

Tentative Rulings for December 9, 2025
Department 502

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.

23CECG03425 *Brandy Ferris v. Lee Investment Company* is continued to Tuesday, January 6, 2026, at 3:30 p.m. in Department 502.

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Tentative Ruling

Re: **Cardoza v. Fresno Unified School District et al.**
Superior Court Case No. 25CECG03765

Hearing Date: December 9, 2025 (Dept. 502)

Motion: Petition for Relief From Government Claim Presentation Requirement

If oral argument is timely requested, it will be entertained on Thursday, December 11, 2025, at 3:15 p.m. in Department 502.

Tentative Ruling:

To grant. (Gov. Code, § 946.6.)

Explanation:

The Government Claims Act provides that a timely written claim must first be presented to a public entity prior to any lawsuit for money damages against it. (Gov. Code, § 810 et seq.; *N.G. v. County of San Diego* (2020) 59 Cal.App.5th 63, 72.) Government Code section 911.2, subdivision (a) provides that such a claim is to be presented no later than six months after the accrual of the cause of action. (Gov. Code, § 911.2; *Munoz v. State of California* (1995) 33 Cal.App.4th 1767, 1776.) The policy behind the requirement to file a timely claim is threefold, as it 1) gives the entity an opportunity to promptly remedy the condition, 2) allows the entity to investigate while evidence is still available and witnesses' memories are fresh, and 3) gives the entity time to plan its budget accordingly. (*Munoz, supra.*)

Where a claim is not timely presented, a written application can be made to the public entity for leave to present the claim. (Gov. Code, § 911.4, subd. (a); *Munoz, supra*, 33 Cal.App.4th at p. 1777.) The application to present a late claim must be made to the public entity within one year of the accrual of the cause of action and state what caused the delay in presenting the claim. (Gov. Code, § 911.4, subd. (b); *Munoz, supra.*) Where the public entity denies the application to present a late claim, the claimant must petition the trial court for relief from the claim filing requirements. (Gov. Code, § 946.6; *Munoz, supra.*)

Here, plaintiff seeks relief relating to claims that accrued on the cause of action accrued on August 21, 2024, making February 21, 2025 the deadline to present a claim. (Gov. Code, § 911.2, subd. (a).)

On November 4, 2025, plaintiff retained attorney Matthew Harrison to represent her in relation to these claims. For reasons unknown, Mr. Harrison never took any action to file anything on plaintiff's behalf. Plaintiff inquired of Mr. Harrison multiple times, who responded that his "reasons for not filing included delays due to the holidays, such as Christmas and New Year's Day, and that my particular case was 'complicated' and 'huge.'" (*Cardoza Decl.*, ¶ 16.) After continued failure to communicate with plaintiff and

respond to her inquiries about the status of the filings, plaintiff fired Mr. Harrison on April 2, 2025, and then retained her current attorneys who filed a claim with FUSD on May 28, 2025.

Plaintiff petitions for relief from failing to present a timely claim on grounds of mistake and excusable neglect. The decision to grant or deny such a petition is within the discretion of the trial court and will only be disturbed where there is an abuse of discretion. (*DeVore v. Department of California Highway Patrol* (2013) 221 Cal.App.4th 454, 459.) As a remedial statute, it is to be construed in favor of the applicant requesting the relief. (*Munoz v. State of California, supra*, 33 Cal.App.4th 1767, 1778.) Trial courts shall relieve the late petitioner where two requirements have been met: (1) the application to the public entity was made within a reasonable time, not to exceed one year, after the accrual of the cause of action and (2) one of the four circumstances set forth in Government Code section 946.6, subdivision (c) must be shown by a preponderance of the evidence. (*N.G. v. County of San Diego, supra*, 59 Cal.App.5th at p. 72.)

The court finds that the claim was presented within a reasonable time, about three months after the deadline, and well within one year.

Government Code section 946.6, subdivision (c)(1), provides relief where the failure to present the claim timely was due to mistake, inadvertence, surprise, or excusable neglect, unless the public entity can establish that it would be prejudiced in the defense of its claim if the trial court grants relief. (*Munoz v. State of California, supra*, 33 Cal.App.4th 1767, 1782.) The trial court considers the petition, affidavits, and other evidence presented when determining whether relief should be granted. (*Id.* at p. 1778.) Numerous courts have considered what constitutes mistake, inadvertence, surprise, or excusable neglect. Excusable neglect is that which might be made by a reasonably prudent person in the same circumstances. (*Ebersol v. Cowan* (1983) 35 Cal.3d 427, 435.) Courts consider the nature of the mistake and whether counsel was diligent in pursuing the claim. (*Department of Water & Power v. Superior Court* (2000) 82 Cal.App.4th 1288, 1294.)

In deciding whether counsel's error is excusable, courts look to: (1) the nature of the mistake or neglect, and (2) whether counsel was otherwise diligent in investigating and pursuing the claim. (*Bettencourt v. Los Rios Community College Dist.* (1986) 42 Cal.3d 270, 276, citing *Ebersol v. Cowan* (1983) 35 Cal.3d 427, 427.) "In examining the mistake or neglect, the court inquires whether "a reasonably prudent person under the same or similar circumstances" might have made the same error." (*Bettencourt, supra*, at p. 276 [internal citations omitted].)

To obtain relief based on excusable neglect under section 946.6, a claimant "must at a minimum make a diligent effort to obtain legal counsel within the governmental claim-filing period." (*Ebersol v. Cowan, supra*, 35 Cal.3d at p. 439.) "[A] petitioner may not successfully argue excusable neglect when he or she fails to take any action in pursuit of the claim within the six-month period. The claimant must, at a minimum, make a diligent effort to obtain legal counsel within six months after the accrual of the cause of action." (*People ex rel. Department of Transportation v. Superior Court* (2003) 105 Cal.App.4th 39, 44-45.)

