Tentative Rulings for October 16, 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.***

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

(Tentative Rulings begin at the next page)

<u>Tentative Rulings for Department 403</u>

Begin at the next page

(47)

Tentative Ruling

Re: ***Esperanza Hansen v. Mario Pinzon***
Superior Court Case No. 24CECG05382

Hearing Date: October 16, 2025 (Dept. 403)

Motion: By Plaintiff for leave to file a first amended complaint

Tentative Ruling:

To grant.

Explanation:

To grant, with the exception that the court does not grant the request to direct the clerk to file the document (the proposed First Amended Complaint) that is attached to the motion filed, nor does it grant the request to deem the First Amended Complaint filed as of the date of the order. Instead, plaintiff must separately file the First Amended Complaint within 10 days from the clerk's service of the minute order granting this motion. New allegations/language must be set in **boldface** type. Defendants are to file their responsive pleadings within 30 days thereafter.

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: lmg on 10-15-25 .
(Judge's initials) (Date)

(20) **<u>Tentative Ruling</u>**

Re: ***Mitchell v. FCA US LLC***
Superior Court Case No. 25CECG00551

Hearing Date: October 16, 2025 (Dept. 403)

Motion: By Plaintiff to Compel Deposition

Tentative Ruling:

To take off calendar for failure to comply with Local Rule 2.1.17.

Explanation:

Plaintiff moves to compel defendant to submit to a person most qualified ("PMQ") deposition. The moving papers appear evasive as to whether defendant objected to the deposition notice so as to avoid application of Local Rule 2.1.17(A), which provides in pertinent part,

> No motion under sections 2017.010 through 2036.050, inclusive, of the California Code of Civil Procedure shall be heard in a civil unlimited case unless the moving party has first requested an informal Pretrial Discovery Conference with the Court and such request has either been denied and permission to file the motion is granted via court order or the discovery dispute has not been resolved as a result of the Conference and permission to file the motion is expressly granted.

The rule exempts "[m]otions to compel the deposition of a duly noticed party or subpoenaed person(s) who **have not timely served an objection** pursuant to Code of Civil Procedure section 2025.410 …" (Rule 2.1.17(A)(1), emphasis added.) In the points and authorities, plaintiff claims that defendant did not object to the deposition notice. (MPA 3:10-12.) Though plaintiff's counsel provided a declaration in support of the motion, there is no mention of whether or not defendant objected to the deposition notice. (See Fisher Decl.) In FCA's opposition it states that "FCA US responded to Plaintiff's NOD, noting that it would produce a deponent and documents per Plaintiff's requests **but also clearly expressing an objection to the date, time, and place Plaintiff had unilaterally scheduled and demanded**." (Oppo. 2:21-23, emphasis added.) However, there is no declaration submitted with the opposition supplying such facts, and no copy of the objection is provided.

In law and motion practice, factual evidence is supplied to the court by way of declarations. (*Calcor Space Facility, Inc. v. Superior* Court (1997) 53 Cal.App.4th 216, 224.) The court must disregard facts stated in unverified memo of points and authorities, unless supported by reference to evidence presented in declarations or otherwise. (*Smith, Smith & Kring v. Superior Court* (1997) 60 Cal.App.4th 573, 578.) Both parties are guilty of arguing facts without supporting evidence.

As the moving party, plaintiff must present evidence sufficient for the court to determine whether or not the Local Rule applies. Plaintiff's counsel appears to be evasive on this point. Accordingly, the motion is taken off calendar for failure to comply with Local Rule 2.1.17. The court notes, however, that defendant has no excuse for not providing dates for the deposition, or delaying submitting to deposition. Under Code of Civil Procedure section 871.26(c)(2), plaintiff has the right to conduct an initial PMQ deposition within 120 days of the answer being filed, which deadline was 8/5/2025. Defendant is strongly urged to quickly resolve this matter.

