

Tentative Rulings for September 3, 2026
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.*

25CECG02633 *Bishop v. American Honda Motor Co., Inc.*

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

17CECG02635 *Panzak v. City of Fowler*, is continued to Tuesday, September 22, 2026, at 3:30 p.m. in Department 503.

24CECG03594 *Lopez v. Calmenero* is continued to Thursday, October 15, 2026, at 3:30 p.m. in Department 503.

25CECG03814 *Reiter v. ACDF, LLC* is continued to Thursday, September 24, 2026, at 3:30 p.m. in Department 503.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

Begin at the next page

(36)

Tentative Ruling

Re: ***Saghbini v. DarceMendoza***
Superior Court Case No. 25CECG05249

Hearing Date: September 3, 2026 (Dept. 503)

Motion: Petition for Compromise of Claim of Minor

Tentative Ruling:

To deny without prejudice. In the event that oral argument is requested minor is excused from appearing.

Explanation:

The court is unable to determine if the settlement is in the best interest of the minor based on the information provided in the petition. The petition indicates potential claimants who have not yet settled with the defendant. To the extent that there may be other anticipated settlements with the defendant, it is not known if these other settlement amounts would be in proportion to this defendant's liability or was limited by the policy limits.

The petition indicates that the minor is a Medi-Cal recipient and there is an existing Medi-Cal lien. Although petitioner indicates that he intends to personally repay the Medi-Cal lien, there is no assurance that the liens have in fact, been paid. Therefore, the petition must indicate that notice of this settlement has been given to the Department of Health Care Services (DHCS), and must indicate what lien DHCS is claiming. Unless the medical liens have been paid in full prior to the filing of the petition, the petition must request that any lien on either minor's settlement be paid out of that minor's settlement.

The petition also does not state the name of all providers, the amounts of their charges, the amounts paid, the amount of the negotiated reductions and the amounts owed to each provider.

Next, the petition requests that the funds be placed in an account identified as follows: VCSP/College Account under the name Saghbini. No information is provided to determine whether placement into such an account is in the best interest of the minor. For example, it is not known whether the minor or any other individual will have access to the settlement funds prior to the minor reaching age 18. And if so, there has been no showing that such access would be in her best interest. Ordinarily, the court prefers the settlement amount be held in some manner that will prevent withdrawal until the minor attains age 18, for example, in a blocked account or structured settlement, unless there are overriding reason for not doing so. Further, it is unclear whether the minor or any other individual will have access to the settlement funds, since the account does not appear to be opened under solely the minor's name.

Lastly, a proposed order approving the compromise must be lodged.

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Tentative Ruling

Re: **Thomas, Jr. v. Alfareh, et al.**
Superior Court Case No. 25CECG03984

Hearing Date: September 3, 2026 (Dept. 503)

Motion: by Plaintiff for Leave to File First Amended Complaint

Tentative Ruling:

To grant. (Code Civ. Proc., § 473.)

Plaintiff is required to file the First Amended Complaint within 10 days from the service of the clerk of the minute order. New allegations/language must be set in **boldface** type.

Explanation:

Plaintiff seeks leave to amend to join Saad DMD, Inc. as a defendant, and to add supporting facts relating to this party.

Plaintiff has met the formalities required of a motion to amend the complaint, and has given due notice to all appearing defendants. Motions for leave to amend the pleadings are directed to the sound discretion of the judge. "The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading . . ." (Code Civ. Proc., § 473, subd. (a)(1); see also Code Civ. Proc., § 576.) Judicial policy favors resolution of cases on the merits, and thus the court's discretion as to allowing amendments will usually be exercised in favor of permitting amendments. This policy is so strong, that denial of a request to amend is rarely justified, particularly where "the motion to amend is timely made and the granting of the motion will not prejudice the opposing party." (*Morgan v. Superior Court* (1959) 172 Cal.App.2d 527, 530.)

Even so, the court has discretion to deny leave to amend where the proposed amendment fails to state a valid cause of action (*Foxborough v. Van Atta* (1994) 26 Cal.App.4th 217, 230), or the party seeking the amendment has been dilatory and the delay has prejudiced the opposing party. (*Hirsa v. Superior Court* (1981) 118 Cal.App.3d 486, 490.) No opposition was filed, so no facts were presented to warrant denial of plaintiff's motion for leave to amend. Accordingly, the motion is granted.

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 9/2/2026.
(Judge's initials) (Date)

(37)

Tentative Ruling

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

Hearing Date: September 3, 2026 (Dept. 503)

Motion: 1) By Plaintiff to Withdraw Admissions
2) By Defendant Fresno Board of Realtors for Summary Judgment or, in the Alternative, Summary Adjudication
3) By Defendant City of Fresno for Summary Judgment or, in the Alternative, Summary Adjudication

Tentative Ruling:

To deny plaintiff's motion to withdraw admissions. (Code Civ. Proc., § 2033.300, subd. (b).)

