

Tentative Rulings for July 21, 2026
Department 502

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 *Perez v. Perez* is continued to Wednesday, September 2, 2026, at 3:30 p.m. in Department 502.

25CECG05620 *Brown v. Garcia* is continued to Tuesday, August 18, 2026, at 3:30 p.m. in Department 502.

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Tentative Rulings for Department 502

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Tentative Ruling

Re: ***Ermelinda Rodriguez v. Encompass Insurance Company***
Superior Court Case No. 24CECG02371

Hearing Date: July 21, 2026 (Dept. 502)

Motion: Respondent National General Insurance Company's and
Respondent Encompass Insurance Company's Motion to
Compel Arbitration and Appoint Arbitrator

**If oral argument is timely requested, it will be entertained on
Thursday, July 23, 2026, at 3:30 p.m. in Department 502**

Tentative Ruling:

To deny Respondent Encompass Insurance Company's Motion to Compel Arbitration with respect to any claims filed by Petitioner Ermelinda Rodriguez pertaining to her action filed in Santa Barbara County Superior Court under case no. 25CV06029.

To grant and compel arbitration with respect to Petitioner Ermelinda Rodriguez Uninsured and/or Underinsured Motorist claims.

The Court further orders the parties to meet and confer and file a joint list of arbitrators for the court to select a list of five arbitrators within 15 days service of this order. If for any reason a party fails to cooperate in creating this joint list, the other party may file a list of their own choices accompanied by a declaration explaining their efforts to comply with the court's order and the failure on the part of the other party to cooperate. The Court will provide a list of five arbitrators from the lists of names provided by the parties, per Code of Civil Procedure section 1281.6 at hearing on August 19, 2026, in Department 502 at 3:30.

Explanation:

On February 24, 2026, Respondent National General Insurance Company ("NGIC") made this motion compelling Petitioner Ermelinda Rodriguez ("Rodriguez") to arbitrate her uninsured/underinsured motorist claim arising from a February 6, 2022 ("the Claim"), pursuant to Code of Civil Procedure section 1281.2. NGIC further made this motion to appoint Justice Bruce Smith or an arbitrator from the court's ADR provider's Uninsured and Underinsured Motorist ("UM/UIM") neutral panel. (NGIC's Moving Papers, pg. 4:17-19.)

On June 22, 2026, Respondent, Encompass Insurance Company ("Encompass") amended the motion compelling Rodriguez to arbitrate her Claim, pursuant to Code of Civil Procedure section 1281.2. On September 25, 2025, Rodriguez filed a new action in Santa Barbara County Superior Court under case no. 25CV06029 (the "Santa Barbara Action") for bad faith, breach of contract, express fraud, and negligent misrepresentation (constructive fraud) against Encompass. (Request for Judicial Notice (RJN), Ex. 30.) Encompass makes the amended motion to compel arbitration to not only

the uninsured/underinsured motorist claims, but also claims arising from the Santa Barbara Action. (Encompass' Amended Moving Papers, pps. 12:14-13:5.)

Encompass further made this motion to appoint a neutral arbitrator to preside over such arbitration pursuant to Code of Civil Procedure section 1281.6.

The Santa Barbara Action

On April 3, 2026, the Santa Barbara County Superior Court denied Encompass' motion to compel arbitration pertaining to the Santa Barbara Action. The Santa Barbara Court reasoned:

The arbitration agreement does not apply to any of the causes of action in this bad faith case.

As there is no agreement to arbitration the present controversy, arbitration cannot be ordered, and the motion will be denied.

Defendant's request that this action be stayed pending the completion of the UM arbitration will also be denied.

(RJN, Ex. 33.)

Encompass asks this Court to compel arbitration, or stay the Santa Barbara Action. However, only the courts of appeal and the California Supreme Court may reverse, modify, or affirm an order or judgment of a superior court judge. (Code Civ. Proc., §43.) "A judgment rendered in one department of the superior court is binding on that matter upon all other departments until such time as the judgment is overturned.... Appellate jurisdiction to review, revise, or reverse decisions of the superior courts is vested by our Constitution only in the Supreme Court and the Courts of Appeal." (*Ford v. Superior Court*, (1986) 188 Cal.App.3d 737.) Further, "[o]ne department of the superior court cannot enjoin, restrain, or otherwise interfere with the judicial act of another department of the superior court.... A judgment rendered in one department of the superior court is binding on that matter upon all other departments until such time as the judgment is overturned." (*Glade v. Glade* (1995) 38 Cal.App.4th 1441, 1450; *Silverman v. Superior Court* (1988) 203 Cal.App.3d 145, 151.