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: lmg on 10-15-25 .
(Judge's initials) (Date)

(47) **Tentative Ruling**

Re: ***Latoya Tucker vs Dos Palos Drug, Inc.***
Superior Court Case No. 23CECG00031

Hearing Date: October 16, 2025 (Dept. 403)

Motion: Motion to Compel Responses from Plaintiffs

Tentative Ruling:

To grant. Within 30 days of service of the minute order, plaintiff Latoya Tucker shall serve discovery responses to defendant's Request for Production of Documents (Set One).

To impose reasonable sanctions in the sum of $240 against plaintiff, and in favor of defendant, to be paid to defense counsel within 30 days of service of the minute order by the clerk.

Explanation:

On June 10, 2025 defendant propounded on the aforementioned request on plaintiff, and reached out again on September 4, 2024. Plaintiff still has not produced the requested documents. Accordingly, an order compelling plaintiff to provide responses without objections (Code Civ. Proc., §§ 2030.260, 2031.300), is warranted, and reasonable sanctions must be imposed (Code Civ. Proc., §§ 2023.010, subd. (d), 2023.030, subd. (a); *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404).

Furthermore, self-representation is not a ground for lenient treatment and, as is the case with attorneys, a person who represents herself "must follow correct rules of procedure." *Nwosu v. Uba* (2004) 122 Cal. App.4th 1229, 1247.

Reasonable sanctions are warranted under Code of Civil Procedure, sections 2023.030(a) and (c). The court finds it reasonable to award sanctions for one motion, as well as filing fees, totaling $240.

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 10-25-25 .
(Judge's initials) (Date)

(34)

<u>Tentative Ruling</u>

Re:	***Lozano v. Cen Cal Builders & Developers, Inc.*** Superior Court Case No. 23CECG04411
Hearing Date:	October 16, 2025 (Dept. 403)
Motion:	by Plaintiffs for Final Approval of Class Action Settlement

Tentative Ruling:

To deny without prejudice.

Explanation:

<u>Final Approval of Settlement</u>

California Rules of Court, rule 3.769(g) states: "Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement." Subsection (h) states: "If the court approves the settlement agreement after the final approval hearing, the court must make and enter judgment. The judgment must include a provision for the retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court may not enter an order dismissing the action at the same time as, or after, entry of judgment." (Emphasis added.)

The Court has vetted the fairness of the settlement through prior hearings, each with its own filings. The settlement here generally meets the standards for fairness, and the class has approved it, with no objections, or disputes and one opt-out. Ultimately only 115 of the 1,932 notices were undeliverable. The court finds that the method of notice followed, which this court approved at the prior hearing, comports with due process and was reasonably calculated to reach the absent class members:

> "Individual notice of class proceedings is not meant to guarantee that every member entitled to individual notice receives such notice," but "it is the court's duty to ensure that the notice ordered is reasonably calculated to reach the absent class members." *Hallman v. Pa. Life Ins. Co.,* 536 F.Supp. 745, 748–49 (N.D.Ala.1982) (quotation marks and citation omitted); *see also In re Viatron Computer Sys. Corp. Litig.,* 614 F.2d 11, 13 (1st Cir.1980); *Key v. Gillette Co.,* 90 F.R.D. 606, 612 (D.Mass.1981); *cf. Lombard,* at 155. <u>*After such appropriate notice is given, if the absent class members fail to opt out of the class action, such members will be bound by the court's actions, including settlement and judgment, even though those individuals never actually receive notice.*</u> *Cooper,* 467 U.S. at 874, 104 S.Ct. 2794; 7B Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 1789 (2d ed.1986).

(*Reppert v. Marvin Lumber and Cedar Co., Inc.* (1st Cir. 2004) 359 F.3d 53, 56-57 emphasis added.)

Attorneys' Fees

The settlement provided that the parties agreed (i.e., defendant agreed not to oppose) fees calculated at one-third of the gross settlement amount, or $250,000. Although the court has discretion to grant attorney's fees in class actions based on a percentage of the total recovery, the trial court may also use a lodestar calculation to double check the reasonableness of the fee award. (*Laffitte v. Robert Half Intern. Inc*. (2016) 1 Cal.5th 480, 504-506.)

