

Tentative Rulings for May 7, 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.*

24CECG03640 *Nguyen v. Properties 152, LLC*

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

24CECG00294 *Patricia Ortega v. California Fair Plan Association* is continued to Thursday, May 8, 2025 at 3:30 p.m. in Department 503.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

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(03)

Tentative Ruling

Re: ***RMHP, LLC v. Bogdanoff***
Case No. 21CECG01273

Hearing Date: May 7, 2025 (Dept. 503)

Motion: Defendants' Motion to Tax Costs

Tentative Ruling:

To grant defendants' motion to tax costs in part and deny in part. The court will grant total costs to plaintiff of \$15,659.94.

Explanation:

"The right to recover costs of suit is statutory. [Code of Civil Procedure] Section 1032, subdivision (b) 'guarantees prevailing parties in civil litigation awards of the costs expended in the litigation.'" (*Rozanova v. Uribe* (2021) 68 Cal.App.5th 392, 399, citations omitted.)

Code of Civil Procedure Section 1033.5 sets forth a list of allowable costs, as well as a number of costs that are not allowed. The court also has discretion to award other costs not specifically listed under section 1033.5 if it determines that they are reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation. (Code Civ. Proc. § 1033.5, subd. (c)(2).) "Finally, section 1033.5 requires that the costs awarded, whether expressly allowed under subdivision (a) or awardable in the court's discretion under subdivision (c), must be 'reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation' (§ 1033.5, subd. (c)(2)) and also be 'reasonable in amount.' (*Rozanova v. Uribe*, *supra*, at p. 399, citations omitted.)

"If the items appearing in a cost bill appear to be proper charges, the burden is on the party seeking to tax costs to show that they were not reasonable or necessary. On the other hand, if the items are properly objected to, they are put in issue and the burden of proof is on the party claiming them as costs. Whether a cost item was reasonably necessary to the litigation presents a question of fact for the trial court and its decision is reviewed for abuse of discretion. However, because the right to costs is governed strictly by statute a court has no discretion to award costs not statutorily authorized." (*Ladas v. California State Auto. Assn.* (1993) 19 Cal.App.4th 761, 774, internal citations omitted.) Expenses that are "merely convenient or beneficial" to preparation for litigation are not recoverable. (*Id.* at p. 775.)

In the present case, plaintiff is the prevailing party as it obtained a judgment in its favor. Therefore, it is presumptively entitled to an award of its reasonable costs if they were necessarily incurred in the litigation. However, defendants object to several of the items of costs as being unreasonable, unnecessary, or not authorized by statute.

Item 1: Filing and Motion Fees. First, defendants object to \$60 in filing fees for the filing of the plaintiff's motion for a preliminary injunction. They contend that the motion was not necessary to the litigation, as plaintiff lost on the motion and it was not later entered into evidence or used by either party at trial.

The court has discretion to allow or disallow filing fees for motions where the moving party was unsuccessful or the motion was withdrawn prior to being heard. (*Parker v. State of California* (2013) 164 Cal.Rptr.3d 345, 372.) Here, the court denied plaintiff's motion for a preliminary injunction, and it does not appear that the motion was necessary to plaintiff's prosecution of its other claims or contributed to its success in the case. Therefore, the court intends to tax this cost in the amount of \$60. The court will allow only \$535 in costs under Item 1.

Item 2: Jury Fees. As defendants point out, there was no jury trial in this case. The court held a bench trial. Therefore, plaintiff is not allowed to recover its jury fees. The court intends to tax Item 2 in the amount of \$150.

Item 4: Deposition Costs. Defendants object to several of the deposition costs listed on plaintiff's memo of costs. Defendants claim that Manya Bogdanoff's deposition was never taken, so the cost of taking her deposition is not recoverable. Plaintiff has not filed opposition or denied that Manya Bogdanoff's deposition was not taken. Therefore, the court intends to grant the motion to tax the cost of Manya Bogdanoff, as apparently her deposition was never taken so plaintiff cannot recover costs for taking her deposition. Her deposition costs will be reduced from \$520 to \$0.