Furthermore, Encompass had the opportunity to appeal the April 3, 2026, Santa Barbara County Superior Court decision under Code of Civil Procedure section 1294. In its reply papers, Encompass provides it did appeal the Santa Barbara Action.

Accordingly, the Court denies Encompass' motion to compel arbitration with respect to the Santa Barbara Action, or to stay the Santa Barbara Action.

Compel Arbitration and Appointment of a Neutral Arbitrator

Rodriguez does not dispute the requirement for arbitration with respect to the UM/UIM claims, nor the appointment of a neutral arbitrator, with respect to both

Encompass and NGIC. Each Encompass and NGIC provide their respective applicable arbitration provisions, which are identical. (Lehman Decl., ¶12, Ex. 2; Quint Decl., ¶12, Ex. 2.) Both agreements do not provide a method of appointing an arbitrator.

Code of Civil Procedure section 1281.6 provides the following where an arbitration agreement does not provide a method of appointing an arbitrator:

When a petition is made to the court to appoint a neutral arbitrator, the court shall nominate five persons from lists of persons supplied jointly by the parties to the arbitration or obtained from a governmental agency concerned with arbitration or private disinterested association concerned with arbitration. The parties to the agreement who seek arbitration and against whom arbitration is sought may within five days of receipt of notice of the nominees from the court jointly select the arbitrator whether or not the arbitrator is among the nominees. If the parties fail to select an arbitrator within the five-day period, the court shall appoint the arbitrator from the nominees.

Rodriguez, Encompass and NGIC disagree whether the procedures set forth under Code of Civil Procedure section 1281.6 have been met, or are necessarily required.

Encompass readily acknowledges in its moving papers that Rodriguez initially provided a list of arbitrators that Encompass disagreed with because they did not reside in Fresno. (Encompass' Amended Moving Papers, pps. 14:20-15:4.) Encompass readily acknowledges that it did not propose a joint list of arbitrators, but rather proposes nominating the "Honorable Alan M. Simpson (retired) or the Honorable M. Bruce Smith (retired). For the other three nominees, Encompass defers to the Court to nominate other qualified neutrals from appropriate panels in Fresno County." (Encompass' Amended Moving Papers, pg. 15:13-16.) NGIC only requested the appointment of Bruce Smith. (NGIC Moving Papers, pg. 4:26.)

Rodriguez counters that "[n]othing in the policy endorsement, Insurance Code section 11580.2, or the Code of Civil Procedure requires the neutral arbitrator to reside in the county of the accident, and Respondent cites no authority for that condition." (Rodriguez's Opposition Papers, pps. 5:27-6:1.) Under these circumstances, the Court agrees with Rodriguez that there is no requirement that an arbitrator be based in Fresno County. NGIC's moving papers and Rodriguez's opposition papers articulate the same arguments.

Under these circumstances, the procedures set forth under Code of Civil Procedure section 1281.6 have not met been met.

Accordingly, under the authority provided in Code of Civil Procedure section 1281.6, the Court orders the parties to meet and confer and file a joint list of arbitrators for the court to select a list of five arbitrators within 15 days service of this order. If for any reason a party fails to cooperate in creating this joint list, the other party may file a list of their own choices accompanied by a declaration explaining their efforts to comply with

the court's order and the failure on the part of the other party to cooperate. The Court will provide a list of five arbitrators from the lists of names provided by the parties, per Code of Civil Procedure section 1281.6 at hearing on August 19, 2026

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 7-20-26
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: **Washington v. Hometowne Studios, LLC**
Superior Court Case No. 24CECG04982

Hearing Date: July 21, 2026 (Dept. 502)

Motion: Motion for Sanctions

**If oral argument is timely requested, it will be entertained on
Thursday, July 23, 2026, at 3:30 p.m. in Department 502**

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:  on 7-20-26 .
(Judge's initials) (Date)