Tentative Rulings for August 7, 2025
Department 503

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.

25CECG00903 ***Alma Alvarado v. Guillermo Terriques*** **is continued to Thursday, August 14, 2025 at 3:30 p.m. in Department 503**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

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(20)

Tentative Ruling

Re: ***Vargas v. Romero, et al.***
Superior Court Case No. 23CECG04934

Hearing Date: August 7, 2025 (Dept. 503)

Motion: by Defendant Manuel Romero for Terminating Sanctions Against Plaintiff Victor Vargas

Tentative Ruling:

To grant and impose terminating sanctions against plaintiff Victor Vargas for failure to respond or to submit to an authorized method of discovery and disobeying court orders to provide discovery. (Code Civ. Proc., § 2023.010, subd. (d), (g).) The complaint filed by plaintiff Victor Vargas on December 6, 2023 is dismissed, without prejudice, as to defendant Manuel Romero. (Code Civ. Proc., §2023.030, subd. (d)(3).)

Monetary sanctions in the amount of $810 are ordered in favor of defendant Manuel Romero and against plaintiff Victor Vargas payable to Law Offices of Tioni A. Phan no later than 20 days from the date of this order, with time to run from the service of this minute order by the clerk.

Explanation:

Section 2023.010 defines "misuses of the discovery process" as including, "failing to respond or submit to an authorized method of discovery" and "disobeying a court order to provide discovery." (Code Civ. Proc., § 2030.010, subds. (d) & (g).) Section 2023.030 states, in relevant part:

> To the extent authorized by the chapter governing any particular discovery method or any other provision of this title, the court, after notice to any affected party, person, or attorney, and after opportunity for hearing, may impose the following sanctions against anyone engaging in conduct that is a misuse of the discovery process:
>
> * * *
>
> (d) The court may impose a terminating sanction by one of the following orders:
>
> * * *
>
> (3) An order dismissing the action or any part of the action, of that party.

(Code Civ. Proc., § 2023.030, subd. (d)(3).)

Accordingly, terminating sanctions must be authorized by a specific discovery statue; they are not available merely because they are an option listed in section 2023.030.

Order Compelling Discovery Responses:

The failure to respond to interrogatories is controlled by Code of Civil Procedure section 2030.290, subdivision (c). That section provides that if a party unsuccessfully makes or opposes a motion to compel a response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust, the court "shall" impose monetary sanctions. It is only when a party disobeys an order compelling responses that a terminating sanction is called for.

> If a party then fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

(See Code Civ. Proc., § 2030.290, subd. (c).)

A party's failure to obey an order to respond to requests for production of documents is also subject to "the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010)." (Code Civ. Proc., § 2031.300, subd. (c).)

Courts generally follow a policy of imposing the least drastic sanction required to obtain discovery or enforce discovery orders, because the imposition of terminating sanctions is a drastic consequence, one that should not lightly be imposed, or requested. (*Ruvalcaba v. Government Employees Ins. Co*. (1990) 222 Cal.App.3d 1579, 1581.) Sanctions are supposed to further a legitimate purpose under the Discovery Act, i.e. to compel disclosure so that the party seeking the discovery can prepare their case, and secondarily to compensate the requesting party for the expenses incurred in enforcing discovery. Sanctions should not constitute a "windfall" to the requesting party; i.e. the choice of sanctions should not give that party more than would have been obtained had the discovery been answered. (Edmon & Karnow, *California Practice Guide: Civil Procedure Before Trial* (The Rutter Group 2024) § 8:2216.) "The sanctions the court may impose are such as are suitable and necessary to enable the party seeking discovery to obtain the objects of the discovery he seeks but the court may not impose sanctions which are designed not to accomplish the objects of the discovery but to impose punishment. [Citations.]" (*Caryl Richards, Inc. v. Superior Court* (1961) 188 Cal.App.2d 300, 304.)