With regard to the deposition of Isabel Rodriguez, defendants contend that the deposition was taken remotely, so no travel costs for taking the deposition are recoverable. Also, defendants contend that they only paid \$927.55 for a certified transcript, and plaintiff should not be able to recover more than this amount. Again, plaintiff has not opposed the motion to tax costs, so it has not shown that it was reasonable and necessary to incur more than \$927 for deposing Ms. Rodriguez. Therefore, the court intends to tax the deposition cost for Ms. Rodriguez and allow only \$927.55 for her deposition.

Defendants object to the deposition costs for taking John Bogdanoff's deposition for the same reason, namely that they only paid \$1,290.90 for the transcript, so plaintiff should only be able to recover this amount. Plaintiff has not opposed the motion or shown why it was reasonable and necessary to incur more than \$1,290.90 for the deposition of John Bogdanoff. Therefore, the court intends to tax this cost and only allow \$1,290.90 for Mr. Bogdanoff's deposition.

Likewise, the court will tax the cost of Robert Merchant's deposition for the same reasons. It will only allow costs of \$481.05 for his deposition.

Finally, the court will tax the deposition costs for Dale Mell for the same reasons. The court will only allow \$430.20 for Mr. Mell's deposition.

In summary, the total allowable costs under Item 4 will be \$5,464.85.

Item 5: Service of Process. Defendants object to several of the costs under Item 5. First, they contend that Ian Bogdanoff is the same person as John Bogdanoff, so plaintiff should not be allowed to recover twice for the cost for serving Mr. Bogdanoff. Plaintiff

has not filed an opposition or denied that it was only necessary to serve Mr. Bogdanoff once. Therefore, the court will tax this cost in the amount of \$167.38.

Defendants also object to the cost of serving Jeannie Vu, as they claim that she was not deposed, she did not appear as a trial witness, and she did not attend any of the proceedings. Plaintiff has not opposed the motion or denied that Ms. Vu was never called as a witness. Since Ms. Vu was not called as a witness and did not appear in the case, the cost of serving her was not reasonable or necessary to the litigation. Therefore, the court will tax the cost of serving her and award \$0.

For the same reasons, the court intends to tax the cost of serving Harkiran Kaur and award \$0. Again, since Ms. Kaur did not appear as a witness in the case, it was not reasonable or necessary to serve her.

Likewise, Tom Overstreet was not called in the case as a witness or otherwise appear, so it was not reasonable or necessary to serve him. The amount charged to serve him, \$410.98, is also unreasonably high. The court intends to award \$0 for this cost.

Similarly, the court intends to tax the service cost for Richard Scott in full. Again, he was not called as a witness and did not appear at any stage of the case, so it was not reasonable or necessary to serve him. The \$369.50 fee serving him was also excessive. Therefore, the court will award \$0 for the cost of serving him.

The court will tax the service cost for Bethany Fitch in full for the same reasons. She was not called as a witness and did not attend any of the proceedings. The requested service cost of \$369.50 is also unreasonably high. The court will award \$0 for this cost.

Next, the court will tax the cost of serving Robert Merchant for the same reasons. Defendant claims that Mr. Merchant did not appear as a witness at trial, and plaintiff has not denied this fact. Therefore, the cost of serving him was not reasonable or necessary. The court will award \$0 for serving Mr. Merchant.

The cost of serving Lee Stuart will be taxed in full for the same reasons. He was not called as a witness and did not attend any proceedings. Therefore, it was not reasonable or necessary to serve him. The court will award \$0 for serving Mr. Stuart.

Likewise, the court will tax the cost of serving Troy Hudson, who did not appear as a witness or at any of the proceedings. The court will tax his service costs in full and award \$0.

The court will also tax the cost of serving John Hankard, who did not appear as a witness or otherwise. The court will award \$0 for serving Mr. Hankard.

Finally, the court intends to tax the cost of serving Allan Bailey, who is one of defendants' attorneys. There was no court order that he needed to be personally served with any documents in the case, and the \$234.55 fee for service is excessive. The court will award \$0 to serve Mr. Bailey.

In summary, the court will award \$2,178.09 in costs under Item 5.

Item 8(b): Expert Witness Fees. Since there was no section 998 offer, plaintiff is not entitled to its expert witness fees. Therefore, the court will tax the expert witness fees in full and award \$0 for this cost. The court will allow only \$96 under Item 8.

