

Tentative Rulings for June 6, 2023
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.*

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: **Beatriz Alejandre v. American Honda Motor Co., Inc.**
Superior Court Case No. 22CECG03572

Hearing Date: June 6, 2023 (Dept. 503)

Motion: Defendant American Honda Motor Co., Inc.'s Demurrer and Motion to Strike Portions of the Complaint

Tentative Ruling:

To continue the motions to Wednesday, July 26, 2023, at 3:30 p.m. in Department 503, in order to allow the parties to meet and confer in person or by telephone, as required. If this resolves the issues, defendant shall call the calendar clerk to take the motion off calendar. If it does not resolve the issues, defense counsel shall file a declaration, on or before July 7, 2023, stating the efforts made.

Explanation:

Defendant did not satisfy the requirement to meet and confer prior to filing the demurrer and motion to strike. Code of Civil Procedure sections 430.41 and 435.5 make it very clear that meet and confer must be conducted “in person or by telephone.” (*Id.*, subd. (a) as to both.) Sending written communication first, as defense counsel did here, can be helpful to the process, but this does not shift the burden for meeting and conferring to the plaintiff. The moving party is not excused from this requirement unless they show that the plaintiff failed to respond to the meet and confer request or otherwise failed to meet and confer in good faith. (*Id.*, subd. (a)(3)(B).) The evidence does not show a bad faith refusal to meet and confer on plaintiff's part that would excuse defendant from complying with the statute.

The parties must engage in good faith meet and confer, in person or by telephone. The court's normal practice is to take such motions off calendar, subject to being re-calendarated once the parties have met and conferred. However, given the extreme congestion in the court's calendar currently, rather than take the motion off calendar, the court will instead continue the hearing to allow the parties to meet and confer, and only if efforts are unsuccessful will it rule on the merits.

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: jyh on 6/5/23
(Judge's initials) (Date)

(29)

Tentative Ruling

Re: **Barboza v. Shredall, Inc.**
Superior Court Case No. 21CECG01152

Hearing Date: June 6, 2023 (Dept. 503)

Motion: Petition to Approve Compromise of Disputed Claim of Minor

Tentative Ruling:

To grant and sign the proposed orders. No appearances 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: jyh **on** 6/5/23.
(Judge's initials) (Date)

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Tentative Ruling

Re: **John Doe D.J.M. v. Mountain View Congregation of Jehovah's Witnesses, Reedly, California**
Superior Court Case No. 22CECG04211

Hearing Date: June 6, 2023 (Dept. 503)

Motions: Applications for admission *pro hac vice* (x2)

Tentative Ruling:

To deny the applications of Norval Elliot and Robert Salim for admission *pro hac vice*. (Cal. Rules of Court, rule 9.40.)

Explanation:

No person is eligible to appear as counsel *pro hac vice* if they are regularly engaged in substantial business or professional activities in California. (Cal. Rules of Court, rule 9.40(a)(3).) Moreover, “[a]bsent special circumstances, repeated appearances by any person under this rule is a cause for denial of an application.” (Cal. Rules of Court, rule 9.40(b).)

The applications of Mr. Elliot and Mr. Salim show that they have applied for admission *pro hac vice* six times in the last year, five of which were made within the last five months (Elliot decl., ¶8; Salim decl., ¶8). Both declarants state that they have seven applications currently pending in California courts (*id.* at ¶11). It appears to the Court that Messrs. Elliot and Salim have made repeated appearances and engaged in substantial professional activities in the State of California. Both applications for admission *pro hac vice* are therefore denied.

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: jyh **on** 6/5/23
(Judge's initials) (Date)