Appellate courts have generally held that before imposing a terminating sanction, trial courts should usually grant lesser sanctions first. (Edmon & Karnow, *supra*, § 8:2235.) However this is not an "inflexible" policy, and it is not an abuse of discretion to issue terminating sanctions on the first request, where circumstances justify it (e.g. where the violation is egregious or the party is using failure to respond as a delaying tactic). (*Id*. at § 8:2236; *Mileikowsky v. Tenet Healthsystem* (2005) 128 Cal.App.4th 262, 279-280 ["A decision to order terminating sanctions should not be made lightly. But where a violation is willful, preceded by a history of abuse, and the evidence shows that less severe sanctions would not produce compliance with the discovery rules, the trial court is justified in imposing the ultimate sanction. [Citation.]".)

Here, plaintiff was ordered on February 25, 2025 to provide initial responses to form and special interrogatories and requests for production and pay monetary sanctions to defendant Manuel Romero's counsel. Plaintiff failed to serve responses as ordered by the court, or to pay the sanctions. (Decker Decl., ¶ 12.) Terminating sanction have already been imposed as to defendant Joel Armendariz for failure to respond to discovery or comply with a court order to provide discovery responses. (See May 13, 2025 Law and Motion Minute Order.)

The totality of the circumstances support the request for terminating sanctions based on plaintiff's failure to comply with the court's order and willfulness demonstrated in his pattern of failing to participate in the prosecution of his case. Plaintiff has failed to respond to discovery, respond to defendant's meet and confer letters ahead of the motions to compel discovery, oppose the motions to compel his discovery responses, or comply with the court's February 25, 2025 order compelling him to provide discovery responses. Further proving plaintiff's willful disregard of his obligations to participate in his own case, plaintiff has failed to oppose the motion seeking to terminate this action.

Lesser sanctions will be unsuccessful due to plaintiff's repeated failure to participate in the prosecution of his case which has thwarted defendant's ability to conduct any meaningful discovery to prepare for trial. The lesser sanctions, a monetary sanction, imposed by the court's February 25, 2025 order have gone unpaid and failed to induce plaintiff to comply with discovery rules.

The evidence presented by defendant of plaintiff's repeated failure to participate in discovery as ordered demonstrate willfulness in the plaintiff's failure to comply with the court's orders. It does not appear additional monetary sanctions or other lesser sanctions will prompt plaintiff's compliance with court orders.

Therefore, the court intends to grant defendant's motion for terminating sanctions and dismiss the complaint filed by plaintiff Victor Vargas on December 6, 2023, without prejudice, as to defendant Manuel Romero.

Additionally, the court intends to order monetary sanctions against plaintiff for the reasonable attorney's fees and costs of $810 incurred to bring this motion.

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: JS on 7/30/2025.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Soto v. Espinoza Brothers Food Distribution, Inc., et al.***
Superior Court Case No. 22CECG03830

Hearing Date: August 7, 2025 (Dept. 503)

Motion: by Plaintiffs for Preliminary Class Certification and Settlement Approval

Tentative Ruling:

To grant.

The motion for final approval and for an award of fees and costs will be heard on April 9, 2026 at 3:30 p.m. in Department 503. Papers for such motions need be filed and served no later than March 18, 2026.

Explanation:

Plaintiffs Cruz Soto and Monica Nanelly Garcia reached a settlement of their putative class action and PAGA action alleging wage and hour violations against their former employers, defendants Espinoza Brothers Food Distribution, Inc. and Espinoza Brothers Enterprises, LLC. Plaintiffs move to have the class certified for the purpose of settlement, and to have the court approve the settlement. From the gross settlement amount of $190,000 the following payments will be made: $66,500 (35%) to class counsel, $18,790.76 litigation costs, $7,500 to each class representative, $7,750 to the Settlement Administrator ILYM Group, Inc. Ten thousand dollars is to be paid from the gross settlement to settle the PAGA claims and will be paid $7,500 to the LWDA and $2,500 in penalties apportioned to the aggrieved employees.

1. Class Certification

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.) 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.)

Plaintiffs bear 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* (2003) 29 Cal.4th 1096, 1107-1108 [plaintiff's burden to produce substantial evidence].)

