Tentative Rulings for October 29, 2026
Department 403

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.***

23CECG01038 ***Manning v. Snow*** **(Dept. 403)**

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

22CECG03778 ***Millan v. Saint Agnes Medical Center*** **is continued to Thursday, December 17, 2026, at 3:30 p.m. in Department 403.**

24CECG05227 ***Longoria v. American Honda Motor Co., Inc.*** **is continued to Thursday, December 17, 2026, at 3:30 p.m. in Department 403.**

25CECG01207 ***Reinke v. Rodriguez*** **is continued to Thursday, December 17, 2026, at 3:30 p.m. in Department 403.**

26CECG01007 ***Alford v. Strategic Mechanical, Inc*** **is continued to Thursday, December 17, 2026, at 3:30 p.m. in Department 403.**

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Tentative Rulings for Department 403

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(20) **Tentative Ruling**

Re: ***Perez v. Tatum Psychology Employment Group, Inc., et al.***
Superior Court Case No. 24CECG00038

Hearing Date: October 29, 2026 (Dept. 403)

Motion: Plaintiff's Motion for Preliminary Approval of Class Action Settlement

Tentative Ruling:

To deny without prejudice.

Explanation:

Certification of Class for Settlement

Settlements preceding class certification are scrutinized more carefully to make sure that absent class members' rights are adequately protected, although there is less scrutiny of manageability issues. (*Wershba v. Apple Computer, Inc*. (2001) 91 Cal.App.4th 224, 240; see *Dunk v. Ford Motor Co*. (1996) 48 Cal.App.4th 1794, 1803, fn. 9, 19.a) The trial court has a "fiduciary responsibility" as the guardian of the absentee class members' rights to decide whether to approve a settlement of a class action. (*Luckey v. Superior Court* (2014) 228 Cal.App.4th 81, 95.)

A precertification settlement may stipulate that a defined class be conditionally certified for settlement purposes. The court may make an order approving or denying certification of a provisional settlement class after the preliminary settlement hearing. (Cal. Rules of Court, rule 3.769(d).) Before the court may approve the settlement, however, the settlement class must satisfy the normal prerequisites for a class action. (*Amchem Products, Inc. v. Windsor* (1997) 521 US 591, 625-627.)

"Class certification requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e., that proceeding as a class is superior to other methods. In turn, the community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class." (*In re Tobacco II Cases* (2009) 46 Cal.4th 298, 313.)

Plaintiff bears the burden of establishing the propriety of class treatment *with admissible evidence*. (*Richmond v. Dart Industries, Inc.* (1981) 29 Cal.3d 462, 470 [trial court's ruling on certification supported by substantial evidence generally not disturbed on appeal]; *Lockheed Martin Corp. v. Superior Court*, *supra,* 29 Cal.4th at pp. 1107-1108 [plaintiff's burden to produce substantial evidence].)

Counsel states that there are approximately 700 class members. However, no admissible evidence is submitted as to this number, and there is no many how may

aggrieved employees are involved. Nor is there any evidence of ascertainability, such as a showing that the class members are identifiable from defendant's own records. A conclusory statement to this effect in the points and authorities is insufficient. In a future motion for preliminary approval, a declaration from defendant should be submitted, establishing the number of class members and aggrieved employees, and ascertainability.

Under the community of interest requirement, the class representative must be able to represent the class adequately. (*Caro v. Procter & Gamble* (1993) 18 Cal.App.4th 644, 669.) "[I]t has never been the law in California that the class representative must have identical interests with the class members . . . The focus of the typicality requirement entails inquiry as to whether the plaintiff's individual circumstances are markedly different or whether the legal theory upon which the claims are based differ from that upon which the claims of the other class members will be based." (*Classen v. Weller* (1983) 145 Cal.App.3d 27, 46.)

Usually, in wage and hour class actions or PAGA class claims, the distinctive feature that permits class certification is that the employees have the same job title or perform similar jobs, and the employer treats all in that discrete group in the same allegedly unlawful fashion. In *Brinker Restaurant v. Superior Court* (2012) 53 Cal.4th 1004, 1017, "no evidence of common policies or means of proof was supplied, and the trial court therefore erred in certifying a subclass."

