

Tentative Rulings for July 28, 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.

23CECG00742	<i>Louisa Ortiz v. Joseph Aguilar</i> is continued to Tuesday, September 1, 2026, at 3:30 p.m. in Department 502.
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(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(20)

Tentative Ruling

Re: ***Krick v. Fresno County Sheriff's Department***
Superior Court Case No. 24CECG00820

Hearing Date: July 28, 2026 (Dept. 502)

Motion: Judgment on the Pleadings

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

Tentative Ruling:

To strike the First Amended Complaint filed on June 4, 2026. (Code Civ. Proc., § 436, subd. (b).) To grant defendant's motion for judgment on the pleadings without leave to amend as to all causes of action but violation of the Public Records Act. (Code Civ. Proc., § 438, subd. (c)(1)(A).) Plaintiff may file an amended complaint within 10 days of service of the order by the clerk asserting only one cause of action for violation of the California Public Records Act.

Explanation:

Plaintiff filed the Complaint in this action on February 28, 2024, seemingly alleging causes of action for (1) illegal search and seizure, (2) destruction of property, (3) police misconduct, (4) defamation of character, and (5) withholding public records and (6) violations of the Public Records Act. Defendant Fresno County Sheriff's Department filed an answer to the Complaint on March 13, 2025. Though in meeting and conferring plaintiff refused to amend the Complaint, resulting in defendant filing the instant motion for judgment on the pleadings. Plaintiff then filed a First Amended Complaint ("FAC") on June 4, 2026

The FAC was improperly filed. Since defendant had filed an answer, plaintiff was required to obtain leave of court before amending the Complaint. (See Code Civ. Proc., § 472; *Woo v. Superior Court* (1999) 75 Cal.App.4th 169, 175.) Because plaintiff never obtained leave of court to file the FAC, the pleading is hereby stricken. (See Code Civ. Proc., § 436, subd. (b).) However, the ruling on the motion for judgment on the pleadings would be the same even if directed at the FAC, as it alleges the same causes of action.

No suit may be brought against a public entity until a written claim has been presented to the public entity and has been acted upon by the Board, or has been deemed to have been denied by the Board. (Gov. Code, § 945.4.) The claim filing requirement applies to any lawsuit for damages against government entities. (Gov. Code, §§ 911.2, 950.2, 945.4.) The failure to plead compliance with the Government Claims Act bars the plaintiff from bringing a suit against that entity and its employees. (*Id.*, §§ 945.4 and 950.2; *State v. Superior Court* (2004) 32 Cal.4th 1234, 1237.) Compliance with the claims presentation requirement is an element of plaintiff's cause of action. (*Id.* at p. 1240.) A government tort claim pertaining to personal injury must be presented "not later than six months after the accrual of the cause of action." (Gov. Code, § 911.2, subd. (a).)

The Complaint (and FAC) fails to plead compliance with the Government Claims Act. For that reason alone the motion must be granted. The court can also take judicial notice of facts showing that plaintiff failed to comply with the Government Claims Act. (See *Fowler v. Howell* (1996) 42 Cal.App.4th 1746, 1750 [taking judicial notice of absence of a claim in the State Board of Control's records].) The Complaint alleges that the events giving rise to the claims herein occurred on August 5, 2021. (See Complaint ¶ 3.) As established by the declaration of Jenny Thompson, Risk Manager for the County of Fresno, plaintiff submitted a clearly late claim with the County on November 25, 2024, and was sent a Notice of Untimely Claim on December 6, 2024, informing plaintiff that his only recourse is to promptly file an application to present a late claim to the Board of Supervisors. Plaintiff never filed such a request. An application for presenting a late claim must be submitted within a year after the accrual of the cause of action. (Gov. Code, § 911.4, subd. (b).) Because plaintiff did not timely present a claim, and did not timely request permission to present a late claim, the motion is granted as to all but the cause of action for violation of the Public Records Act (which is not a claim for damages).

As to the Public Records Act claim, plaintiff alleges no facts regarding a request for public records production with which the Sherriff failed to comply, or public records that the Sherriff had a duty to disclose. Accordingly, leave to amend will be granted as to this cause of action only.