To grant defendant Fresno Board of Realtors' motion for summary judgment. (Code Civ. Proc., § 437c.) Defendant Fresno Board of Realtors is to submit a proposed judgment consistent with this ruling within seven days of service of the minute order by the clerk.

To grant defendant City of Fresno's motion for summary judgment. (Code Civ. Proc., § 437c.) Defendant City of Fresno is to submit a proposed judgment consistent with this ruling within seven days of service of the minute order by the clerk.

Explanation:

Withdraw Admissions

On June 25, 2026, plaintiff filed her notice and motion to withdraw admissions as to Fresno Association of Realtors' ("FAR") Request for Admissions ("RFA") numbers 1-5. On August 26, 2026, just eight calendar days before the scheduled hearing date, plaintiff filed an amended notice and motion to withdraw admissions seeking to also withdraw admissions as to City of Fresno's RFA numbers 6-7, and 13-18. Notably, this amended notice and motion does not constitute a mere amendment, but rather, as it seeks to withdraw admissions to an entirely different set of RFAs propounded by an entirely different defendant, this "amended" notice and motion is actually an entirely separate motion. As only one motion to withdraw was calendared and this secondary motion, if it had been previously calendared, is untimely, the court will only consider the motion filed by plaintiff on June 25, 2026 as to FAR's RFA numbers 1-5.

On July 8, 2025, the court made orders deeming RFA numbers 1-5 admitted by plaintiff for failure to respond to RFAs propounded by defendant FAR. (Minute Order, July 8, 2025.)

Plaintiff argues in part that compliance with an August 2025 order means that plaintiff has since responded to the RFAs at issue. On February 6, 2025, this court ordered plaintiff to serve objection-free responses to Form and Special Interrogatories, Set One, and Request for Production, Set One, propounded on plaintiff by defendant *City of Fresno*. (Minute Order, February 6, 2025.) The court also deemed admissions admitted as to RFA, Set One, propounded on plaintiff by defendant *City of Fresno*. (Ibid.) On August 7, 2025, the court reiterated this same order in response to a motion brought by defendant *City of Fresno* for issue and evidentiary sanctions. (Minute Order, August 7, 2025.) Neither of these orders were regarding defendant FAR. (Minute Order, February 6, 2025; Minute Order, August 7, 2025.) Additionally, neither of these orders invited plaintiff to provide tardy responses to the RFAs. (Ibid.)

Further, on October 21, 2025, the court considered four motions: 1) plaintiff's motion for reconsideration of a July 8, 2025 order, 2) plaintiff's motion for sanctions, 3) defendant FAR's motion for terminating sanctions, and 4) defendant *City of Fresno*'s motion for terminating sanctions. (Minute Order, October 21, 2025.) The court denied plaintiff's motion for reconsideration as untimely filed. (Ibid.) The court did note that plaintiff was not prevented from filing any appropriate motion seeking relief from relevant orders made July 8, 2025. (Ibid.) The court took plaintiff's motion for sanctions off calendar as no papers were filed. (Ibid.) The court denied both defendants' motions for terminating sanctions, noting that the parties acknowledged plaintiff had served responses to the discovery ordered on February 6, 2025 and July 8, 2025. (Ibid.)

Plaintiff failed to seek any relief from either of the orders deeming admissions admitted until eight months later on June 25, 2026, after both defendants had filed separate motions for summary judgment. On June 25, 2026, plaintiff filed her motion to withdraw admissions as to FAR's RFA numbers 1-5. The proof of service only shows service on the *City of Fresno*, not on the party against whom relief was sought, FAR.

On August 25, 2026, the court continued both defendants' motions for summary judgment to be heard on September 3, 2026, the same day the court was scheduled to hear plaintiff's motion to withdraw admissions.

On August 27, 2026, defendant FAR filed an opposition. While the opposition would ordinarily be considered untimely, the court will consider it in light of the failure by plaintiff to demonstrate proof of service as to this defendant of the June 25, 2026 moving papers. The court will also consider the moving papers despite the failure to demonstrate service on FAR.

An admission made in response to a request for admission may be withdrawn or amended only on leave of the court. (Code Civ. Proc., § 2033.300, subd. (a).) Leave of the court to amend or withdraw admissions is permitted where the court determines the "admission was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining that party's action or defense on the merits." (Code Civ. Proc., § 2033.300, subd. (b).) Doubts are to "be resolved in favor of the party seeking relief." (*New Albertsons, Inc. v. Superior Court* (2008) 168 Cal.App.4th 1403, 1420.)

