It certainly would have been within the trial court’s discretion to proceed to the merits of State Farm’s motion, notwithstanding Parkview Villa’s failure to comply fully with [California Rules of Court] rule 342(f)... (See *San Diego Watercrafts Inc. v. Wells Fargo Bank* (2002) 102 Cal.App.4th 308, 316 [where consideration of evidence not contained in separate statement presents no due process concerns, trial court has discretion to consider the evidence].)’” (*Parkview, supra*, 133 Cal.App.4th at p. 1212.)

Furthermore, plaintiffs’ moving papers place heavy emphasis on the importance of SSUMF and the Declaration of Wes Curtis. Plaintiffs’ provide “‘SSUMF No. 36. provides the Declaration of Wes Curtis, further explains that this method of parking, loading, and tarping violated applicable state and federal safety regulations and directly contributed to the collision by rendering Fowler’s trailer effectively invisible to Jose Andrade, who struck it at highway speed and suffered fatal injuries.’” (Plaintiff’s Moving Papers, pg. 1.)

First, plaintiffs’ moving papers are inaccurate in describing it as “‘Fowler’s trailer.’” Plaintiff’s moving papers reflect that Fowler did not have legal title to the trailer. (Thordarson Decl., Ex. 2, SSUMF 4 – “‘While Fowler did not hold legal title to the vehicles, ...’”)

Second, plaintiffs’ counsel’s attempt to use the expert declaration of Wesley Curtis to establish that Fowler owed a duty of care to plaintiffs was improper and objectionable. (See *Carleton v. Tortosa* (1993) 14 Cal.App.4th 745, 755 [Expert opinions cannot be used to prove the existence of a duty, which is a question of law for the court alone].)

Third, it is the Court’s opinion that plaintiffs’ counsel’s actions resemble *Martin* more than *Zamora* where the errated SSUMF because plaintiffs’ errated SSUMF is pages longer and adds many new UMFs, in addition to the original SSUMF. The error in *Zamora*, while

(34)

Tentative Ruling

Re: ***Richardson v. Kevorkian, et al.***
Superior Court Case No. 22CECG00280

Hearing Date: April 30, 2026 (Dept. 403)

Motion: by Defendant for Summary Judgment

Tentative Ruling:

To grant summary judgment in favor of Defendant State of California, by and through its Department of Housing and Community Development. (Govt. Code §818.6.)

Explanation:

Defendant State of California, through its Department of Housing and Community Development (“HCD”) moves for summary judgment of the Second Amended Complaint on the basis that HCD complied with the statutory requirements regarding inspections of Trails End Mobilehome Park, timely gave notice to the County of Fresno that the park’s permit to operate had been suspended for failure to cure violations found during inspections, and that the handling of the complaints regarding the park supports the grant of inspection immunity under Government Code section 818.6.

“An ‘immunity’ is ‘[a]ny exemption from a duty [or] liability’ [Citation.] It ‘avoids liability in tort under all circumstances, within the limits of the immunity itself; it is conferred, not because of the particular facts, but because of the status or position of the favored defendant; and it does not deny the tort, but [rather] the resulting liability....” [Citation.]’ [Citation.] When the law grants an immunity, it does not mean that the defendant’s conduct is not tortious, but rather that the defendant is absolved from liability.” (*Blanks v. Seyfarth Shaw LLP* (2009) 171 Cal.App.4th 336, 378.)

In the case at bench, HCD argues it is entitled to immunity from plaintiff’s claims of negligence in the performance of a mandatory duty related to inspection of the park pursuant to Government Code section 818.6.

Government Code section 818.6 states: “A public entity is not liable for injury caused by its failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property, other than its property (as defined in subdivision (c) of Section 830), for the purpose of determining whether the property complies with or violates any enactment or contains or constitutes a hazard to health or safety.”

Immunity under this section is absolute and applies whether or not the duty to inspect is construed as “mandatory” or “discretionary.” (*Clayton v. City of Sunnyvale* (1976) 62 Cal.App.3d 666, 668–671.)

The purpose of Government Code section 818.6 is to protect public entities from liability not only for failures to detect technical safety code violations,

but for any negligence directly connected to the inspection process itself. In order for the immunity to apply, the negligence in question must have been part and parcel of the inspection or have had a direct or proximate effect on it, either by impairing its value, frustrating its goals or purposes, affecting the results or findings made, or in some other way resulting in damage to the investigation itself.

