

Tentative Rulings for July 15, 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.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 403

Begin at the next page

(20)

Tentative Ruling

Re: ***Mitchell v. Channel et al.***
Superior Court Case No. 23CECG03748

Hearing Date: July 15, 2026 (Dept. 403)

Motion: By Defendant Ark of Safety Apostol Faith Temple, Inc. dba Paradigm Transport Services for Reconsideration of Order Denying Motion to Quash Service of Summons

Tentative Ruling:

To deny. (Code Civ. Proc., § 1008.)

***If oral argument is timely requested, such argument will be heard
on Thursday July 16, 2026 at 3:30 pm.***

Explanation:

Defendant Ark of Safety Apostol Faith Temple, Inc. dba Paradigm Transport Services ("Ark") moved to quash service of the summons and complaint. The motion to quash was denied as untimely. The opposition to the motion to quash raised the issue of timeliness of the motion, but it was not until the day of the hearing that Ark sought to present declarations explaining why the motion was filed late. Ark now seeks reconsideration of the motion to quash

A party may bring a motion to reconsider, and have a different order entered, if the motion is:

1. brought before the same judge that made the order;
2. made within 10 days after service upon the party of notice of the entry of the order;
3. based on new or different facts, circumstances, or law; and
4. made and decided before entry of judgment.

(Code Civ. Proc., § 1008, subd. (a), (b).)

The order denying the motion to quash was served electronically on 4/9/26. Adding two days for mail service, the 4/17 motion for reconsideration was timely filed.

The main issue is whether the motion is based on new or different facts, circumstances or law, and whether this new information compels a different result.

The motion for reconsideration is based on declarations that Ark's counsel attempted to present to the court at the hearing on the motion to quash, but which the court would not consider. Reply papers are due five court days before the hearing. (Code Civ. Proc., § 1005, subd. (b).) Timeliness of the motion to quash was raised in the opposition, and Ark should have fully addressed it in the reply instead of bringing new

evidence to the hearing. The court should not be expected to consider new evidence brought to the hearing.

These new declarations do constitute new evidence that was not initially considered, but it is evidence that should have been submitted with the reply. "A motion for reconsideration is often an uphill battle because you have to persuade the judge that there has been a change in the law or there are new facts, not previously available, which require a different result." (Weil & Brown, *Cal. Practice Guide: Civ. Proc. Before Trial* (TRG 2026) ¶ 9:324a.) "A party seeking reconsideration also must provide a satisfactory explanation for the failure to produce the evidence at an earlier time." (*New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212.) "The burden under section 1008 is comparable to that of a party seeking a new trial on the ground of newly discovered evidence: the information must be such that the moving party could not, with reasonable diligence, have discovered or produced it" at the original hearing. (*Id.* at pp. 212–213.)

Ark maintains that it did not know that the motion to quash was filed on 3/17/26 until the court issued its tentative ruling on 4/7/26. That information was within Ark's reach at all times. Timeliness of the motion was raised in the opposition, and Ark could easily have checked the file-stamped copy at any time after filing the motion. That is not information unavailable to Ark prior to the court's tentative ruling.

Ark's counsel states that after learning of the late filing, defense counsel and his assistant contacted One Legal to determine why the motion to quash was filed late. (Knaack Decl., ¶ 7.) After learning of the circumstances leading to the late filing described herein, counsel worked with One Legal to obtain a declaration from Ms. Rodriguez who filed the motion. (Knaack Decl., ¶ 8.) As soon as the declaration was completed and transmitted to counsel, counsel filed the declaration, along with a declaration from counsel's assistant with the court to inform the court of the circumstances leading to the late filing of the motion. (Knaack Decl., ¶ 9.)

Again though, counsel could have obtained the declarations at any time once the opposition was filed raising the timelines objection. This is not information that was unavailable prior to filing the reply. With reasonable diligence Ark should have presented this information with the reply brief in response to the argument that the motion was not timely filed. Ark simply assumed that the motion was filed on 3/13/26, but apparently did not make any attempt to verify that prior to filing the reply brief. Ark acting with reasonable diligence could have discovered at any time discovered the filing date of the motion to quash, and discovered why the motion was not timely filed. Reconsideration is not warranted.

Ark also seeks relief under Code of Civil Procedure section 473, subdivision (b). While section 1008 deals with the general subject of motions to reconsider previous orders and renewals of previous motions, section 473(b) governs applications for relief from a default or default judgment entered as a result of "mistake, surprise, inadvertence or excusable neglect." (*Even Zohar Const. & Remodeling, Inc. v. Bellaire Townhouses, LLC* (2015) 61 Cal.4th 830, 838.) However, it is improper to seek relief available under 473(b) in a motion for reconsideration under section 1008. (*Cradduck v. Hilton Domestic Operating Co., Inc.* (2025) 112 Cal.App.5th 284, 304.) Accordingly, the motion is denied.

