Tentative Rulings for October 27, 2026
Department 502

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, the remote appearance will be conducted through Zoom. 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.

26CU00056 ***Lee v. Hyundai Motor America*** **is continued to Tuesday, December 15, 2026, at 3:30 p.m. in Department 502.**

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Tentative Rulings for Department 502

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(46)

Tentative Ruling

Re: ***David Hovannisian v. Comerica Bank***
Superior Court Case No. 24CECG03310

Hearing Date: October 27, 2026 (Dept. 502)

Motion: By Plaintiff for Leave to File First Amended Complaint

Tentative Ruling:

To grant. Plaintiff David Hovannisian is granted 10 days' leave to file the First Amended Complaint, which will run from service by the clerk of the minute order. New allegations/language must be set in **boldface** type.

If oral argument is timely requested, it will be entertained on Thursday, October 29, 2026, at 3:30 p.m. in Department 502.

Explanation:

Motions for leave to amend the pleadings are directed to the sound discretion of the court. "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.) The validity of the proposed amended pleading is not considered in deciding whether to grant leave to amend. (*Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048, emphasis added.) Absent prejudice, it is an abuse of discretion to deny leave to amend. (*Higgins v. DelFaro* (1981) 123 Cal.App.3d 558, 564-65.) When the opposing party has not been prejudiced, delay alone not ground for denial; if delay in seeking the amendment has not misled or prejudiced the other side, the liberal policy of allowing amendments prevails. (*Ibid*.)

Here, defendant Comerica Bank has not demonstrated it would suffer any prejudice if plaintiff David Hovannisian is allowed to amend his complaint. Opposition to this motion is not the appropriate vehicle for challenging the validity of the claims proposed to be added to the complaint. The opposition submitted by defendant appears to reflect the existence a factual dispute rather than show that amendment is futile. As there has been no showing of prejudice, the court intends to grant the 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: lmg on 10-22-26.
(Judge's initials) (Date)

(36)

Tentative Ruling

Re: ***Champagne v. General Motors LLC***
Superior Court Case No. 25CECG02729

Hearing Date: October 27, 2026 (Dept. 502)

Motion: by Plaintiff for Attorney Fees and Costs

Tentative Ruling:

To grant the motion for an award of attorney fees and costs. To award $7,180 in fees and $1,756.41 in costs in favor of plaintiff Robert Nathaniel Champagne. Defendant General Motors LLC shall pay the total amount of $8,936.41 to plaintiff's counsel within 20 days of the clerk's service of this minute order.

If oral argument is timely requested, it will be entertained on Thursday, October 29, 2026, at 3:30 p.m. in Department 502.

Explanation:

A prevailing buyer in an action under the Song–Beverly Act "shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action." (Civ. Code, § 1794, subd. (d).) It is undisputed that plaintiff is the prevailing buyer in this action and that plaintiff is entitled to reasonable fees and costs.

Fees

The amount of attorney's fees awarded is a matter within the court's discretion. (*Clayton Development Co. v. Falvey* (1988) 206 Cal.App.3d 438, 447.) In determining the reasonable amount to award, "the court should consider ... 'the nature of the litigation, its difficulty, the amount involved, the skill required and the skill employed in handling the litigation, the attention given, the success of the attorney's efforts, his learning, his age, and his experience in the particular type of work demanded [citation]; the intricacies and importance of the litigation, the labor and necessity for skilled legal training and ability in trying the cause, and the time consumed.'" (*Ibid*.) An award of costs must be "reasonably necessary to the conduct of the litigation" and per (c)(3), shall be "reasonable" in amount. (Code Civ. Proc. § 1033.5(c)(2).) Plaintiff as the moving party bears the burden to prove the reasonableness of the number of hours devoted to this action. (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1325.)

A trial court may not rubberstamp a request for attorney fees, and must determine the number of hours reasonably expended. (*Donahue v. Donahue* (2010) 182 Cal.App.4th 259, 271.) A court assessing attorney's fees begins with a touchstone or

lodestar figure, based on the 'careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case." (*Serrano v. Priest* (*Serrano III*) (1977) 20 Cal.3d 25, 48.) Lodestar refers to the "number of hours reasonably expended multiplied by the reasonable hourly rate" of an attorney. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1096.)

