

Tentative Rulings for July 1, 2025
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.

21CECG03231	<i>Sequoia Valery v Turner Security Systems, Inc.</i> is continued to Wednesday, July 16, 2025 at 3:30 p.m. in Department 403
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Tentative Rulings for Department 403

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(03)

Tentative Ruling

Re: ***Barajas v. CA Freight Express, Inc.***
Case No. 23CECG02961

Hearing Date: July 1, 2025 (Dept. 403)

Motion: Defendant's Motion to Compel Deposition of Guardian Ad Litem for Plaintiffs Amelia Rodarte and Elias Rodarte

Tentative Ruling:

To grant defendant's motion to compel the deposition of Veronica Valdez, the guardian ad litem for plaintiffs Amelia Rodarte and Elias Rodarte. To deny the request for monetary sanctions against plaintiffs. Ms. Valdez shall appear for her next noticed deposition. Any further failure to appear for her deposition may result the imposition of sanctions, including monetary, evidence, issue, or terminating sanctions.

Explanation:

Under Code of Civil Procedure section 2025.450, subdivision (a), "If, after service of a deposition notice, a party to the action or an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under Section 2025.230, without having served a valid objection under Section 2025.410, fails to appear for examination, or to proceed with it, or to produce for inspection any document, electronically stored information, or tangible thing described in the deposition notice, the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document, electronically stored information, or tangible thing described in the deposition notice."

"A motion under subdivision (a) shall comply with both of the following: [¶] (1) The motion shall set forth specific facts showing good cause justifying the production for inspection of any document, electronically stored information, or tangible thing described in the deposition notice. [¶] (2) The motion shall be accompanied by a meet and confer declaration under Section 2016.040, or, when the deponent fails to attend the deposition and produce the documents, electronically stored information, or things described in the deposition notice, by a declaration stating that the petitioner has contacted the deponent to inquire about the nonappearance." (Code Civ. Proc., § 2025.450, subd. (b).)

"If a motion under subdivision (a) is granted, the court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) in favor of the party who noticed the deposition and against the deponent or the party with whom the deponent is affiliated, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." (Code Civ. Proc., § 2025.450, subd. (g)(1).)

Here, Veronica Valdez, who is the guardian ad litem for the minor plaintiffs Amelia and Elias Rodarte, failed to appear for her noticed deposition. She did not serve any objections after being served with the deposition notice. Defense counsel contacted plaintiffs' counsel to inquire about the nonappearance, but plaintiffs' counsel stated that he has been unable to locate or communicate with Ms. Valdez despite making efforts to contact her, including hiring a private investigator. Plaintiffs' counsel has also filed a motion to be relieved from the representation due to the lack of communication with Ms. Valdez. Therefore, defendant has met its burden of showing that Ms. Valdez should be compelled to attend her deposition.

In addition, the court would normally impose sanctions against plaintiffs for their representative's failure to appear for her deposition. However, in the present case it is unclear whether plaintiffs' guardian ad litem's nonappearance was willful, as it appears that she may never have received the deposition notice. If the nonappearance was simply the result of Ms. Valdez's ignorance of the fact that the deposition had been noticed, then it would be unjust to award sanctions. (*Midwife v. Bernal* (1988) 203 Cal.App.3d 57, 63.) Therefore, the court intends to deny the request for sanctions against plaintiffs, but it will order Ms. Valdez to appear for her next noticed deposition. Any further failure to appear for her deposition may result in the imposition of sanctions, including monetary, issue, evidence, or terminating sanctions.

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: Img **on** 6-27=25.
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***Polta v. Sunny***
Case No. 24CECG04032

Hearing Date: July 1, 2025 (Dept. 403)

Motion: Interstate Claims Management, LLC's Motion for Leave to Intervene on Behalf of Defendant A&A Tranz, Inc., dba A&A Truck Lines

Tentative Ruling:

To grant Interstate Claims Management, LLC's motion for leave to intervene on behalf of defendant A&A Tranz, Inc., dba A&A Truck Lines. Interstate shall serve and file its answer in intervention within 10 days of the date of service of this order.