The court has previously considered the evidence submitted to support preliminary class certification for purposes of settlement and found class certification is the superior method of resolving this case. The request to certify the class for the purpose of approving the settlement as granted on June 4, 2025.

2. 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.)

The court previously found the gross settlement amount of $190,000, inclusive of the class and PAGA claims was fair and reasonable for purposes of settlement approval. Additonally, the proposed class notice has been found adequate.

Plaintiffs' counsel seeks up to $66,500 (35% of the gross settlement) in attorneys' fees, and actual costs of $18,790.76. Thirty-five percent 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. In support of preliminary approval, the Supplemental Declaration of John G. Yslas provides the qualifications for each of the attorneys and a chart summarizing the rates and hours billed by each attorney of the Wilshire Law Firm, APLC. The evidence provided is sufficient to support preliminary approval. Counsel shall provide an updated lodestar analysis with the final approval motion and documentation of all costs sought to be recovered.

The motion seeks preliminary approval of a $7,500 enhancement payments to each plaintiff. Plaintiffs' declarations submitted on May 12, 2025 in support of the preliminary approval of the settlement describe similar concerns of future employability after participation in a lawsuit against their employer and working an estimated 50 hours to assist in the prosecution of the case. (Garcia Decl., ¶¶ 12-13, 17; Soto Decl., ¶¶ 12, 15-16.) The enhancement payments requested are greater in proposition to the gross settlement than the usual 1.5%. Although this doesn't prevent granting preliminary approval, plaintiffs' declarations submitted with a motion for final approval should include evidence of more than speculative risk in future employability to support an incentive award greatly disproportionate to the payments to class members. The court may award less than the agreed upon amount on final approval.

The settlement allocates $7,750 to settlement administration costs paid to ILYM Group, Inc., and provides ILYM's quote. (Mullins Decl., ¶¶ 9-10, Exh. C.) The administrator shall provide an update of the expected total actual costs with the final approval motion.

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: JS on 8/1/2025.
(Judge's initials) (Date)

(41)

Tentative Ruling

Re: ***Lori Forrest v. Rodney Walker***
Superior Court Case No. 24CECG03624

Hearing Date: August 7, 2025 (Dept. 503)

Motion: By Plaintiff, Pursuant to Code of Civil Procedure Section 473, to Vacate the Court's May 15, 2025 Ruling to Sustain the Defendants' Demurrer and in Dismissal Based Thereon

Tentative Ruling:

To deny.

Explanation:

The plaintiff, Lori Forrest (Plaintiff), moves to vacate the court's May 15, 2025, order sustaining, without leave to amend, the demurrer to the second amended complaint filed by the defendants, Rodney Noel Walker, Alan Sipole, Bill Davis, Dan Indgjerd, and International Glace, Inc. (together, Defendants). Plaintiff seeks discretionary relief pursuant to Code of Civil Procedure section 473 (Section 473), subdivision (b), on the ground that Plaintiff's failure to appear at the May 15, 2025, hearing on the demurrer was an excusable inadvertent error or mistake.

Section 473, subdivision (b), provides in part:

> The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted[.]

Proposed Pleading

The requirement in section 473 to include a proposed pleading for relief is mandatory. (*County of San Bernardino v. Mancini* (2022) 83 Cal.App.5th 1095, 1103.) "The rationale for including the proposed document is to avoid further delays by compelling the delinquent party to demonstrate a readiness to proceed on the merits." (*Ibid., quoting Rodriguez v. Brill* (2015) 234 Cal.App.4th 715, 729.) Here, when the court sustained Defendants' demurrer without leave to amend, Plaintiff had the burden to show how an amendment could cure the defect. (*Tindell v. Murphy* (2018) 22 Cal.App.5th 1239, 1251.) Plaintiff filed no opposition to the demurrer, nor did she submit a proposed pleading with her Section 473 application. For this reason alone, the court exercises its discretion to deny the motion.