Item 13: Models, Enlargements, and Photocopies of Exhibits. Defendants object to plaintiff's request for \$1,434.34 for this item of costs, contending that there were no special exhibits, models or photos used at trial. The court conducted a bench trial using simple exhibit binders with no special prints, paper or photos. Plaintiff has not denied that there were no models, special photos, or exhibits used in the case. Therefore, the court intends to grant the motion to tax this item in full, and award \$0 for this cost.

Item 14: Fees for Electronic Filing or Service. Defendants object to this cost, as the court never ordered any electronic filings or service of documents. Defendants requests that the court award nothing for electronic service and filing of documents.

However, the court does generally require represented parties to electronically file documents in all civil cases. (Fresno County Sup. Ct. Local Rules, Rule 4.1.2 A.) Therefore, the defendants are incorrect that the court never ordered electronic filing or service of documents, as electronic filings are required in civil actions. As a result, the court will deny the motion to tax Item 14 in its entirety.

Item 15: Other Costs. Defendants object to Item 15, Other Costs, on the ground that most of the costs listed are not specifically authorized by statute, and therefore should not be awarded.

Under section 1033.5, subdivision (a)(16), allowable costs include "[a]ny other item that is required to be awarded to the prevailing party pursuant to statute as an incident to prevailing in the action at trial or on appeal." Here, plaintiff has not cited to any statute that requires the requested costs to be awarded to it as the prevailing party at trial. Also, plaintiff has not separately itemized each of the requested costs under Item 15, so it is impossible to distinguish which costs might be allowable under statute and how much to award for each of the costs. Therefore, the court will tax Item 15 in full and award \$0 for this item.

Conclusion: The court intends to grant the motion to tax costs in part, and award total costs of \$15,659.94.

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** 5/5/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***In Re: Charmaine Tyler***
Court Case No. 23CECG02836

Hearing Date: May 7, 2025 (Dept. 503)

Motion: Petition to Approve Compromise of Disabled Person's Claim

Tentative Ruling:

To deny, without prejudice. Petitioner must file an amended petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of the amended petition. (Super. Ct. Fresno County, Local Rules, rule 2.8.4.)

Explanation:

The Petition indicates that there is a Medi-Cal lien in the total amount of \$523.77. There is no indication that there has been any reduction pursuant to Welfare and Institutions Code section 14124.78. It may be that counsel did not provide the director with notice and an opportunity to perfect and satisfy the lien pursuant to Welfare and Institutions Code section 14124.76. Additional evidence of the final lien amount after such notice has been provided is required.

While Petitioner has requested that the court retain jurisdiction to determine a claim for a reduction of a Medi-Cal lien under Welfare and Institutions Code section 14124.76, the Court is not inclined to do so. The Court's preference is to resolve the final lien amount first. Counsel has not presented any reason for reserving jurisdiction here.

Pursuant to California Rules of Court, Rule 3.1312 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 5/5/2025.
(Judge's initials) (Date)

(41)

Tentative Ruling

Re: **Jane Doe v. Jose Fregoso**
Superior Court Case No. 25CECG01231

Hearing Date: May 7, 2025 (Dept. 503)

Motion: By Plaintiff to Proceed with a Pseudonym

Tentative Ruling:

To grant plaintiff's motion to proceed with the pseudonym "Jane Doe," in the caption of her pleadings and in the caption of all legal filings by the parties.

Explanation:

The plaintiff, using the pseudonym Jane Doe (Plaintiff), conditionally filed a complaint that included allegations of sexual assault against the defendants, Coalinga Huron Unified School District (District) and Jose Fregoso. Plaintiff alleged the defendants violated her rights under the Fair Employment and Housing Act, the California Family Rights Act, and the Labor Code. Plaintiff now moves for an order allowing her to use the pseudonym, "Jane Doe," in all of her legal filings.

Code of Civil Procedure section 422.40 generally provides that the complaint in a civil action must include the names of all parties. Some statutes specifically allow a litigant to sue anonymously due to the inherently sensitive nature of the proceeding. No specific statutory authorization applies to the allegations in Plaintiff's complaint. In *Department of Fair Employment and Housing v. Superior Court of Santa Clara County* (2022) 82 Cal.App.5th 105, 110 (*Department*), the court articulated, for the first time, "the standard that applies to determine whether a party may proceed anonymously absent specific statutory authorization."