Explanation:

Under Code of Civil Procedure section 387, subdivision (d), "The court shall, upon timely application, permit a nonparty to intervene in the action or proceeding if either of the following conditions is satisfied: [¶] (A) A provision of law confers an unconditional right to intervene. [¶] (B) The person seeking intervention claims an interest relating to the property or transaction that is the subject of the action and that person is so situated that the disposition of the action may impair or impede that person's ability to protect that interest, unless that person's interest is adequately represented by one or more of the existing parties." (Code Civ. Proc., § 387, subd. (d)(1).) Also, "The court may, upon timely application, permit a nonparty to intervene in the action or proceeding if the person has an interest in the matter in litigation, or in the success of either of the parties, or an interest against both." (Code Civ. Proc., § 387, subd. (d)(2).)

"It is well settled that the intervenor's interest in the matter in litigation must be direct, not consequential, and that it must be an interest which is proper to be determined in the action in which intervention is sought. ... Whether the intervenor's interest is sufficiently direct must be decided on the facts of each case. But it is established that the intervenor need neither claim a pecuniary interest nor a specific legal or equitable interest in the subject matter of the litigation. And section 387 should be liberally construed in favor of intervention." (*Simpson Redwood Co. v. State of California* (1987) 196 Cal.App.3d 1192, 1199–1200, citations omitted.)

"Pursuant to section 387 the trial court has discretion to permit a nonparty to intervene where the following factors are met: (1) the proper procedures have been followed; (2) the nonparty has a direct and immediate interest in the action; (3) the intervention will not enlarge the issues in the litigation; and (4) the reasons for the intervention outweigh any opposition by the parties presently in the action." (*Reliance Ins. Co. v. Superior Court* (2000) 84 Cal.App.4th 383, 386, citation omitted.)

"An insurer's right to intervene in an action against the insured, for personal injury or property damage, arises as a result of Insurance Code section 11580. Section 11580

“It is undisputed that if the insurer admits coverage, the insurer clearly has a direct and immediate interest in the outcome of the action against its insured, and therefore may intervene.” (*Gray v. Begley* (2010) 182 Cal.App.4th 1509, 1522.) “[C]ase authority is in agreement that insurers may intervene in third party actions brought against their insureds in order to protect their own interests when their insureds are unable to defend.” (*Western Heritage Ins. Co. v. Superior Court* (2011) 199 Cal.App.4th 1196, 1207.)

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: Img on 6-27-25
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Newtek Small Business Finance LLC v. SLJ Petroleum Holdings, LLC***

Superior Court Case No. 25CECG00511

Hearing Date: July 1, 2025 (Dept. 403)

Motion: Petition for Order Permitting Inspection of Real Property

Tentative Ruling:

To grant and sign the order filed May 27, 2025.

Explanation:

Civil Code section 2929.5, subdivision (a), provides that a secured lender may enter and inspect the real property in either of two situations:

(1) Upon reasonable belief of the existence of a past or present release or threatened release of any hazardous substance into, onto, beneath, or from the real property security not previously disclosed in writing to the secured lender in conjunction with the making, renewal, or modification of a loan, extension of credit, guaranty, or other obligation involving the borrower.

(2) After the commencement of nonjudicial or judicial foreclosure proceedings against the real property security.

The declaration of Richard Finamore filed in support of the petition include the note memorializing the Small Business Administration loan allegedly in default, deed of trust for the property, and a notice of default recorded in Fresno County. (Finamore Decl., ¶¶ 5-7, 14, Exh. 1, 2, 4.) Petitioner has provided sufficient evidentiary support of the commencement of nonjudicial foreclosure proceedings.

Accordingly, the court intends to grant the petition.

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: Img on 6-27=25.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: **G.A.V. v. Keith Robinson**
Superior Court Case No. 24CECG00133

Hearing Date: July 1, 2025 (Dept. 403)

Motion: Petition to Compromise the Claim of Minor (amended)

Tentative Ruling:

To grant the petition. Order to approve petition signed. No appearances necessary. Because the minor's funds are to be placed in an annuity managed by Arcadia, no blocked account is necessary and the proposed order re deposit into a blocked account will not be signed by the court.

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: Img on 6-30-25
(Judge's initials) (Date)