Excusable Neglect

Excusable neglect is an act or omission that might be expected of a reasonably prudent person under similar circumstances. (*Zamora v Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 257 [clerical error provided grounds for relief from judgment].) Excusable neglect does not include confusion, lack of familiarity with procedure, or mistakes caused by self-represented litigants:

> The law does not entitle a party to proceed experimentally without counsel and then turn back the clock if the experiment yields an adverse result. One who voluntarily represents himself "is not, for that reason, entitled to any more (or less) consideration than a lawyer. Thus, any alleged ignorance of legal matters or failure to properly represent himself can hardly constitute 'mistake, inadvertence, surprise or excusable neglect' as those terms are used in section 473." [Citation.]

(*Hopkins & Carley v. Gens* (2011) 200 Cal.App.4th 1401, 1413); see also, *Huh v. Wang* (2007) 158 Cal.App.4th 1406, 1412, 1423 [after court denied attorney's ex parte application for continuance on day before hearing on summary judgment motion, attorney's calendaring error and failure to oppose motion did not show excusable neglect].) " 'Mistake is not a ground for relief under [S]ection 473, subdivision (b), when "the court finds that the 'mistake' is simply the result of professional incompetence, general ignorance of the law, or unjustifiable negligence in discovering the law ...."'[Citation]" (*Henderson v. Pacific Gas & Electric Co.* (2010) 187 Cal.App.4th 215, 229 [affirming trial court's exercise of discretion to deny Section 473 relief where attorney failed to timely file opposition to summary judgment motion].)

Plaintiff asks the court to consider only the obstacles she encountered in her unsuccessful attempt to request oral argument, but fails to address the consequences of her failure to oppose the underlying demurrer. Although oral argument can be helpful, it is collateral to the merits of a contested hearing. For example, in *Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500 (*Gilberd*), on a motion for reconsideration, a party contended its counsel's failure to request oral argument on the underlying motion constituted a "new fact" to justify reconsideration. (*Gilberd, supra,* 32 Cal.App.4th at pp. 1498–1499.) The court held this collateral fact was insufficient to warrant reconsideration:

> While not denigrating the assistance that oral argument can provide to a court, the fact that respondent intended to request that the court entertain oral argument with respect to the initial motions is clearly collateral to the merits of the motions. Again, respondent did not present any facts or authorities relating to the merits of the underlying motion that were not considered by the trial court when it issued its initial orders.

(*Id.* at p. 1500, fn. omitted.)

The same logic applies here. Plaintiff fails to address the effect of her failure to file written opposition to the merits of Defendants' demurrer, even though Defendants

provided notice of almost four months. Plaintiff's claim that she was misled into thinking she was granted a continuance by filing a last-minute motion requesting a continuance two minutes before the (waived) 3:30 p.m. hearing on Defendants' demurrer relates only to a matter that is collateral to the merits of the demurrer—her nonappearance at the hearing was not the deciding factor. Furthermore, Plaintiff attests to her own confusion and failure to follow the procedure to request oral argument. (Forrest affid., ¶¶ 15-19; see Super. Ct. Fresno County, Local Rules, rule 2.2.5 [Tentative Rulings].)

Plaintiff asks for special treatment as a "pro se litigant," contending she "should not have been so unfairly handicapped by the Court and in effect [] prevented from mounting her Opposition in favor of proceeding on her meritorious claims." (Mot., p. 5:9-15.) As the California Supreme Court has clearly stated, self-represented litigants are not entitled to different treatment:

> [M]ere self-representation is not a ground for exceptionally lenient treatment. Except when a particular rule provides otherwise, the rules of civil procedure must apply equally to parties represented by counsel and those who forgo attorney representation.

(*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984–985.)

The court did nothing to prevent Plaintiff from filing timely opposition to Defendants' demurrer. Neither Plaintiff's misunderstanding of the law nor her failure to oppose Defendants' demurrer is a basis for finding an excusable mistake under Section 473, subdivision (b). (*Henderson v. Pacific Gas & Electric Co., supra,* 187 Cal.App.4th at p. 229 [attorney's neglect in failing to file timely opposition to motion was not excusable under Section 473].)