Because the language in both code sections is nearly identical, courts treat a motion to withdraw admissions similarly to a Code of Civil Procedure 473, subdivision (b) motion. (*New Albertsons, Inc. v. Superior Court*, *supra*, 168 Cal.App.4th at pp. 1418-1419.)

Here, counsel declares, “My failure to provide timely responses was a mistake. However, this error was facilitated by the failure of Defendant to meet and confer regarding the outstanding issues, as well as the failure to provide adequate notice.” (Harrison Decl., ¶ 2.) Counsel further declares he did not have notice of the motion to deem admissions admitted. (*Id.* at ¶ 7.)

Where a responding party fails to respond to RFAs, there is no requirement by the propounding party to meet and confer prior to filing a motion. (*Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973, 982.) Thus, any assertion by counsel that failure to meet and confer by the propounding party led to counsel's mistake lacks merit. Further, counsel for FAR submitted a declaration with the motion detailing efforts to inform plaintiff's counsel of the failure to respond. (Slater Decl., May 27, 2025, ¶ 6.)

Plaintiff's assertion that there was no notice of the motion is inconsistent with the court record. The court record shows that the motion was served by both email and regular mail on May 23, 2025. (Motion to Deem Admissions Admitted, filed May 27, 2025.)

Plaintiff further asserts that there is no prejudice to defendant because defendant is not entitled to present false evidence. Plaintiff largely argues that a position by defendant that there was no agreement would be false. FAR does not challenge this or present argument regarding prejudice.

Plaintiff also seeks a reduction in the sanctions amount. Plaintiff has provided no authority for this request nor is it potentially available in the statute. (Code Civ. Proc., § 2033.300.) In fact, costs of additional discovery as a result of withdrawing or amending the admissions are to be borne by the party withdrawing or amending. (Code Civ. Proc., § 2033.300, subd. (c)(2).)

Ultimately, plaintiff has not demonstrated the admission resulted from a mistake, surprise, or excusable neglect. As such, the court denies the motion to withdraw the admissions.

Motions for Summary Judgment/Adjudication

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).) In determining a motion for summary judgment, the court views the evidence “in the light most favorable to the plaintiff”, liberally construing plaintiff's evidence and strictly scrutinizing the defendant's evidence. (*Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 254.) The court does not weigh evidence or inferences (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 856), nevertheless, the court shall consider all inferences reasonably deducible from the evidence unless it is controverted by other inferences or evidence. (Code Civ. Proc., § 437c, subd. (c).) Doubts as to whether there is a triable issue of fact are resolved in favor of the opposing party. (*Ingham v. Luxor Cab Co.*, *supra*, 93 Cal.App.4th 1045, 1049.)

Summary adjudication is the proper mechanism for challenging a particular, "cause of action, an affirmative defense, a claim for punitive damages, or an issue of duty." (*Paramount Petroleum Corp. v. Superior Court* (2014) 227 Cal.App.4th 226, 242.) However, "[a] motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty." (Code Civ. Proc., § 437c, subd. (f)(1); see also *Catalano v. Superior Court* (2000) 82 Cal.App.4th 91, 97 [piecemeal adjudication prohibited].)

Admissions

Where a matter is deemed admitted, it "is conclusively established against the party making the admission in the pending action, unless the court has permitted withdrawal or amendment of that admission under Section 2033.300." (Code Civ. Proc., § 2033.410, subd. (a).) Without leave of court to amend or withdraw the admissions, "no contradictory evidence may be introduced." (*Murillo v. Superior Court* (2006) 143 Cal.App.4th 730, 736.)

To the extent plaintiff argues she supplemented her responses to both defendants' RFAs, there was no authority for plaintiff to do so. Any reliance on these supplemented responses by plaintiff is unwarranted.

Procedural Matters

Code of Civil Procedure section 437c, subdivision (b)(3) articulates that each material fact to be disputed "shall be followed by a reference to the supporting evidence." Failure to comply may be a grounds for granting the motion. (*Ibid.*) Plaintiff largely failed to do so in both of her separate statements. California Rules of Court, rule 3.1350, subdivision (f) describes the required contents of the separate statement and subdivision (h) provides the format. Plaintiff's counsel would benefit from studying the entirety of California Rules of Court, rule 3.1350, especially the format in subdivision (h).

Additionally, the opposition "must consist of the following separate documents...": 1) the memorandum in opposition, 2) the separate statement, 3) evidence in opposition, if appropriate, and 4) a request for judicial notice, if appropriate. (Cal. Rules of Ct., rule 3.1350 (e).) Here, plaintiff has not filed these documents separately, but rather in one document.

FAR Summary Judgment/Adjudication

FAR seeks summary judgment, or in the alternative, adjudication. FAR argues that plaintiff cannot establish either the breach of contract or intrusion into private affairs causes of action against it. Notably, on July 24, 2024, the court struck the cause of action for intrusion into private affairs from the Second Amended Complaint ("SAC"). As such, the only cause of action alleged against FAR is the cause of action for breach of contract.