(03)

Tentative Ruling

Re: ***Proe v. Xtreme Manufacturing, LLC***
Case No. 24CECG00068

Hearing Date: July 15, 2026 (Dept. 403)

Motion: Plaintiff's Motion for Final Approval of Class and PAGA Settlement

Tentative Ruling:

To grant plaintiff's motion for final approval of the class and PAGA settlement.
(Code Civ. Proc., § 382; Cal. Rules of Court, rule 3.769.)

***If oral argument is timely requested, such argument will be heard
on Thursday July 16, 2026 at 3:30 pm.***

Explanation:

1. Class Certification

The court has already granted preliminary certification of the class for the purpose of settlement. Nothing has happened since the court granted its last order that would cause the court to change its determination that the class should be certified.

2. Fairness and Reasonableness of the Settlement

"In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant 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.' The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244–245, internal citations omitted, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

Here, the court has already granted preliminary approval of the settlement, including finding that the amount of the settlement is fair, adequate and reasonable. After the court granted preliminary approval of the settlement, the class administrator served notice of the settlement on the class members, and no objections or requests for exclusion have been received. The class members' lack of objections and requests for exclusion supports a finding that the settlement is fair, reasonable, and adequate. While the court previously found that the motion for final approval of the class settlement had been prematurely filed because it was filed before the deadline to object or opt out had expired, the deadline has now expired and no objections or opt out requests have been

submitted. Therefore, the court intends to find that the lack of objections supports a finding that the settlement is fair, reasonable, and adequate.

Also, the court previously denied the motion for final approval because the number of class members in the final approval motion was only 197, whereas in the motion for preliminary approval, plaintiff's counsel represented that there were approximately 336 class members. The court found that plaintiff's counsel had not explained why the number of class members had been reduced by nearly 50%, or how many workweeks have been used to calculate potential damages and the estimated payment to each class member.

Now, plaintiff's counsel has explained that the number of class members was reduced to 197 because the settlement administrator discovered that the original estimate of 336 class members was based on incorrect data, including an overbroad class period of January 4, 2020 to August 7, 2024, when the class period was actually March 2, 2022 to August 7, 2024. This resulted in 139 employees being included in the class who should have been excluded. Therefore, the settlement administrator sent out notices to the 197 members, which resulted in three notices being returned as undeliverable. No objections or opt-out requests have been received.

Plaintiff's counsel has also provided revised estimates of defendant's potential maximum liability exposure based on the reduced class size and reduced number of workweeks during which violations allegedly occurred. According to the revised data, 197 class members worked 10,034 weeks during the class period. The average rate of pay for each class member was \$21.94 per hour. Defendant's potential maximum exposure for meal break violations was \$148,709.32. Its potential maximum exposure for rest break violations was \$883,063.06. Its potential maximum exposure for wage statement violations was \$157,600. Its potential exposure for waiting time penalties was \$197,986.56. Thus, defendant's total maximum potential liability on all claims was \$1,387,358.80.

Based on these new numbers, it does appear that the settlement of \$193,580 is fair, adequate, and reasonable. The settlement is approximately 14% of the defendant's potential maximum liability. Given defendant's potentially meritorious defenses and the expense and risk of litigating the case through trial and appeal, plaintiff's decision to settle the case for 14% of defendant's maximum exposure was reasonable and should still result in an adequate payment to the class. In fact, since the total class is smaller than the parties originally believed, the settlement is actually a larger percentage of defendant's potential liability. Each class member should also receive a larger share of the total settlement, as there are fewer class members than the parties previously believed. Therefore, the court finds that the settlement is fair, reasonable, and adequate, and it will grant final approval of the settlement.

3. Attorney's Fees and Costs

Plaintiff's counsel seeks attorney's fees of one-third of the gross settlement, or \$64,526.67. The amount of attorney's fees is reasonable in light of the settlement achieved, as well as the work done by counsel on the case. The request for costs of \$19,123.82 is also fair and reasonable. Therefore, the court will grant final approval of the requested attorney's fees and costs.

4. Payment to Class Representative

The court has already preliminary approval of the class representative's incentive payment of \$10,000. Given the lack of objections and opt out requests from the class, it appears that no one in the class objects to the payment to the class representative. Therefore, the court will grant final approval of the class representative payment in the amount of \$10,000.

5. Payment to Class Administrator

Apex Class Action LLC incurred costs of \$6,350 to administer the settlement. The court has already granted preliminary approval of the class administrator payment of up to \$8,000. No class members have objected to the payment to the administrator. Therefore, the court will grant final approval of the \$6,350 payment to the settlement administrator.