Billing records for the JCL Law Firm, Zakay Law Group, and Work Lawyers, P.C. are attached to the declarations of their respective principal attorneys. The declaration of Jean-Claude Lapuyade summarizes the total of 408.1 hours billed by each of the three law firms and total hourly fees of $231,557.50. The court has reviewed the timekeeping records submitted for each law firm, and the supplemental declarations of Shani Zakay and Justin Lo, and remains concerned regarding the inflated billing records. Between three law firms six attorneys billed to attend mediation on July 31, 2024 with Justin Lo and the Zakay Law Firm billing for 8.5 hours and each of three attorneys from the JCL Law Group billing 10 hours. These hours alone account for $33,175 of the attorney fees sought. The JCL Law Group time records are also replete with duplicative billing entries for emails between the attorneys. Without reducing the hourly rates to those comparable for local counsel and before further scrutiny of the billing entries the lodestar requires a multiplier to reach the fees requested from the settlement. The court does not intend to award the percentage-based fee sought without additional evidence to support the imposition of a multiplier.

On the motion for final approval of the settlement, the request for attorney fees must also set forth in full any fee-sharing agreement between plaintiffs' attorneys. Failure to disclose a fee-sharing arrangement is in violation of the California Rules of Court, Rule 3.769(b), and renders the agreement unenforceable. (*Mark v. Spencer* (2008) 166 Cal.App.4th 219, 227; *Lofton v. Wells Fargo Home Mortgage* (2018) 27 Cal.App.5th 1001, 1018 ["concealed" attorney fee payment of $5 million was properly disallowed and awarded to the class instead].)

Additional evidence to allow the court to assess the reasonableness of the fees requested is required before the award can be approved.

Payment to Class Representatives

Plaintiffs request court approval of a $10,000 payment to the class representatives, Evangelina Lozano and Porfirio Santiago. Nearly identical declarations from each are submitted with the motion for final approval. Plaintiffs state generally that they have taken risks by agreeing to participate as the named plaintiff in a class action against their employer. Each also estimates they spent at least 20 to 25 hours working with the attorneys to advance the case. Plaintiffs additionally state their individual class settlement is lower than the average class settlement of $201.86 but they have agreed to a more broad release than the average class member and should be compensated accordingly. The court notes both plaintiffs were employed by defendant for approximately three months, which is consistent with the smaller settlement based upon workweeks during the class period. Plaintiffs claim they undertook financial risk that there would be no financial compensation and they may have had to pay defendants' costs if the lawsuit was unsuccessful.

The moving papers cite to *Clark v. American Residential Services, LLC* (2009) 175 Cal.App.4th 785, as identifying the factors courts consider when approving an enhancement award and stating the plaintiffs each have provided evidence addressing these factors. The court in *Clark* also stated, "there is no 'presumption of fairness' as to the amount of an enhancement." (*Id*. at p. 806.) The court in Clark found the trial court abused its discretion approving an enhancement award of $25,000 to each of the two class representatives where the record revealed the evidence was only of "potential risk" and "potential stigma" for having participated as a plaintiff, claims of "countless hours" of work on the case. (*Id*. at pp. 806-807.) "[T]he rationale for making enhancement or incentive awards to named plaintiffs is that he or she would be compensated for the expense or risk he has incurred in conferring a benefit on other members of the class." (*Id*. at p. 806.) This evidence is necessary to conclude the "enhancement was 'necessary to induce [the named plaintiff] to participate in the suit.'" (*Id*. at p. 807, quoting *Matter of Continental Illinois Securities Litigation* (7th Cir., 1992) 962 F.2d 566, 571.)

There is no clear expense or financial risk or other risk beyond speculation that there would be no compensation received or that a future employer may hold their participation against them. (Decl. of Lozano and Santiago at ¶¶ 6-7.) The brevity of each plaintiff's employment by defendant does not support the assertion that either gave up other individual claims. The evidence is not persuasive to justify an award of the equivalent of $400 per hour to each of the named plaintiffs *in addition to* their individual recovery as class members where the highest class member payment is expected to be $2,123.59.