(*Cochran v. Herzog Engraving Co.* (1984) 155 Cal.App.3d 405, 412.)

In *Cochran v. Herzog Engraving Co.*, the court found the inspection process necessarily encompasses determining that given conditions are in fact hazardous or not, reporting these hazardous conditions, and fully disclosing them to all interested parties. (*Id.* at pp. 411-412.)

In the case at bench, plaintiffs assert there are disputes to material facts with respect to the number of complaints received by HCD, whether a complaint investigation was active at the time of the incident giving rise to plaintiffs' damages, and whether HCD complied with statutory requirement to investigate complaints and notify the County of Fresno of the need to abate. (UMF Nos. 56, 58, 61, 65, 69, 71, 73.) None of these potential factual disputes negate the application of inspection immunity. Plaintiffs focus on the alleged failure to refer the matter to the appropriate governmental agency for abatement of the violations discovered and documented during HCD inspections. Consistent with *Cochran v. Herzog Engraving Co.*, the referral of the investigation to another interested party for abatement is necessarily part and parcel of the inspection process and within the scope of immunity under Government Code section 818.6.

In light of the immunity afforded HCD under Government Code section 818.6 to the plaintiffs' claims for negligence, summary judgment is granted in favor of HCD.

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: **on** 4-29-26 .

(Judge's initials) (Date)

(37)

Tentative Ruling

Re: **McCubbin v. City of Fresno**
Superior Court Case No. 23CECG05100

Hearing Date: April 30, 2026 (Dept. 403)

Motion: By Defendant City of Fresno for Discovery Sanctions

Tentative Ruling:

To grant the request for terminating sanctions. To strike plaintiff's complaint and dismiss the action against defendant City of Fresno. Defendant shall submit a proposed judgment consistent with the Court's order within 10 days.

Explanation:

Once a motion to compel discovery is granted, continued failure to comply may support a request for more severe sanctions. Code of Civil Procedure section 2023.010, subdivision (g), makes "[d]isobeying a court order to provide discovery" a "misuse of the discovery process," but sanctions are only authorized to the extent permitted by each discovery procedure. For failure to obey the court's discovery orders, the court may:

"[M]ake those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010)..."

(Code Civ. Proc. §§ 2025.450, subd. (d) [depositions]; 2030.290, subd. (c) [interrogatories]; and 2031.300, subd. (c) [production demands].)

On June 13, 2024, defendant City propounded discovery on plaintiff. Extensions were granted and the verified initial responses were received on July 22, 2024. The parties engaged in meet and confer efforts, but eventually defendant filed a request for a pretrial discovery conference on September 30, 2024. A pretrial discovery conference was held on November 15, 2024, which ultimately resulted in a continuance to January 10, 2025. After several continuances, another pretrial discovery conference was held on April 11, 2025. An agreement was made for production of documents and responses to special interrogatories. The Court ordered a status conference for May 23, 2025. On May 23, 2025, the Court ordered plaintiff to provide the outstanding discovery responses. On August 27, 2025, the Court granted defendant's motion to compel as to Special Interrogatory Numbers 47, 71, and 100 and Request for Production of Documents Numbers 1-4, 6-7, and 11-13. The Court also ordered \$935 in monetary sanctions. On December 31, 2025, the Court denied a motion for terminating sanctions arising from plaintiff's failure to comply with the Court's previous orders, and imposed monetary sanctions in the additional amount of \$330. On March 26, 2026, the Court granted a motion to shorten time for the instant motion. The Court ordered plaintiff's response to

be due by April 9, 2026 and any reply due April 23, 2026. Plaintiff has failed to file any response.

There is evidence that plaintiff has engaged in misuse of the discovery process. Lesser sanctions have proven ineffective in compelling plaintiff to comply with the discovery requests. There is no indication that any more time or any lesser sanction will result in plaintiff responding to the outstanding discovery or complying with the prior court orders. Therefore, the Court dismisses plaintiff's complaint pursuant to Code of Civil Procedure section 2023.030, subdivision (d)(1).

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: **on** 4-26-29 .

(Judge's initials) (Date)