The court previously considered Plaintiff's eleventh-hour May 14, 2025, ex parte application for a continuance of the hearing on Defendant's demurrer and denied it, ruling in its written minute order that "the Demurrer set for 05/15/2025 remains." The court also expressly ruled that if Plaintiff retains counsel, "they may file a request regarding a continuance of the Demurrer set for 05/15/2025 *for the Court's consideration.*" (*Ibid*., italics added.)

In conclusion, the court denies Plaintiff's request for discretionary relief for two reasons: (1) Plaintiff fails to comply with the mandatory requirement to include a proposed pleading with her application; and (2) Plaintiff fails to demonstrate that the sustaining of Defendants' demurrer without leave to amend was entered through her mistake, inadvertence, surprise, or excusable neglect, as those terms are used in Section 473, subdivision (b).

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: JS on 8/5/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Kirsten Krejcik v. City of Fresno***
Superior Court Case No. 23CECG03634

Hearing Date: August 7, 2025 (Dept. 503)

Motion: By Defendant City of Fresno for Issue and Evidentiary Sanctions Against Plaintiff Kirsten Krejcik

Tentative Ruling:

To reserve the request for evidentiary and/or issue sanctions for the trial judge.

Explanation:

Once a motion to compel discovery is granted, continued failure to comply may support a request for more severe sanctions. Code of Civil Procedure section 2023.010, subdivision (g), makes "[d]isobeying a court order to provide discovery" a "misuse of the discovery process," but sanctions are only authorized to the extent permitted by each discovery procedure. For failure to obey the court's discovery orders, the court may:

> "[M]ake those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010)..."

(Code Civ. Proc. §§ 2025.450, subd. (d) [depositions]; 2030.290, subd. (c) [interrogatories]; and 2031.300, subd. (c) [production demands].)

On February 6, 2025, this Court ordered that Plaintiff should serve objection-free responses to Form and Special Interrogatories, Set One and Request for Production of Documents, Set One. (Minute Order, February 6, 2025.) The Court also ordered Plaintiff to pay monetary sanctions in the amount of $1,050. (Ibid.) At this time, Plaintiff has not provided verified responses to Special Interrogatories, verified responses to the Requests for Production, or the monetary sanctions. While the Court agrees that these should be produced, the Court is reserving the question of whether issue and/or evidentiary sanctions should be implemented for the trial judge to determine.

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: JS (Judge's initials) on 8/5/2025 (Date).

(36)

Tentative Ruling

Re: ***In Re the Petition of: CBC Settlement Funding, LLC***
Superior Court Case No. 25CECG02503

Hearing Date: August 7, 2025 (Dept. 503)

Motion: By Petitioner CBC Settlement Funding, LLC for Approval for Transfer of Payment Rights

Tentative Ruling:

To continue the matter to Thursday, September 4, 2025, at 3:30 p.m., in Department 503, to allow the petitioner to serve all interested parties to the action with the petition and all supporting papers. Petitioner must file a proof of service no later than on August 28, 2025.

Explanation:

"Not less than 20 days prior to the scheduled hearing on any petition for approval of a transfer of structured settlement payment rights under this article, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and the petition for its authorization. . ." (Ins. Code, § 10139.5, subd. (f)(2).)

While a proof of service is filed showing that the Notice of Hearing was served to the payee, annuity owner, and annuity issuer, there is no showing that the petition, summons, or any other supporting papers, including the second declaration of Romelia Valdez, filed on June 24, 2025, were also served to all interested parties. Rather than deny the petition for faulty service, it appears appropriate to continue the matter to allow for additional notice. Such notice must be made in accordance to Insurance Code sections 10134 *et seq.* and account for any extension of time for the manner of service. Petitioner is directed to file a new proof of service reflecting that all interested parties were served with notice of the petition, summons, and all supporting papers. If Petitioner has already served all interested parties with such documents, it merely needs to provide proof of this (via a proof of service), rather than serve all interested parties again.

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: JS (Judge's initials) on 8/5/2025 (Date).