Additional evidence will be necessary to demonstrate more than a speculative risk to plaintiffs' based upon their participation in the litigation. The court is skeptical that sufficient evidence can be presented to substantiate the class representative incentive awards as requested and intends to reduce the payments.

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: lmg on 10-15-25 .
(Judge's initials) (Date)

(36)

Tentative Ruling

Re:	***Akande, et al. v. State Center Community College District, et al.*** Superior Court Case No. 23CECG00212
Hearing Date:	October 16, 2025 (Dept. 403)
Motion:	by Defendants Demurring to the Second Amended Complaint and to Strike Portions of the Second Amended Complaint

Tentative Ruling:

To overrule the demurrer in its entirety. (Code Civ. Proc., § 430.10. subd (e).) To grant the motion to strike Fresno City College from the entire action. (Code Civ. Proc., § 435.)

Each request for judicial notice is granted. (Evid. Code, § 452, subd. (d).)

Defendants are granted 20 days' leave to file their responsive pleadings to the Second Amended Complaint. The time in which the responsive pleadings can be filed will run from service by the clerk of the minute order.

Explanation:

Defendants demur to the Second Amended Complaint ("SAC") on the following grounds: (1) the entire operative complaint is time-barred by the applicable statute of limitations; (2) plaintiffs have failed to plead the elements establishing the doctrine of equitable tolling; and (3) the SAC is barred by the doctrine of res judicata. As discussed in the court's previous order following defendants' demurrer to the First Amended Complaint, the doctrine of res judicata do not apply in this case as there was not a prior proceeding which resulted in a final judgment on the merits. (See the Order After Hearing, filed on June 20, 2025.) Accordingly, the ruling on defendants' instant demurrer is limited to discussion of the statute of limitations and equitable tolling.

Defendants also move to strike Fresno City College from the entire action, on the ground that it is not a separate legal entity. Plaintiffs do not oppose the motion to strike. Thus, the motion to strike is granted.

<u>Statute of Limitations</u>

Plaintiffs have asserted both state and federal claims stemming from defendants' alleged disability discrimination and civil rights violations under Civil Code section 54, Title III of the Americans with Disabilities Act, 42 United States Code section 12101 et seq. ("ADA"), and Section 504 of the Rehabilitation Act, 29 United States Code section 794 et seq. ("Section 504")

None of these statutes contain a specific limitations period applicable to claims brought under those statutes. Various statutes of limitation may be applicable as courts interpreting these statutes must borrow statutes of limitations from other laws. Many courts have held that a claim for discrimination under the ADA and Section 504 are best characterized as claims for personal injury, and thus is governed by the most appropriate or analogous state statute of limitations applicable to personal injury actions, which would provide a two-year limitations period under Code of Civil Procedure section 335.1. (See, *e.g.*, *Pickern v. Holiday Quality Foods Inc.* (9th Cir. 2002) 293 F.3d 1133, 1137, fn. 2, and cases cited therein.) Similarly, courts generally apply the forum state's personal injury statute of limitations to Section 504 claims. (*Daviton v. Columbia/HCA Healthcare Corp.* (9th Cir. 2001) 241 F.3d 1131, 1135.) Other courts have held that the applicable statute of limitations is the Code of Civil Procedure section 338, subdivision (a), which provides a three-year limitations period for "[a]n action upon a liability created by statute." (*Sharkey v. O'Neal* (9th Cir. 2015) 778 F.3d 767, 770.) However, as noted in *Estate of Stern v. Tuscan Retreat, Inc.* (9th Cir. 2018) 725 Fed.Appx. 518, 216, "[w]e have not decided the limitations period for Title III claims" in California, but "the only *conceivable* options" are two or three years. . ." This court sees no need to contribute to the ongoing discourse as to the appropriate statute of limitations because in this case, regardless of which statute of limitations applies, plaintiffs' complaint is barred by the statute of limitations unless the SAC alleges facts supporting some theory of tolling either by statute or in equity.