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** 7-24-26.
(Judge's initials) (Date)

(20)

Tentative Ruling

Re: **Krick v. Fresno County Sheriff's Department**
Superior Court Case No. 24CECG00822

Hearing Date: July 28, 2026 (Dept. 502)

Motion: Judgment on the Pleadings

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

Tentative Ruling:

To grant defendant's motion for judgment on the pleadings, with plaintiff granted 10 days' leave to amend. (Code Civ. Proc., § 438, subd. (c)(1)(A).) The time in which the Complaint may be amended will run from service of the order by the clerk.

Explanation:

Plaintiff filed a Personal Injury Judicial Council form complaint. He checked box 10(f), identifying the cause of action as defamation of character, for which he seeks \$5m in damages.

Use of the Judicial Council form complaint requires the use of attachments for alleging the causes of action. Paragraph 10 of the form pleading states, "[t]he following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*): ..." The plaintiff is to check the box indicating the causes of action being alleged, and add to the form complaint attachments alleging the elements and facts pertinent to each cause of action. Having failed to include any cause of action attachments, the complaint fails to state facts sufficient to state any cause of action. (Code Civ. Proc., § 430.10, subd. (e).)

Moreover, the Complaint fails to plead compliance with claim presentation requirements.

No suit may be brought against a public entity until a written claim has been presented to the public entity and has been acted upon by the Board, or has been deemed to have been denied by the Board. (Gov. Code, § 945.4.) The claim filing requirement applies to any lawsuit for damages against government entities. (Gov. Code, §§ 911.2, 950.2, 945.4.) The failure to plead compliance with the Government Claims Act bars the plaintiff from bringing a suit against that entity and its employees. (*Id.*, §§ 945.4 and 950.2; *State v. Superior Court* (2004) 32 Cal.4th 1234, 1237.) Compliance with the claims presentation requirement is an element of plaintiff's cause of action. (*Id.* at p. 1240.) A government tort claim pertaining to personal injury must be presented "not later than six months after the accrual of the cause of action." (Gov. Code, § 911.2, subd. (a).)

The motion must be granted because the Complaint fails to plead compliance with the Government Claims Act. For that reason alone the motion must be granted. The

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 7-24-26
(Judge's initials) (Date)

(20)

Tentative Ruling

Re: **Ramirez v. Fort Washington Golf and Country Club**
Superior Court Case No. 24CECG02900

Hearing Date: July 28, 2026 (Dept. 502)

Motion: Plaintiff's Motion for Preliminary Approval of Class Action Settlement

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

Tentative Ruling:

To deny without prejudice.

Explanation:

Certification of Class for Settlement

Settlements preceding class certification are scrutinized more carefully to make sure that absent class members' rights are adequately protected, although there is less scrutiny of manageability issues. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 240; see *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1803, fn. 9, 19.a) The trial court has a "fiduciary responsibility" as the guardian of the absentee class members' rights to decide whether to approve a settlement of a class action. (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 95.)

A precertification settlement may stipulate that a defined class be conditionally certified for settlement purposes. The court may make an order approving or denying certification of a provisional settlement class after the preliminary settlement hearing. (Cal. Rules of Court, rule 3.769(d).) Before the court may approve the settlement, however, the settlement class must satisfy the normal prerequisites for a class action. (*Amchem Products, Inc. v. Windsor* (1997) 521 US 591, 625-627.)

"Class certification requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e., that proceeding as a class is superior to other methods. In turn, the community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class." (*In re Tobacco II Cases* (2009) 46 Cal.4th 298, 313.)

Plaintiff bears the burden of establishing the propriety of class treatment with admissible evidence. (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470 [trial court's ruling on certification supported by substantial evidence generally not disturbed on appeal]; *Lockheed Martin Corp. v. Superior Court*, *supra*, 29 Cal.4th at pp. 1107-1108 [plaintiff's burden to produce substantial evidence].)

Counsel states that there are approximately 169 class members and 113 aggrieved employees. However, no admissible evidence is submitted as to this number. Nor is there any evidence of ascertainability, such as a showing that the class members are identifiable from defendant's own records. A conclusory statement to this effect in the points and authorities is insufficient. In a future motion for preliminary approval, a declaration from defendant should be submitted, establishing the number of class members and ascertainability.

Under the community of interest requirement, the class representative must be able to represent the class adequately. (*Caro v. Procter & Gamble* (1993) 18 Cal.App.4th 644, 669.) "[I]t has never been the law in California that the class representative must have identical interests with the class members . . . The focus of the typicality requirement entails inquiry as to whether the plaintiff's individual circumstances are markedly different or whether the legal theory upon which the claims are based differ from that upon which the claims of the other class members will be based." (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.)