6. PAGA Settlement

The court intends to grant final approval of the PAGA settlement of \$8,000. The amount of the settlement is fair, reasonable, and adequate in light of defendant's potential exposure and the risks and costs of litigating the case to trial, as well as the danger that the court might reduce any penalties even if plaintiff does prevail at trial. Also, the LWDDA has been given notice of the settlement, and it has not objected to the settlement. Therefore, the court will grant final approval of the PAGA settlement.

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: SMC **on** July 14, 2026.
(Judge's initials) (Date)

(49)

Tentative Ruling

Re: ***Hughey v. Promesa Apartments***
Superior Court Case No. 25CECG05700

Hearing Date: July 15, 2026 (Dept. 403)

Motion: By Defendant Fresno 1101 Parkway, LP on Demurrer to the Complaint

Tentative Ruling:

To sustain defendant Fresno 1101 Parkway, LP's general and special demurrers to the complaint with leave to amend. (Code Civ. Proc., § 430.10, subd. (e) and (f).) Plaintiffs are granted 10 days leave to file the First Amended Complaint, which will run from service by the clerk of the minute order. New allegations/language must be set in **boldface** type.

***If oral argument is timely requested, such argument will be heard
on Thursday July 16, 2026 at 3:30 pm.***

Explanation:

Defendant Fresno 1101 Parkway, LP (sued erroneously as Promesa Apartments) ("Defendant") demurs to the complaint of plaintiffs, Angela Hughey and Crystal Baker, ("Plaintiffs"). Plaintiffs did not file an opposition.

Meet and Confer

The demurring party must meet with the opposing party, in person, by telephone, or by video conference prior to filing a demurrer and file and serve with the motion a declaration detailing the meet-and-confer efforts. (Code Civ. Proc., § 430.41, subd. (a).) Defendant attempted to call Plaintiffs multiple but was unable to reach them or receive any response from Plaintiffs. (Burns Decl., ¶ 2.) Defendant has met the meet and confer requirement

Failure to State Facts Sufficient to Constitute a Cause of Action

The function of a demurrer is to test the sufficiency of a plaintiff's pleading by raising questions of law. (*Plumlee v Poag* (1984) 150 Cal.App.3d 541, 545) The truth of the facts alleged in the complaint are assumed true as well as the reasonable inferences that may be drawn from those facts. (*Miklosy v. Regents of University of California* (2008) 2 Cal.4th 876, 883; see also *Daniels v. Select Portfolio Servicing, Inc.* (2016) 246 Cal.App.4th 1150, 1168 [actual reliance in support of a fraud claim reasonably inferable from the plaintiff's complaint]; Code Civ. Proc., 452 ["In the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties."].)

A general demurrer, “admits the truth of all material factual allegations in the complaint;” the plaintiff’s “ability to prove these allegations, or the possible difficulty in making such proof does not concern the reviewing court” (*Alcorn v. Anbro Engineering, Inc.* (1970) 2 Cal.3d 493, 496; *Stella v. Asset Management Consultants, Inc.* (2017) 8 Cal.App.5th 181, 190 [“We assume the truth of the properly pleaded factual allegations, facts that reasonably can be inferred from those expressly pleaded and matters of which judicial notice has been taken.”].)

Plaintiffs’ complaint was filed using Judicial Council Form *COMPLAINT – Contract (PLD-C-001)* (“PLD-C-001”). Item 8. of PLD-C-001 states “The following causes of action are attached and the statements above apply to each”. PLD-C-001 then lists possible causes of action and boxes to be marked indicating that cause of action applies. Plaintiffs did not mark any of the potential causes of action. Further, Plaintiffs’ complaint contains no factual information about the incident leading to filing the complaint or any specific facts other than naming the person Plaintiffs are suing.

Defendant contends that Plaintiffs have both failed to state a cause of action and have failed to plead sufficient facts to be a cause of action. Defendant is correct. Accordingly, Defendant’s demurrer is sustained with leave to amend.

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: SMC **on** July 14, 2026.
(Judge’s initials) (Date)

(35)

Tentative Ruling

Re: **Rakesh v. Segway, Inc. et al.**
Superior Court Case No. 25CECG01317

Hearing Date: July 15, 2026 (Dept. 403)

Motion: Application for Admission *Pro Hac Vice*

If oral argument is timely requested, such argument will be heard on Thursday July 16, 2026 at 3:30 pm.

Tentative Ruling:

To take off calendar, as no moving papers have been filed.

