

**Tentative Rulings for August 27, 2025**  
**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)**

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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.*

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

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(Tentative Rulings begin at the next page)

## **Tentative Rulings for Department 502**

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(03)

### Tentative Ruling

Re: **Cheema v. Singh**  
Case No. 24CECG02876

Hearing Date: August 27, 2025 (Dept. 502)

Motion: Defendant's Demurrer to Complaint

### Tentative Ruling:

To take the demurrer off calendar as moot in light of plaintiff's recent filing of her first amended complaint.

**Explanation:**

The court notes that plaintiff filed her first amended complaint one day late under Code of Civil Procedure section 472, subdivision (a), which requires an amended complaint to be filed within the time permitted to file opposition to a pending demurrer. Here, opposition was due on August 14, 2025, but plaintiff did not file her first amended complaint until August 15, 2025. However, the slight delay in filing the amended complaint does not appear to have been prejudicial. Therefore, the court intends to find that the filing of the first amended complaint renders the demurrer 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: KCK on 08/25/26  
(Judge's initials) (Date)

(41)

**Tentative Ruling**

Re: **Anthony Villarreal v. City of Reedley**  
Superior Court Case No. 24CECG01776

Hearing Date: August 27, 2025 (Dept. 502)

Motion: Reconsideration of Order Denying Petition for Relief from  
Provisions of Government Code Section 945.4

**Tentative Ruling:**

To deny.

**Explanation:**

On June 16, 2025, petitioner Anthony Villarreal (Petitioner) moved for reconsideration under Code of Civil Procedure section 1008 (Section 1008) of the court's May 29, 2025 order denying his petition for relief from the provisions of Government Code section 945.4.

Petitioner acknowledges Section 1008 generally requires a motion for reconsideration to be "based upon new or different facts, circumstances, or law." (§ 1008, subd. (a).) But Petitioner ignores the rest of the language of subdivision (a), which provides in full:

When an application for an order has been made to a judge, or to a court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, *within 10 days after service upon the party of written notice of entry of the order* and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order. The party making the application shall state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown.

(*Ibid.*, italics added.)

Section 1008, subdivision (e) explicitly makes the requirements of this section jurisdictional:

This section specifies the court's jurisdiction with regard to applications for reconsideration of its orders and renewals of previous motions, and applies to all applications to reconsider any order of a judge or court, or for the renewal of a previous motion, whether the order deciding the previous matter or motion is interim or final. No application to reconsider any order

or for the renewal of a previous motion may be considered by any judge or court unless made according to this section.

Section 1008, subdivision (a) expressly requires a motion for reconsideration to be made "within 10 days after service upon the party of written notice of entry of the order" that the movant seeks to modify. (*Ibid.*; *Advanced Building Maintenance v. State Comp. Ins. Fund* (1996) 49 Cal.App.4th 1388, 1392 [a motion filed over 10 days after service of notice of entry of the order is untimely].)

The deadline is not extended when the order is served by mail. (Code Civ. Proc., § 1013, subd. (a). The 10-day period begins running from a party's service of notice of entry of the order and not from the clerk's service of the court's ruling. (*Forrest v. Department of Corporations* (2007) 150 Cal.App.4th 183, 202-203, disapproved on another ground in *Shalant v. Girardi* (2011) 51 Cal.4th 1164, 1172, fn. 3 [party's service by mail on August 23, 2005 of notice of entry of order started running of 10-day time period set forth in § 1008, subd. (a), opposing party's motion for reconsideration filed on August 29, 2005 was timely].) Thus, any motion for reconsideration must be made within 10 days after service on the moving party of written notice of entry of the order. (§ 1008, subd. (a).) The court has no jurisdiction to consider an untimely motion. (*Ibid.*; *Marriage of Furie* (2017) 16 Cal.App.4th 816, 831.)

Here, the City of Reedley (City), as the prevailing party, served Petitioner by mail with written notice of entry of the court's order on May 30, 2025, which started the 10-day time period. Under Section 1008 Petitioner was required to serve and file his motion for reconsideration no later than June 9, 2025—the 10th day after the May 30, 2025 service by mail. Petitioner filed his motion for reconsideration 17 days later on June 16, 2025. Even if the court were to extend the deadline an additional five calendar days for service by mail, Petitioner needed to serve and file his motion for reconsideration 15 days later, which he failed to do.<sup>1</sup> Therefore, Petitioner's motion is untimely. (*Advanced Building Maintenance v. State Comp. Ins. Fund*, *supra*, 49 Cal.App.4th at p. 1392.) Under the plain language of the statute, the court has no jurisdiction to grant the untimely motion.

Furthermore, the court's file has no record that Petitioner served the motion on the City or filed a proof of service. California law requires strict compliance with the provisions for service of papers. For example, service to an incorrect address is not proper notice. (*Moghaddam v. Bone* (2006) 142 Cal.App.4th 283, 288 [service was ineffective where documents were mailed to incorrect zip code that was off by two digits]; *Lee v. Placer Title Co.* (1994) 28 Cal.App.4th 503, 511 [strict compliance with statutory provisions for service is required, improper service has no effect]; *Triumph Precision Products, Inc. v. Insurance Co. of North America* (1979) 91 Cal.App.3d 362, 365 [improperly-addressed envelope has same effect as no notice].)

California Rules of Court, rule 3.1300(c) provides "[p]roof of service of the moving papers must be filed no later than five court days before the time appointed for the hearing." Rule 3.1300(c) is mandatory. Petitioner fails to file a proof of service to establish that he served the moving papers on the City. The City filed no opposition, and the court

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<sup>1</sup> The language of Section 1008 requires the application for reconsideration to be made "within" the statutory number of days (compare to statutes requiring notice of "at least" 10 days).

In conclusion, Petitioner fails to meet the jurisdictional prerequisites for relief under Section 1008. Therefore, the court denies Petitioner's motion because it has no jurisdiction under Section 1008 to reconsider its May 29, 2025 order.

## Tentative Ruling

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### Tentative Ruling

Re: ***Miguel Maldonado Contreras v. George Bessette, et al.***  
Superior Court Case No. 24CECG03266

Hearing Date: August 27, 2025 (Dept. 502)

Motions (x4): by Plaintiff Compelling Defendant George Bessette's Responses to Requests for Admission, Special Interrogatories, Requests for Production of Documents, and Form Interrogatories

**Tentative Ruling:**

To continue the matter to Thursday, September 18, 2025, at 3:30 p.m., in Department 502, and to require plaintiff to pay \$180 motion fees to the clerk (in addition to the \$60 for motion fees already paid) for the correct total motion fee of \$240 (4 motions x \$60 each). The additional filing fees must be paid on or before Thursday, September 11, 2025.

**Explanation:**

The uniform fee for filing a discovery motion is \$60. (Gov. Code, § 70617, subd. (a).) Despite requesting for four motions to be set on the court's calendar, plaintiff has only paid \$60 in motion fees. The correct total motion fee is \$240 (4 motions x \$60).

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: KCK on 08/26/25  
(Judge's initials) (Date)