

Tentative Rulings for July 31, 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.*

25CECG02910 *Bank of Sierra v. Sran et al.*

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

25CECG01622 *In Re: Peachtree Settlement Funding, LLC* is continued to Thursday, August 14, 2025 at 3:30 p.m. in Department 403

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Tentative Ruling

Re: ***Steele v. State of California et al.***
Case No. 22CECG03891

Hearing Date: July 31, 2025 (Dept. 403)

Motion: Defendant County of Fresno's Motion for Judgment on the Pleadings

Tentative Ruling:

To grant defendant County of Fresno's ("County") motion for judgment on the pleadings, without leave to amend. County shall submit to the court a proposed judgment within 10 days of service of the order by the clerk.

Explanation:

The County moves for judgment on the pleadings as to the entire complaint against it, contending that the complaint fails to state a cause of action because it does not allege any facts showing that the County had a mandatory duty to report the alleged sexual abuse of plaintiff while she was in foster care. The County points to the Fifth District Court of Appeal's recent decision in *K.C. v. County of Merced* (2025) 109 Cal.App.5th 606, which held under similar facts that the County of Merced was entitled to discretionary immunity under Government Code sections 815.2 and 820.2 for its social worker's failure to investigate the reported abuse of the minor plaintiff or remove her from the home.

"We conclude that Government Code section 820.2 applies in the instant case. The social workers' decisions at issue relate to 'the investigation of child abuse' 'based upon suspicion of abuse'. They not only 'involve[] the exercise of analysis and judgment as to what is just and proper under the circumstances' but also constitute 'sensitive policy decision[s] that require[] judicial abstention to avoid affecting a coordinate governmental entity's decisionmaking or planning process.' These qualities hold true for, as here, 'preliminary determinations' that 'reports of possible abuse' 'did not warrant initiation' of further action." (*K.C. v. County of Merced, supra*, at pp. 617–618, citations omitted.)

"We do not dispute that decisions pertaining to foster care placement are discretionary acts within the meaning of Government Code section 820.2. Nor do we question that 'maintenance of a child in a foster home involves an obligation of continued supervision' and much of what is required 'in terms of continued administration of the child's welfare undoubtedly constitutes simple and uncomplicated surveillance which reasonably could be characterized as ministerial.' However, decisions as to whether to undertake investigative or corrective action in response to reported child abuse fall outside the ambit of such surveillance and are '[no] less "discretionary" for purposes of the immunity of Government Code section 820.2 than the original placement decision[.]' We do not accept the notion that a 'subjective decisionmaking process'

'could [be] transmute[d]' 'into a ministerial act' simply because that process assesses incidents that occurred within a foster home." (*Id.* at p. 619, citations omitted.)

"K.C. also contends that County's demurrer should have been overruled because the operative complaint did not indicate 'an employee of the County made a considered ... decision' or 'actually exercised' 'discretion ... by the weighing of risks and benefits in deciding on the challenged course of action.' While a finding of immunity is precluded 'solely on grounds that "the [affected] employee's general course of duties is 'discretionary'"" and 'requires a showing that "the specific conduct giving rise to the suit" involved an actual exercise of discretion, i.e., a "[conscious] balancing [of] risks and advantages"', 'a strictly careful, thorough, formal, or correct evaluation' is not mandatory. 'Such a standard would swallow an immunity designed to protect against claims of carelessness, malice, bad judgment, or abuse of discretion in the formulation of policy.' Here, under a 'fair reading' of the complaint, K.C. essentially alleged County's social workers were confronted with reports of sexual abuse that should have prompted investigative or corrective action, but they failed to properly exercise their discretion to do so. '[C]laims of improper evaluation cannot divest a discretionary policy decision of its immunity.'" (*Id.* at pp. 619–620, citations omitted.) "Because we conclude that Government Code section 820.2 applies in the instant case, County is immune by virtue of Government Code section 815.2, subdivision (b)." (*Id.* at p. 620, citations omitted.)

Plaintiff points out that in *D.G. v. Orange County Social Services Agency* (2025) 108 Cal.App.5th 465, the Fourth District Court of Appeal recently reached the opposite conclusion, holding that the trial court improperly granted summary judgment in favor of the defendant County of Orange because discretionary immunity did not apply to the social worker's failure to take action after receiving a report of child abuse.