<u>Tolling by Pursuit of Administrative Remedies</u>

Plaintiffs argue that the limitations period is statutorily tolled for the time they spent pursuing administrative relief. The SAC alleges that they pursued a complaint with the Civil Rights Department ("CRD"), previously known as the California Department of Fair Employment and Housing, between November 28, 2018 and January 21, 2021. (SAC, ¶¶ 22-30.) On January 21, 2021, the CRD notified plaintiffs that it was closing the matter and sent a Notice of Case Closure to each plaintiff, notifying plaintiffs that they had 24 months to file a civil action following the conclusion of the CRD's administrative processes. (SAC, ¶ 30, Ex. D.)

Plaintiffs are correct in their assertion that the time spent pursuing administrative relief is not included in the limitations period under Government Code section 12989.1; notably however, none of plaintiffs' claims require exhaustion of administrative remedies. Each of plaintiffs' statutory claims is addressed below.

- Claims Arising Under the ADA and Section 504

While neither party presents any authority on the issue, the court's independent research reveals that there is at least, persuasive authority suggesting that generally, exhaustion of administrative procedures is not required before bringing a private action under Title III of the ADA or Section 504. (See *McInerney v. Rensselaer Polytechnic Institute* (2d Cir. 2007) 505 F.3d 135, 138 ["[t]itle III does not require administrative exhaustion"]; *Smith v. Barton* (9th Cir. 1990) 914 F.2d 1330, 1338 ["private plaintiffs suing under section 504 need not first exhaust administrative remedies"].) Further, the statute of limitations is not tolled during the time when a plaintiff pursues administrative remedies where exhaustion is ***<u>not</u>*** required. (See *Cheeney v. Highland Community College* (7th Cir. 1994)

15 F.3d 79, 82 ["pursuit of an administrative remedy unrelated to . . . a federal claim does not toll the statute of limitations for the federal claim"].)

- Claims Arising Under Civil Code section 54

> Any person who claims to be aggrieved by an alleged unlawful practice in violation of Section 54, 54.1, or 54.2 may also file a verified complaint with the Civil Rights Department pursuant to Section 12948 of the Government Code. The remedies in this section are nonexclusive and are in addition to any other remedy provided by law, including, but not limited to, any action for injunctive or other equitable relief available to the aggrieved party or brought in the name of the people of this state or of the United States.

(Civ. Code, § 54.3, subd. (b).)

> An aggrieved person may commence a civil action in an appropriate court not later than two years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach. The computation of the two-year period shall not include any time during which an administrative proceeding under this part was pending with respect to a complaint under this part based upon the discriminatory housing practice or breach.

(Gov. Code, § 12989.1, subd. (a).)

It is unclear whether the tolling provision under Government Code section 12989.1 applies to plaintiffs' claims arising under Civil Code section 54. Neither party presents any authority suggesting one way or another. Nor could the court find any such authority. In the absence of any state authority providing otherwise, the court intends to follow the rule that the statute of limitations is not tolled during the time when a plaintiff pursues administrative remedies where exhaustion is not required, since the circumstances concerning the application of Government Code section 12989.1 to Civil Code section 54 are directly analogous to the federal law provided above.

Accordingly, the limitations period is not tolled by plaintiffs' pursuit of administrative remedies.

<u>Equitable Tolling</u>

"Equitable tolling is a 'judicially created, nonstatutory doctrine' that ' "suspend[s] or extend[s] a statute of limitations as necessary to ensure fundamental practicality and fairness." ' [Citation.] The doctrine applies 'occasionally and in special situations' to 'soften the harsh impact of technical rules which might otherwise prevent a good faith litigant from having a day in court.' [Citation.] Courts draw authority to toll a filing deadline from their inherent equitable powers—not from what the Legislature has declared in any particular statute. [Citation.] For that reason, we presume that statutory deadlines are subject to equitable tolling." (*Saint Francis Memorial Hospital v. State Dept. of Public Health* (2020) 9 Cal.5th 710, 719-720.)