More recently, the court in *Santa Ana Police Officers Association v. City of Santa Ana* (2025) 109 Cal.App.5th 296 (*Santa Ana*), cited *Department* with approval when it summarized the procedure for a plaintiff to obtain approval to proceed anonymously:

Unless a statute specifically allows a plaintiff to sue under a pseudonym, a plaintiff must obtain court authorization in order to appear anonymously. (*Department, supra*, 82 Cal.App.5th at pp. 108, 111.) "Before a party to a civil action can be permitted to use a pseudonym, the trial court must conduct a hearing and apply the overriding interest test: A party's request for anonymity should be granted only if the court finds that an overriding interest will likely be prejudiced without use of a pseudonym, and that it is not feasible to protect the interest with less impact on the constitutional right of access." (*Id.* at p. 111.)

(*Santa Ana, supra*, 109 Cal.App.5th at p. ____.)

As District correctly contends, the court should permit a plaintiff to proceed under a pseudonym only when exceptional circumstances justify protecting a plaintiff's identity. "Outside of cases where anonymity is expressly permitted by statute, litigating by pseudonym should occur 'only in the rarest of circumstances.' " (*Santa Ana*, *supra*, 109 Cal.App.5th at p. ____ [330 Cal.Rptr.3d at p. 415], quoting *Department*, *supra*, 82 Cal.App.5th at pp. 111–112.)

Allowing a party to litigate anonymously impacts the public's right of access guaranteed by the First Amendment and under common law. (*Department*, *supra*, 82 Cal.App.5th at pp. 110–111.) But courts have permitted plaintiffs to sue under fictitious names in certain narrow circumstances, such as to protect the privacy of a party. (*Doe v. Lincoln Unified School Dist.* (2010) 188 Cal.App.4th 758, 766 [" 'The judicial use of "Doe plaintiffs" to protect legitimate privacy rights has gained wide currency, particularly given the rapidity and ubiquity of disclosures over the World Wide Web[.]" ' " citing *Starbucks Corp. v. Superior Court* (2008) 168 Cal.App.4th 1436 [, 1452, fn. 7]).

To decide the motion, the court must apply the overriding interest test set forth in *Department*. The District contends the court should deny Plaintiff's motion because Plaintiff fails to establish a strong interest in withholding her name, the requested order would impose many logistical and evidentiary burdens on the District in preparing and presenting its defense, and the public's right of access and prejudice to the District outweigh Plaintiff's privacy concerns.

After the District noted Plaintiff herself failed to submit a declaration to support her position, Plaintiff filed a declaration with her reply. Although Plaintiff's declaration is untimely, the court has exercised its discretion to consider the late-filed declaration. (See (*Juarez v. Wash Depot Holdings, Inc.* (2018) 24 Cal.App.5th 1197, 1201–1202 [trial court is authorized to consider late-filed papers if consideration does not cause undue prejudice to opposing party].) In her declaration, Plaintiff explains that she resides in a small, close-knit community in Coalinga. She is fearful that revealing her identify on the pleadings will exacerbate her diagnosed medical conditions of anxiety, depression, and post-traumatic stress disorder. She is also concerned about the impact of revealing her identify on her children, three of whom attend school in the District, and the impact on her professional life and future employment opportunities.

Defendant argues persuasively that it would be prejudiced at trial if the courtroom is closed to the public. Plaintiff's declaration and her reply clarify that Plaintiff is not asking the court to close its doors during trial proceedings or to deny the public access to future court hearings of proceedings. Nor is she asking for protection in discovery proceedings. Her motion is limited to a request for an order allowing the parties to use a fictitious name in the pleadings and other public filings. Defendant does not explain how it would be prejudiced by the limited order Plaintiff is requesting.

Weighing the factors of the overriding interest test, the court finds Plaintiff's privacy interests will likely be prejudiced without the use of the pseudonym Jane Doe, the use of the pseudonym will not impact the public's constitutional right of access, and Plaintiff's privacy interests outweigh Defendant's need to include Plaintiff's name in the caption of all court filings. In summary, the court finds Plaintiff has met her burden to demonstrate

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.

Issued By: JS on 5/5/2025.
(Judge's initials) (Date)