Usually, in wage and hour class actions or PAGA class claims, the distinctive feature that permits class certification is that the employees have the same job title or perform similar jobs, and the employer treats all in that discrete group in the same allegedly unlawful fashion. In *Brinker Restaurant v. Superior Court* (2012) 53 Cal.4th 1004, 1017, "no evidence of common policies or means of proof was supplied, and the trial court therefore erred in certifying a subclass."

Plaintiff has submitted no evidence on this point. All that is submitted is conclusory statements in the points and authorities. Plaintiff's declaration must attest to the violations experienced. Evidence must be submitted showing with declarations and written policies showing that the same practices and policies applied to all members of the class.

The adequacy of representation component of the community of interest requirement for class certification comes into play when the party opposing certification brings forth evidence indicating widespread antagonism to the class suit. " 'The adequacy inquiry ... serves to uncover conflicts of interest between named parties and the class they seek to represent.' [Citation.] '... To assure "adequate" representation, the class representative's personal claim must not be inconsistent with the claims of other members of the class. [Citation.]' [Citation.]" (*J.P. Morgan & Co., Inc. v. Superior Court* (2003) 113 Cal.App.4th 195, 212.)

"[T]he adequacy inquiry should focus on the abilities of the class representative's counsel and the existence of conflicts between the representative and other class members." (*Caro v. Procter & Gamble Co.* (1993) 18 Cal.App.4th 644, 669.) This consideration is satisfied, as counsel has substantial class action experience.

Settlement Approval

"[I]n the final analysis it is the Court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting

to establish and collect on those claims by pursuing litigation. The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129.) "[T]o protect the interests of absent class members, the court must independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished ... [therefore] the factual record must be before the ... court must be sufficiently developed." (*Id.* at p. 130.)

Clark v. America Residential Services (2009) 175 Cal.App.4th 785 vacated approval of a class settlement coupled with class certification, an award of \$25,000 each to two named plaintiffs, and more. The problem was that the plaintiffs presented "no evidence regarding the likelihood of success on any of the 10 causes of action, or the number of unpaid overtime hours estimated to have been worked by the class, or the average hourly rate of pay, or the number of meal periods and rest periods missed, or the value of minimum wage violations, and so on." (*Id.* at p. 793.)

Plaintiff's counsel has provided no evidence whatsoever that would enable the court to find that the settlement is fair and reasonable. There is no valuation of the various claims and causes of action, and no discussion of the strengths and weaknesses of the claims.

Insufficient information is provided to enable the court to preliminarily approve the award of attorney's fees and costs. Plaintiff's counsel seeks up to \$160,000 in attorney's fees, which is 1/3 of the total gross settlement, plus costs of up to \$30,000. 1/3 is within the range of fees that have been approved by other courts in class actions, which frequently approve fees based on a percentage of the common fund. (*City & County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-11; *Quinn v. State* (1975) 15 Cal.3d 162, 168; see also *Apple Computer, Inc. v. Superior Court* (2005) 126 Cal.App.4th 1253, 1270; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26.)

While it is true that courts have found fee awards based on a percentage of the common fund are reasonable, the California Supreme Court has also found that the trial court has discretion to conduct a lodestar "cross-check" to double check the reasonableness of the requested fees. (*Laffitte v. Robert Half Intern. Inc.* (2016) 1 Cal.5th 480, 503-504 [although class counsel may obtain fees based on a percentage of the class settlement, courts may also perform a lodestar cross-check to ensure that the fees are reasonable in light of the number of hours worked and the attorneys' reasonable hourly rates].)

The court prefers to do a lodestar analysis as a cross-check on the reasonableness of the fees. Counsel provides no information about the billing rates or time expended on the matter. Counsel must provide their billing rates, show that the rates are reasonable, and detailed information about the time spent on the matter (billing records). Counsel also must document the costs incurred.

The motion seeks preliminary approval of a \$10,000 enhancement payment to plaintiff. Plaintiff estimates that he spent around 58.5 hours on the matter. (Ramirez Decl.,

¶ 23.) Based on the information provided, the court will preliminarily approve a \$5,000 for the enhancement.

However, plaintiff also asserts numerous individual claims, in addition to the class and representative claims. Plaintiff must disclose to the court whether his individual claims were settled as well, and the terms of the settlement, along with a copy of the settlement agreement.

