

Tentative Rulings for September 17, 2026
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.*

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

24CECG04458	<i>Lust v. FCA US, LLC</i> is continued to Thursday, October 22, 2026, at 3:30 p.m. in Department 403.
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Tentative Rulings for Department 403

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(03)

Tentative Ruling

Re: **Frank Cruz v. Mortgage Default Services, LLC**
Court Case No. 24CECG03048

Hearing Date: September 17, 2026 (Dept. 403)

Motion: Defendant Labbett's Motion for an Award of Attorney's Fees

Tentative Ruling:

To grant defendant Labbett's motion for an award of his attorney's fees and costs, in the amount of \$24,588.96. (Code Civ. Proc., § 1021.)

Explanation:

Under Code of Civil Procedure section 1021, "Except as attorney's fees are specifically provided for by statute, the measure and mode of compensation of attorneys and counselors at law is left to the agreement, express or implied, of the parties; but parties to actions or proceedings are entitled to their costs, as hereinafter provided."

Here, the note and deed of trust included express language providing that defendant has the right to recover his attorney's fees if he is forced to enforce his security interest. (Exhibit 1, Note, at p. 1, ¶ 6; Exhibit 2, Deed of Trust, p. 5, § 8.) Thus, defendant has the right to recover his attorney's fees and costs if he prevails in the action.

"[I]n deciding whether there is a 'party prevailing on the contract,' the trial court is to compare the relief awarded on the contract claim or claims with the parties' demands on those same claims and their litigation objectives as disclosed by the pleadings, trial briefs, opening statements, and similar sources. The prevailing party determination is to be made only upon final resolution of the contract claims and only by 'a comparison of the extent to which each party ha[s] succeeded and failed to succeed in its contentions.'" (*Hsu v. Abbata* (1995) 9 Cal.4th 863, 876, citation omitted.) However, where one party obtains a "simple, unqualified win" in the form of a judgment on the contract claim, the trial court has no discretion to deny that party its attorney's fees. (*Ibid.*)

In the present case, defendant Labbett obtained a simple, unqualified win on all of plaintiff's claims by obtaining an order granting summary judgment in his favor, with the subsequent judgment entered on February 10, 2026. Thus, Labbett is the prevailing party in the action, and he is entitled to an award of his reasonable attorney's fees and costs.

Labbett seeks \$24,588.96 in attorney's fees and costs based on 58.6 hours billed at \$375 per hour. (Kelble Decl., Ex. 3.) After reviewing the submitted billing records, the Court finds the requested amount reasonable. Mr. Kelble's billing rate of \$375 per hour is on the low end for an experienced attorney. The amount of time billed was also reasonable in light of the nature and extent of the litigation. Defense counsel opposed a request for preliminary injunction, brought a demurrer, answered the complaint, prepared a cross-

complaint, opposed a special motion to strike the cross-complaint, and prepared a motion for summary judgment. Counsel also responded to a motion for reconsideration and an appeal, although those matters were filed after the motion for attorney's fees was filed.

The requested costs of \$2,613.96 were likewise reasonable and necessary to the litigation. Accordingly, the Court intends to grant the motion for attorney's fees and costs and award defendant the full amount requested.

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: SMC **on** September 16, 2027.
(Judge's initials) (Date)

(48)

Tentative Ruling

Re: ***In the Matter of Isaiah John***
Superior Court Case No. 26CU01037

Hearing Date: September 17, 2026 (Dept. 403)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant the petition to approve compromise of minor's claim of minor Isaiah John. (Code Civ. Proc., § 372; Prob. Code, § 2504.) No appearances are necessary.

Explanation:

The current petition does not include the necessary attachments that were included with the previous petition. The court will take judicial notice of its own file in this case to reconcile deficiencies in the present petition with the petition previously filed.

As such, the petition appears to be sufficiently stated and the proposed court order approving the disposition of proceeds appears complete.

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: SMC **on** September 16, 2026.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re: ***Reyna Duran v. Ryan A Dunlop, D.M.D, Inc.***
Case No. 25CECG03207

Hearing Date: September 17, 2026 (Dept. 403)

Motions: Plaintiff, Reyna Duran Motion to Compel Deposition

Tentative Ruling:

The motion to compel deposition is moot.

To deny sanctions.

Explanation:

Plaintiff, Reyna Duran, ("Duran" or "plaintiff") makes this motion to compel defendant Ryan A. Dunlop, D.M.D., Inc. ("Dunlop Inc." or "defendant") to produce Ryan A. Dunlop ("Dunlop") to appear for deposition and produce documents as requested in plaintiff's deposition notice.

Dunlop's deposition took place on May 15, 2026. (Duran's Reply, pg. 2:6.) Accordingly, the motion to compel deposition is moot.

With respect to sanctions, "[i]f a motion under subdivision (a) is granted, the court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) in favor of the party who noticed the deposition and against the deponent or the party with whom the deponent is affiliated, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." (Code Civ. Proc., § 2025.450, subd. (g)(1); *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 409.)

Plaintiff requests an order for defendant and/or his counsel, Fishman, Larson & Callister, to pay plaintiff the sum of \$1,900 as sanctions.

Under these circumstances, sanctions are not warranted. Here, Dunlop Inc. demonstrates that they did not try to avoid the deposition, and that due to unforeseen circumstances, Dunlop Inc. could not produce Dunlop on March 19, 2026, while immediately trying to find alternative arrangements. First, there was a breakdown in communications where Wendy McCoy was initially omitted from (Green Decl., ¶¶ 3-4, Exhibits A & B.) Second, Dunlop Inc.'s counsel alerted Duran's counsel of a scheduling conflict for the March 19, 2026 date, nine days before the noticed deposition date and tried to find alternative dates. (Green Decl., ¶¶ 5, 7, Exhibit C.)

Accordingly, Duran's request for sanctions is denied.

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: SMC **on** September 16, 2026.
(Judge's initials) (Date)