The court does not find there is a split of authority between K.C. and D.G. This was addressed in footnote 9 of K.C., in which the court acknowledged the D.G. opinion and noted that D.G. involved a summary judgment motion where K.C. involved a demurrer.

In any case, this court is within the Fifth District Court of Appeals, and will follow K.C., which the court finds to be dispositive of plaintiff's claims.

Plaintiff also alleges violation of various mandatory duties, including failure to report the abuse as required as a mandatory reporter under Penal Code section 11166. However, this would require the court to second-guess a social worker's determination of whether the facts reported rose to the level of mandatory reporting. It would make little sense for discretionary immunity to apply to the decision to leave a child in a hole where the child alleges they were being sexually abused, but not cover the social worker's determination that the information did not rise to the level required for mandatory reporting.

Accordingly, the court intends to grant the County's motion for judgment on the pleadings.

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Tentative Ruling

Re: **Lozano v. Cen Cal Builders & Developers, Inc. et al.**
Superior Court Case No. 23CECG04411/COMPLEX

Hearing Date: July 31, 2025 (Dept. 403)

Motion: (1) By Plaintiffs Evangelina Lozano and Porfirio Santiago for Award of Attorney Fees and Class Representative Service Award
(2) By Plaintiffs Evangelina Lozano and Porfirio Santiago for Final Approval of Class Settlement

Tentative Ruling:

To deny the motion for an award of attorney fees and class representative service award, without prejudice.

To deny the motion for final approval, without prejudice.

Explanation:

Fee Award

The amount of attorney's fees awarded is a matter within the court's discretion. (*Clayton Development Co. v. Falvey* (1988) 206 Cal.App.3d 438, 447.) In determining the reasonable amount to award, "the court should consider ... 'the nature of the litigation, its difficulty, the amount involved, the skill required and the skill employed in handling the litigation, the attention given, the success of the attorney's efforts, his learning, his age, and his experience in the particular type of work demanded [citation]; the intricacies and importance of the litigation, the labor and necessity for skilled legal training and ability in trying the cause, and the time consumed.'" (*Ibid.*) Plaintiffs Evangelina Lozano and Porfirio Santiago (together "Plaintiffs") as the moving party bear the burden to prove the reasonableness of the number of hours devoted to this action. (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1325.)

A trial court may not rubberstamp a request for attorney fees, and must determine the number of hours reasonably expended. (*Donahue v. Donahue* (2010) 182 Cal.App.4th 259, 271.) A court assessing attorney's fees begins with a touchstone or lodestar figure, based on the "careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case." (*Serrano v. Priest* (*Serrano III*) (1977) 20 Cal.3d 25, 48.) Lodestar refers to the "number of hours reasonably expended multiplied by the reasonable hourly rate" of an attorney. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1096.)

Plaintiffs submit three separate firms as foundation for the fee award request. However, the record in this action does not reflect Work Lawyers, P.C. as counsel of

record. Moreover, no declaration from Work Lawyers, P.C. was submitted in support of the fee motion.

The court further notes concerns as to entries. Upon thorough review of the declarations in support of both the fee motion and the concurrently filed motion for final approval, the court found several entries that were not included in the motion for preliminary approval. (Zakay Decl., Ex. A, pp. 15-17; Lo Decl., Ex. C, pp. 2, 6.) More concerning is that certain time entries have increased in duration between preliminary and final approval. (Lo Decl., Ex. C, pp. 1 [entry on November 28, 2023 at 3.4 hours; previously 2.4 hours;], 3 [entry on June 25, 2024 at 7.4 hours; previously 5.4 hours], 4 [entry on July 3, 2024, at 1.9 hours; previously 1.6 hours], 5 [entry on July 23, 2024, at 3.2 hours; previously 1.2 hours; entry on July 30, 2024, at 1.8 hours; previously 1.2 hours].) The court is troubled by these alterations, particularly in light of counsels' collective resumes regarding class action settlements across the state. Without an explanation as to why these entries were altered or appended, the court will not approve the attorney fees as sought.

For the above reasons, the motion for an award of attorney fees and class representative service award is denied, without prejudice.

Final Approval

Upon review of the terms of the settlement agreement, an award of attorney fees necessarily affects the net class recovery. (Lapuyade Decl., Ex. 1, pp. 24, 25.) Until the fee award is settled either prior to final approval or contemporaneously with final approval, the court will not approve the class settlement.

The motion for final approval 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: img **on** 7-30-25.
(Judge's initials) (Date)