To show a breach of contract, a plaintiff must show 1) the contract, 2) plaintiff's performance or excuse for non-performance, 3) defendant's breach, and 4) damages.

(*Acoustics, Inc. v. Trepte Constr. Co.* (1971) 14 Cal.App.3d 887, 913.) Here, plaintiff made admissions relevant to each of these elements by way of the admitted RFAs. (UMF Nos. 8-11.) These conclusively determine that FAR has not breached a contract as to plaintiff. Additionally, the declarations provided by Consuelo Regalado, Layne Sellers, Dezmarie Hedricks, and Audrey Martinez demonstrate that they did not disclose plaintiff's identity to either Alvarez or his supervising broker. (UMF Nos. 8, 9, 11.)

Plaintiff challenges the declarations noting that they could be leaving out that other identifying information about plaintiff could have been revealed. This is speculation. "A party cannot avoid summary judgment based on mere speculation and conjecture." (*Vournas v. Fidelity Nat. Title Ins. Co.* (1999) 73 Cal.App.4th 668, 672.)

As such, plaintiff cannot demonstrate a breach of contract as to FAR. The court grants adjudication as to this cause of action. As already noted, this is the only remaining cause of action alleged against FAR.

City of Fresno Summary Judgment/Adjudication

City of Fresno seeks summary judgment, or in the alternative, adjudication. The city argues that it is entitled to summary judgment because plaintiff filed her government claim after initiating this lawsuit. Alternatively, the city seeks adjudication as to the causes of action for ordinary mandamus and unconstitutional retaliation alleged against it.

The Tort Claims Act requires that a person bringing a claim for money damages against a public entity first present a written claim to the entity. (Gov. Code, § 945.4; *Loehr v. Ventura County Community College Dist.* (1983) 147 Cal.App.3d 1071, 1078.) This requirement also exists for mandamus actions which primarily seek monetary relief. (*Canova v. Trustees of Imperial Irrigation Dist. Employee Pension Plan* (2007) 150 Cal.App.4th 1487, 1493.) Mandamus actions "seeking to compel performance of a mandatory duty, statutory duty or ministerial act may not be subject to the Claims Act if they do not seek money or damages." (*Ibid.*) Further, where a complaint seeks monetary and extraordinary relief, the claim presentation requirement must be met. (*TrafficSchoolOnline, Inc. v. Clarke* (2003) 112 Cal.App.4th 736, 741.)

Here, plaintiff has filed a complaint seeking money damages against a public entity. (UMF Nos. 1-2.) Plaintiff did not file a Government Claims Act form prior to filing her lawsuit on September 5, 2023. (UMF No. 3.) Plaintiff asserts that the doctrine of equitable tolling applies here. However, the doctrine of equitable tolling is not available to toll the time required for filing a government claim. (*Willis v. City of Carlsbad* (2020) 48 Cal.App.5th 1104, 1121.)

Thus, the court grants summary judgment in favor of the City of Fresno.

Further, the city is entitled to adjudication as to both causes of action remaining against it. Mandamus requires a plaintiff to show 1) a ministerial duty and 2) a beneficial right for the performance of that duty. (*People ex rel. Younger v. County of El Dorado* (1971) 5 Cal.3d 480, 491.) Here, plaintiff has made admissions which have not been withdrawn or amended. These admissions include that the city did not fail to perform a duty owed to plaintiff. (UMF Nos. 6-8.)

To show unconstitutional retaliation, plaintiff must show 1) plaintiff was engaged in a constitutionally protected activity, 2) that defendant's retaliatory action caused plaintiff to suffer an injury that would likely deter persons of ordinary firmness from engaging in the protected activity, and 3) that the retaliatory action was motivated in part by the protected activity. (*Tichinin v. City of Morgan Hill* (2009) 177 Cal.App.4th 1049, 1062-1063.) Here, plaintiff has admitted that the city did not take action against her for engaging in a constitutionally protected activity. (UMF Nos. 11-15.)

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 9/2/2026.
(Judge's initials) (Date)

(49)

Tentative Ruling

Re: ***In Matter of April Martinez***
Superior Court Case No. 26CU01984

Hearing Date: September 3, 2026 (Dept. 503)

Motion: Expedited Petition to Compromise Claim of Minor

Tentative Ruling:

To grant. Orders signed. No appearances necessary.

To set a status conference for Tuesday, December 3, 2026, at 3:30 p.m., in **Department 503**, for confirmation of deposit of the minor's funds into a blocked account. If an Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) is filed at least five court days before the hearing, the status conference will come off calendar.

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 9/2/2026.
(Judge's initials) (Date)