Plaintiff has submitted no evidence on this point. References to the allegations of the complaint is insufficient. Plaintiff must submit a declaration attesting to the violations experienced. Evidence must be submitted showing with declarations and written policies showing that the same practices and policies applied to all members of the class.

The adequacy of representation component of the community of interest requirement for class certification comes into play when the party opposing certification brings forth evidence indicating widespread antagonism to the class suit. " 'The adequacy inquiry … serves to uncover conflicts of interest between named parties and the class they seek to represent.' [Citation.] '… To assure "adequate" representation, the class representative's personal claim must not be inconsistent with the claims of other members of the class. [Citation.]' [Citation.]" (*J.P. Morgan & Co., Inc. v. Superior Court* (2003) 113 Cal.App.4th 195, 212.)

"[T]he adequacy inquiry should focus on the abilities of the class representative's counsel and the existence of conflicts between the representative and other class members." (*Caro v. Procter & Gamble Co.* (1993) 18 Cal.App.4th 644, 669.) Counsel show that they have substantial class action experience, but there is no evidence showing that plaintiff is an adequate representative.

Settlement Approval

"[I]n the final analysis it is the Court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing litigation. The court has a fiduciary

responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement." (*Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal.App.4th 116, 129.) "[T]o protect the interests of absent class members, the court must independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished … [therefore] the factual record must be before the … court must be sufficiently developed." (*Id.* at p. 130.)

Clark v. America Residential Services (2009) 175 Cal.App.4th 785 vacated approval of a class settlement coupled with class certification, an award of $25,000 each to two named plaintiffs, and more. The problem was that the plaintiffs presented "no evidence regarding the likelihood of success on any of the 10 causes of action, or the number of unpaid overtime hours estimated to have been worked by the class, or the average hourly rate of pay, or the number of meal periods and rest periods missed, or the value of minimum wage violations, and so on." (*Id*. at p. 793.)

Plaintiff's counsel has provided no evidence whatsoever that would enable the court to find that the settlement is fair and reasonable. Counsel's declaration includes an "Exposure Analysis" section in which he describes plaintiff's allegations in this action and then states the amounts that the class arguably could have seen for the various claims. (See Szilagyi Decl., ¶¶ 13-19.) Counsel then states the percentages by which the claims were discounted based on the chance of class certification and the chance at the merits of the claims. Neither consideration is directly assessed. Generalized allusions to the difficulties in pursuing discovery, certifying the class, and having to put in work to prepare for trial (Szilagyi Decl., ¶ 12) are insufficient. Counsel also references work by an expert, but no declaration from the expert is provided. (See Szilagyi Decl., ¶¶ 6, 14.) The valuations are entirely lacking in explanation, evidence, and foundation.

Counsel must provide an evidence-based valuation of each and every cause of action, showing how they were valued, and discussion of the strengths and weaknesses of the claims in this case (not just referencing generalized concerns applicable to any class action).

Insufficient information is provided to enable the court to preliminarily approve the award of attorney's fees and costs. Plaintiff's counsel seeks up to $216,666.66 attorney's fees, which is 1/3 of the gross settlement, plus costs of up to $30,000. 1/3 is within the range of fees that have been approved by other courts in class actions, which frequently approve fees based on a percentage of the common fund. (*City & County of San Francisco v. Sweet* (1995) 12 Cal.4th 105, 110-11; *Quinn v. State* (1975) 15 Cal.3d 162, 168; see also *Apple Computer, Inc. v. Superior Court* (2005) 126 Cal.App.4th 1253, 1270; *Lealao v. Beneficial California, Inc.* (2000) 82 Cal.App.4th 19, 26.)

While it is true that courts have found fee awards based on a percentage of the common fund are reasonable, the California Supreme Court has also found that the trial court has discretion to conduct a lodestar "cross-check" to double check the reasonableness of the requested fees. (*Laffitte v. Robert Half Intern. Inc*. (2016) 1 Cal.5th 480, 503-504 [although class counsel may obtain fees based on a percentage of the class settlement, courts may also perform a lodestar cross-check to ensure that the fees are

reasonable in light of the number of hours worked and the attorneys' reasonable hourly rates].)