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: SMC on July 14, 2026.
(Judge's initials) (Date)

(49)

Tentative Ruling

Re: ***In Re: Angel Eduardo Antonio Kuripeth***
Superior Court Case No. 25CECG00038

In Re: Oscar Antonio Garcia
Superior Court Case No. 25CECG00039

In Re: Steven Antonio Kuripeth
Superior Court Case No. 25CECG00040

In Re: Justin Antonio Kuripeth
Superior Court Case No. 25CECG00041

Hearing Date: July 15, 2026 (Dept. 501)

Motion: By Petitioner to Consolidate Cases for All Purposes

Tentative Ruling:

To grant, consolidating for all purposes Case No. 25CECG00038 with Case Nos. 25CECG00039, 25CECG00040, and 25CECG00041, with Case No. 25CECG00038 being designated as the master file.

***If oral argument is timely requested, such argument will be heard
on Thursday July 16, 2026 at 3:30 pm.***

Explanation:

Petitioner Soledad Kuripeth Manuel ("Petitioner") on behalf of claimants Angel Antonio-Kuripeth, Oscar Alejandro Antonio Kuripeth, Steven Antonio-Kuripeth, and Justin Antonio-Kuripeth ("Claimants") moves to consolidate Case Nos. 25CECG00038, 25CECG00039, 25CECG00040, and 25CECG00041 with Case No. 25CECG00038 as lead.

Code of Civil Procedure section 1048, subdivision (a), states in pertinent part, "When actions involving a common question of law or fact are pending before the court...it may order all the actions consolidated". Rules of Court, Rule 3.350, subdivision (a)(1), states in pertinent part, "A notice of motion to consolidate must...[b]e filed in each case sought to be consolidated."

Petitioner moves to have Claimants' cases consolidated because Claimants are identically situated and intended to receive identical settlements. On the merits, the court agrees.

However, Petitioner failed to comply with Rules of Court, Rule 3.350, subdivision (a)(1)(C), by failing to file a notice of hearing in Case Nos. 25CECG00039, 25CECG00040, and 25CECG00041. However, the purpose of filing a notice in all cases is to ensure all

parties are notified of the consolidation and case raise any objections they might have. In the present cases, Petitioner is the only party. Therefore, no prejudice has resulted due to Petitioner's failure to file the notices of hearing. Accordingly, the motion to consolidate Case Nos. 25CECG00038, 25CECG00039, 25CECG00040, and 25CECG00041 with Case No. 25CECG00038 being designated as the master file is granted.

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: SMC **on** July 14, 2026.
(Judge's initials) (Date)

(49)

Tentative Ruling

Re: **Covarrubio v. City of Fresno**
Superior Court Case No. 26CECG00277

Hearing Date: July 15, 2026 (Dept. 403)

Motion: Petition to Compromise Minor'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.)

***If oral argument is timely requested, such argument will be heard
on Thursday July 16, 2026 at 3:30 pm.***

Explanation:

Petition submitted by Petitioner seeks approval for the compromise of minor claimant's claim resulting from a motor vehicle accident. However, the petition has several issues that need to be addressed before the settlement can be approved.

The petition at item 12.b.(2) indicates a private health insurance paid the health care of Minor and no reimbursement is being requested by the plan. Written evidence of the agreement by the private health insurance plan to not seek reimbursement is requested.

Additionally, item 13.b. lists costs as only "litigation costs" with no breakdown of individual items being sought reimbursement. The total costs listed is \$584.69. Attachment 14 does contain proof of costs and expenses. However, the attached proofs of costs and expenses only combine for a total amount of \$530.24. The proof and the amount requested need to be reconciled.

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: SMC on July 14, 2026 .
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***In re Jacob Cox***
Superior Court Case No. 25CECG01228

Hearing Date: July 15, 2026 (Dept. 403)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To deny without prejudice. Petitioner Jessica Cox must file a new petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of an amended petition. In the event that oral argument is requested, both petitioner Jessica Cox and claimant Jacob Cox are excused from appearing.

***If oral argument is timely requested, such argument will be heard
on Thursday July 16, 2026 at 3:30 pm.***

Explanation:

Item 12 reports medical expenses. The petition reports \$215.22 to be paid from the settlement to Walgreens, Inc. The court is unable to ascertain the nature of the medical expense and what medical care Walgreens, Inc. provided. If these are out-of-pocket expenses incurred by Petitioner Jessica Cox ("Petitioner"), as the list of supplies purchased for after care seems to suggest, Petitioner should clearly state as much, and not as a medical expense under Item 12, but a general expense under Item 13.

Item 13 further seeks payment from claimant's settlement Petitioner for lost wages. The petition continues to fail to identify a basis for the claim. No justification was given as to why Petitioner's lost wages are the responsibility of claimant Jacob Cox. This petition is for the compromise of the minor. To hold the minor responsible for Petitioner's lost wages would require a finding that the minor was somehow at fault for Petitioner missing work. If this is the nature of the contested liability reported on the settlement and the minor is partially at fault, the petition must clearly state as much.

For the above reasons, the petition is denied, without prejudice.

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: SMC on July 14, 2026.
(Judge's initials) (Date)