Counsel for plaintiff seeks to set the lodestar at $8,928.50, excluding an additional $2,085 sought in connection with anticipated time for preparing the motion at bench. Counsel submits a total of 21.1 hours of billed time across five timekeepers. Counsel submits hourly rates of $695 for partner Neal Morrow III, $450 for associate attorney Natalee Fisher, $450 for associate attorney Christian Corona, $400 for associate attorney Melanie Maxfield, and $150 for the paralegals. Defendant challenges the reasonableness of the proffered rates.

Reasonable hourly compensation is the "hourly prevailing rate for private attorneys in the community conducting noncontingent litigation of the same type" (*Ketchum v. Moses*, *supra*, 24 Cal.4th at p. 1133.) Ordinarily, "'the value of an attorney's time . . . is reflected in his normal billing rate.'" (*Mandel v. Lackner* (1979) 92 Cal.App.3d 747, 761.)

Where a party is seeking out-of-town rates, he or she is required to make a "sufficient showing…that hiring local counsel was impractical." (*Nichols v. City of Taft* (2007) 155 Cal.App.4th 1233, 1244.) Plaintiff has made no showing that local counsel practicing "Lemon Law" and Song-Beverly consumer litigation are not available. Defendant asks the court to award fee based on the 2021 Real Rate Report, but fails to provide any authority suggesting the use of this report is mandatory. The court intends to award fees based on local rates.

Having reviewed the qualifications of each of the timekeepers, the court finds the reasonable value of services as follows:

$550 per hour for Mr. Morrow, partner of the firm;
$450 per hour for Ms. Fisher, admitted to the California Bar in 2015;
$300 per hour for Mr. Corona, admitted to the California Bar in 2024;
$325 per hour for Ms. Maxfield, admitted to the California Bar in 2023; and
$150 per hour for the paralegals.

Next, the opposition challenges the time spent on this case as excessive, administrative, and/or unreasonably incurred. Regarding defendant's challenge to fees and costs incurred for taking the deposition of defendant's person most knowledgeable on November 10 and 11, 2025, defendant provides no evidence that plaintiff intentionally conducted the deposition despite already knowing his position that he would accept defendant's offer in compromise. Also, defendant's challenge to the time spent to review defendant's initial disclosures is not supported by evidence. Therefore, the time for these challenges is not reduced.

However, the court reduces 1.2 hours billed for drafting the attorney-client agreement, case evaluation, and file set up. The court further agrees that excessive time was dedicated towards drafting the complaint, summons, and cover sheet, since defendant has provided evidence establishing that the complaint was largely based on

a template. The only notable differences between the complaint in this case and in another complaint drafted by plaintiff's counsel in a separate case provided by defendant are the plaintiffs' names, identification of the vehicles, and the actual damage amounts. (Kay Decl., Exs. A and B.) Accordingly, the time is discounted by 0.4 hours.

Defendant generally challenges the entirety of plaintiff counsel's communications throughout the proceedings as excessive and/or clerical in nature. The court does not find the time spent on communications with the client and opposing counsel to be unusually high; however, the time spent on post-settlement communications for client management and coordination for surrender of the vehicle is discounted as clerical. Purely clerical or secretarial tasks should not be billed at a lawyer or paralegal's usual rate, regardless of who performs them. (*Missouri v. Jenkins* (1989) 491 U.S. 274, 288, fn. 10.) Accordingly, the time is reduced by 0.9 hours.

Defendant also summarily challenges many of the billing entries as clerical or administrative. The court will discount 0.9 hours billed for communication with plaintiff's legal document server, receipt of documents, updating the file, and drafting the notice of settlement.

Additionally, plaintiff requests $2,085 in connection with reviewing the opposition, preparing the reply, and appearing at the hearing for the motion at bench. While plaintiff did submit a reply brief, plaintiff did not state how many hours were spent on the reply. Nonetheless, since a reply was filed, it is clear some amount of time was incurred on drafting the papers. As a result, the court will allow no more than 1.5 hours for reviewing the opposition, preparing a reply, and if necessary, attending the hearing.