The court prefers to do a lodestar analysis as a cross-check on the reasonableness of the fees. Counsel provides no information whatsoever to enable the court to assess the reasonableness of the requested fee award. Nor does counsel document costs.

The motion seeks preliminary approval of a $15,000 enhancement payment to plaintiff. Again, however, no information whatsoever is submitted to support such a large incentive award, much less *any* award.

Finally, no information is submitted to support approval of the settlement administration expense of $9,250, or approval of Phoenix Settlement Administrators as administrator. Counsel must address whether bids were sought from multiple settlement administrators, what the bids were, and why Phoenix was chosen. A declaration from the settlement administrator is also required describing the services they will provide.

For the above reasons the motion 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 October 28, 2026 .
(Judge's initials) (Date)

(36) **Tentative Ruling**

Re: ***Carroll, et al. v. Sekhon***
Superior Court Case No. 26CU00589

Hearing Date: October 29, 2026 (Dept. 403)

Motion: Expedited Petition to Compromise Claim of Minor

Tentative Ruling:

To grant. Orders signed. No appearances necessary.

The court sets a status conference on Wednesday, January 27, 2027, at 3:30 p.m., in Department 403, for confirmation of deposit of the minor's funds into a blocked account. If Petitioner files the Acknowledge of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) at least five court days before the hearing, the status conference will come off calendar.

Pursuant to California Rules of Court, Rule 3.1312 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 October 28, 2026 .
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Skouti v. Buttonwillow Warehouse Co., Inc., et al.***
Superior Court Case No. 20CECG01971

Hearing Date: October 29, 2026 (Dept. 403)

Motion: Compel Plaintiff's Responses to Special Interrogatories, Set Three and Request for Admissions, Set Three, Alternatively to Deem Admissions Admitted; Sanctions

Tentative Ruling:

To grant Defendant Buttonwillow Warehouse Co., Inc's motion to compel Plaintiff to provide initial verified responses to Special Interrogatories, Set Three. (Code Civ. Proc., § 2030.290, subd. (b).) Plaintiff is ordered to serve complete verified responses, without objection, within 10 days of the clerk's service of the minute order.

To deny the motion to compel responses to Requests for Admission, Set Three. To grant the alternative request to deem Defendants' Requests for Admission, Set Three, admitted by Plaintiff Ahmad Skouti, unless responses are served before the hearing on this motion. (Code Civ. Proc. § 2033.280, subd. (b).)

To impose monetary sanctions in favor of Defendant, and against Plaintiff. (Code Civ. Proc. §§ 2023.010, subd. (d); 2023.030, subd. (a); 2033.280, subd. (c).) Plaintiff is ordered to pay $737.41 in sanctions to the Petrie Leath Larrivee & O'Rourke, LLP within 30 days of service of this order.

Explanation:

A party that fails to serve a timely response to a discovery request waives "any objection" to the request. (Code Civ. Proc. §§ 2030.290, subd. (a), 2033.280, subd. (a).) The propounding party may move for an order compelling a party to respond to the discovery request. (Code Civ. Proc. § 2030.290, subd. (b).) In the case of requests for admission, the propounding party may move for an order that the truth of any matters specified in the requests be deemed admitted. (Code Civ. Proc., § 2033.280, subd. (b).) Where responses are served after the motion is filed, the motion to compel may still properly be heard. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 409.) Unless the propounding party takes the matter off calendar, the court may determine whether the responses are legally sufficient, and award sanctions for the failure to respond on time. (*Ibid*.)

Where a party fails to timely respond to a propounding party's requests for admission, the court must grant the propounding party's motion requesting that matters be deemed admitted, unless it finds that the party to whom the requests were directed has served, prior to the hearing on the motion, a proposed response that is substantially in compliance with Code of Civil Procedure section 2033.220. (Code Civ. Proc. § 2033.280, subd. (c); see also *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 778.)