The California Supreme Court has outlined three requisite elements: "the doctrine of equitable tolling requires timely notice, and lack of prejudice, to the defendant, and reasonable and good faith conduct on the part of the plaintiff." (*Addison v. State of California* (1978) 21 Cal.3d 313, 319.)

Defendants contend that plaintiffs have not pled reasonable conduct. The elements of timely notice and lack of prejudice are not challenged.

Regarding the third element of reasonableness and good faith, this element encompasses "two distinct requirements: [a] plaintiff's conduct must be objectively reasonable and subjectively in good faith." (*Saint Francis Mem. Hosp. v. State Dept. of Pub. Health* (2020) 9 Cal.5th 710, 729.) "An analysis of reasonableness focuses not on a party's intentions or the motives behind a party's actions, but instead on whether that party's actions were fair, proper, and sensible in light of the circumstances." (*Ibid.)* "A party seeking equitable tolling must … demonstrate that its late filing was objectively reasonable under the circumstances." (*Ibid*.) Notably, the assessment of these factors will almost certainly require a resolution of factual disputes—i.e., facts that are not alleged in the pleadings and are not judicially noticeable. It would appear that the "fact-intensive test for equitable tolling is more appropriately applied at the summary judgment or trial stage of litigation." (*Cervantes v. City of San Diego* (9th Cir. 1993) 5 F.3d 1273, 1276.) Nonetheless, the complaint must at least allege facts which could support a conclusion that plaintiffs' untimely filing was reasonable. Similarly, the complaint must also allege facts which would answer the question of whether plaintiffs acted in good faith, that is, with a "state of mind denoting honesty of purpose, freedom from intention to defraud, and, generally speaking, … being faithful to one's duty or obligation." (*Saint Francis Mem. Hosp. v. State Dept. of Pub. Health* (2020) 9 Cal.5th 710, 729.)

Here, plaintiffs allege that they filed a government torts claim on or about March 1, 2018. They also filed a timely civil suit on October 2, 2018. Plaintiffs also filed claims with the CRD on November 28, 2018. (SAC, ¶¶ 21-22, 34.) On January 21, 2021, plaintiffs were notified of CRD's closure of their case and were served with letters indicating that plaintiffs had 24 months to file a civil action following the conclusion of the CRD's administrative processes. (SAC, ¶¶ 30, 34.) On October 20, 2022, this Court granted defendants' motion to dismiss the civil suit, filed on October 2, 2018, for failure to serve the summons and complaint for a period of three years pursuant to Code of civil procedure section 583.250, subdivision (a). (RJN, Ex. D.) Plaintiffs then pursued an appeal of the dismissal of the first suit, which was ongoing from December 2022 – April 2024. (SAC, ¶ 34.) Also, relying on the CRD's letters, plaintiffs filed the instant second civil suit on January 18, 2023. (SAC, ¶¶ 33, 34.)

Since there is an absence of allegations indicating any bad faith, plaintiffs' actions could be liberally construed to have been in good faith. Plaintiffs have further alleged facts to indicate that they were at all times pursuing their claims in one avenue or another, whether that be through the administrative proceedings with the CRD, the filing of the first civil action and subsequent appeal of the dismissal of that first civil action, and the filing of the instant civil action. Contrary to defendants' argument that plaintiffs waited for the appeal's resolution before filing the instant second action, plaintiffs filed the instant action on January 18, 2023, only one month following their Notice of Appeal filed on December 15, 2022, and over a year prior to the resolution of the appeal in April 2024. In light of all of these alleged circumstances and considering that the test for equitable tolling is generally more appropriately applied at the summary judgment or trial stage of litigation, plaintiffs have at least alleged facts sufficient to show that the doctrine of equitable tolling may apply, and thus, the demurrer is overruled in its entirety.

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: lmg on 10-15-25.
(Judge's initials) (Date)