After the additional of fees relating to this motion and accounting for the discounted hours and rate reductions, the lodestar is reduced to $7,180. The motion for an award of fees is granted in that amount.

Costs

Costs are sought via declaration.

If the items on a verified memorandum of costs appear to be proper charges, the memorandum is prima facie evidence of their propriety and the burden is on the party contesting them to show that they were not reasonable or necessary. (*Hooked Media Group, Inc. v. Apple Inc.* (2020) 55 Cal.App.5th 323, 338.) The losing party does not meet this burden by arguing that the costs were not necessary or reasonable but must present evidence to prove that the costs are not recoverable. (*Litt v. Eisenhower Med. Ctr.* (2015) 237 Cal.App.4th 1217, 1224.) If the claimed items are not expressly allowed by statute and are objected to by a motion to tax costs, the burden of proof is on the party claiming them as costs to show that the charges were reasonable and necessary. (*Foothill-De Anza Community College Dist. v. Emerich* (2007) 158 Cal.App.4th 11, 29.)

Though plaintiff did not file a memorandum of costs, plaintiff verifies the costs sought through counsel's declaration filed under penalty of perjury and the billing invoices attached thereto. (Morrow III Decl., ¶¶ 11-12, Ex. 2.)

Defendant challenges the costs related to the deposition of its person most knowledgeable and for filing fees associated with plaintiff's case management statement and notice of settlement court filings. For reasons explained above, absent any evidence showing otherwise, the court presumes the costs incurred for deposition to be reasonable. Also, costs for filing fees are generally recoverable under Code of Civil Procedure section 1033.5.

Therefore, the court finds the entirety of the costs sought to be reasonable. Costs are awarded in the amount of $1,756.41.

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 10-26-27.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Baxter v. Lennar Fresno, Inc.***
Superior Court Case No. 18CECG02876

Hearing Date: October 27, 2026 (Dept. 502)

Motion: By Defendant Lennar Fresno, Inc. to Dismiss Complaint

Tentative Ruling:

To order off calendar.

If oral argument is timely requested, it will be entertained on Thursday, October 29, 2026, at 3:30 p.m. in Department 502.

Explanation:

On August 13, 2026, plaintiffs Stacey Baxter, Robert McGurty and Angela Hill, Vincent P. and Carole K. Bence, Thomas J. and Dahlia Brown, Bryan and Brittany Cifrancic, Steven and Megan Crocket, Brian and Lauren Deegan, Todd L. and Jami Graham, Christyn Delgadillo Kidwell, and Thomas and Rosemarie Wheeler, dismissed the action with prejudice.

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 (Judge's initials) on 10-26-26 (Date).

(35)

Tentative Ruling

Re: ***In re Jonathan Izic Freeman***
Superior Court Case No. 26CU02699

Hearing Date: October 27, 2026 (Dept. 502)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To continue to Tuesday November 17, 2026, 3:30 p.m. in Department 502. To direct petitioner Rosita Morena to file a supplemental declaration by 5:00 p.m., November 9, 2026 to state a bank branch within the State of California; and to file an amended proposed Order Approving Compromise, Form MC-351. In the event that oral argument is requested, both petitioner Rosita Moreno and claimant Jonathan Izic Freeman are excused from appearing.

If oral argument is timely requested, it will be entertained on Thursday, October 29, 2026, at 3:30 p.m. in Department 502.

Explanation:

The petition appears to be in order with the exception of the disposition. At Item 18, the petition seeks a disbursement to a blocked account. No information was given as to where the account would be located. As indicated in the petition instructions, the name, branch, and address of each depository shall be specified in Attachment 18(a)(3). The function of this is that the court needs to confirm that orders within the State of California may issue against the account. The petition, at Item 20, merely identifies Noble Credit Union without regard to its physical location. Neither is there a proposed order approving compromise with the same financial institution information at Item 9 of Form MC-351. The matter is continued for attention to these matters.

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 (Judge's initials) on 10-26-26 (Date).