"Substantial compliance" means compliance with respect to " 'every reasonable objective of the statute.' [Citation.]" (*Id*. at p. 779.) Where the responding party serves its responses before the hearing, the court "has no discretion but to deny the motion." (*Id*. at p. 776.)

In the case at bench, defendant has served Special Interrogatories, Set Three and Requests for Admission, Set Three upon plaintiff by mail on August 24, 2026. Plaintiff obtained new counsel and a meet and confer letter was sent to counsel regarding the overdue responses to resolve the issue informally. No response to the letter was received and no responses were served. Accordingly, the motion to compel plaintiff's verified responses, without objections to Special Interrogatories, Set Three, is granted.

With respect to the motion to compel responses to requests for admission, the statute does not provide the relief sought by plaintiff. Code of Civil Procedure section 2033.280 allows for a motion to deem admissions admitted but not to compel a response. The motion to compel responses to requests for admissions is therefore denied. Defendant's alternative request to deem the requests for admission admitted is consistent with the statute and is granted unless plaintiff serves responses before the hearing on the motion.

Sanctions

The court may award sanctions against a party that fails to provide discovery responses. (Code Civ. Proc. § 2023.010, subd. (d).)

The court must impose a monetary sanction against the party or attorney, or both, whose failure to respond necessitated the motion to deem matters admitted. (Code Civ. Proc. § 2033.280, subd. (c).) Where responding party provides the requested discovery after the motion to compel was filed, the court is authorized to award sanctions. (Cal. Rules of Court, rule 3.1348(a).)

As set forth above, no responses to discovery have been served. The attorney declaration requests $660 in attorney fees and costs in the amount of $77.41. (Leath Decl., ¶ 6.) Sanctions totaling $737.41 are awarded in favor of defendant Buttonwillow Warehouse Co., Inc.

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 October 28, 2026.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Holland v. Lennar Fresno, Inc.***
Superior Court Case No. 15CECG00998

Hearing Date: October 29, 2026 (Dept. 403)

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

Tentative Ruling:

To order off calendar.

Explanation:

On October 23, 2026, plaintiff Celia Holland et al., dismissed the action without 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: SMC (Judge's initials) on October 28, 2026 (Date).

(35)

Tentative Ruling

Re: ***State Center Community College District v. Ashjian et al.***
Superior Court Case No. 24CECG01248

Hearing Date: October 29, 2026 (Dept. 403)

Motion: By Plaintiff for Prejudgment Possession

Tentative Ruling:

To grant. Plaintiff State Center Community College District is directed to resubmit the proposed orders regarding tax information and for prejudgment possession, without the proof of service attached, which the court intends to sign. No appearances necessary.

Explanation:

Plaintiff State Center Community College District ("Plaintiff") seeks an order for prejudgment possession based on eminent domain pursuant to Code of Civil Procedure section 1255.410. Based on the filings, the court finds that Plaintiff is entitled to take the property by eminent domain. The moving papers lack any evidence as to the valuation or deposit of funds. All four declarations submitted in support speak only to the need, none of which speak to the valuation and deposit. At most, the moving papers suggest that somewhere in the docket, without reference to filing dates, there is a Notice of Deposit, and somewhere in the docket, there is a Declaration of Gregg J. Palmer, MAI, which supply the missing information. Consequently, the moving papers fail to demonstrate that these items are duly noticed for consideration.[1] Ordinarily, it is not this court's practice to fill in gaps to a party's request for relief. However, due solely to the court's severely impacted docket, the court proceeds.

The court has identified the Notice of Deposit and the declaration as filed on March 29, 2024. The court has additionally confirmed through each proofs of service of summons that the defendants at issue were additionally served the Notice of Deposit and Declaration of Gregg J. Palmer, MAI. Noting that service of all papers in consideration were, at one point or another, duly given and made available, and the lack of timely opposition 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: SMC (Judge's initials) on October 28, 2026 (Date).

[1] The ex parte application on October 13, 2026, also failed to include any evidence in support.