Plaintiff seeks approval of \$25,000 for settlement administration paid to Phoenix Settlement Administrators. The memorandum of points and authorities states that "Phoenix provided a 'not to exceed' quote \$25,000 to administer the settlement. (VPS Decl. ¶ 25.)" (MPA 12:18-22.) Yet counsel's declaration states that Phoenix's quote was \$10,000. (Sorrentino Decl., ¶ 25.) The quote from Phoenix is not provided, nor is there any indication that the parties sought bids from other settlement administrators (just the vague statement that the parties agreed on Phoenix "[a]fter researching multiple reputable settlement administrators ..." (Sorrentino Decl., ¶ 25), whatever that means. The moving papers are inconsistent and ambiguous in this regard.

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** 7-27-26 .
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Nationstar Mortgage LLC v. Eleuterio Villa***
Superior Court Case No. 24CECG01152

Hearing Date: July 28, 2026 (Dept. 502)

Motion: By Plaintiff for Summary Judgment, or in the Alternative,
Adjudication

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

Tentative Ruling:

To grant. (Code Civ. Proc., § 437c, subd. (c).) Plaintiff is to submit a proposed judgment consistent with this ruling within seven days of service of the minute order by the clerk.

Explanation:

This motion arises out of a complaint for cancellation of a written instrument and declaratory relief. A trial court shall grant summary judgment where there are no triable issues of material fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc., § 437c, subd. (c).) Where a plaintiff moves for summary judgment, the plaintiff has the burden to produce admissible evidence as to each element of a cause of action. (Code Civ. Proc., § 437c, subd. (p)(1).)

Cancellation of Instrument

Civil Code section 3412 provides that where there is "a reasonable apprehension that if left outstanding it may cause serious injury to a person against whom it is void or voidable" a written instrument may be canceled. "To prevail on a claim to cancel an instrument, a plaintiff must prove (1) the instrument is void or voidable due to, for example, fraud; and (2) there is a reasonable apprehension of serious injury including pecuniary loss or the prejudicial alteration of one's position." (*U.S. Bank National Assn. v. Naifeh* (2016) 1 Cal.App.5th 767, 778, as modified on denial of reh'g (Aug. 17, 2016).) It is appropriate to cancel a full reconveyance where such is recorded when the underlying debt has not been paid in full. (*Duley v. Westinghouse Electric Corp.* (1979) 97 Cal.App.3d 430, 432.)

Here, a full reconveyance was executed and recorded on July 15, 2010. (UMF No. 6.) Plaintiff has provided sufficient evidence that this reconveyance was wrongfully done because the underlying loan had not been satisfied and there was no authority for such. (UMF Nos. 7-10.) The reconveyance prevents plaintiff from realizing the value of its security interest in the subject property, causing pecuniary injury. (UMF Nos. 11-12.) Plaintiff has met its burden as to the cancellation of a written instrument.

Persons interested in a written instrument may seek a declaration of their rights or duties with respect to property where there is an actual controversy relating to the legal rights and duties of the parties. (Code Civ. Proc., § 1060.) To obtain declaratory relief, a party must show facts of an actual controversy. (*Wolas v. Crescent Commercial Corp.* (1948) 86 Cal.App.2d 740, 745.)

Plaintiff has met its burden. Defendants have not apposed this motion and therefore have not presented any evidence of any triable issues of fact. As such, the court grants the motion for summary judgment.

Tentative Ruling

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Tentative Ruling

Re: **Magallen v. Chandler**
Superior Court Case No. 21CECG03582

Hearing Date: July 28, 2026 (Dept. 502)

Motion: (1) Motion to Compel Discovery Responses
(2) Motion for Terminating Sanctions

Tentative Ruling:

To deny the motion to compel further discovery responses as moot.

To deny the motion for terminating sanctions as moot.

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

Explanation:

Defendants Ron Chandler, Katie Gorman, Jim Sutton, Bonnie Rookus, Debbie Porter, John Douglas, David Byrd, Virginia Johnson and Regency Property Management (together "Defendants") seek further responses from defendant Wonder Valley Property Owners Association, and for terminating sanctions as to plaintiffs Sonya Pierce, Coco Magallen, and Otis Pierce (together "Plaintiffs"). However, on June 25, 2026, Defendants' motion for summary judgment of Plaintiffs' Complaint was granted. Accordingly, the present motions are denied as moot.

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 7-27-26 .
(Judge's initials) (Date)