Tentative Rulings for December 11, 2025
Department 501

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.***

24CECG00278 ***Sanchez v. Duffy*** **(Dept. 501)—See Tentative Ruling below for further instructions**

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

23CECG03167 ***Garrett Sons v. Grand Design RV, LLC*** **is continued to Thursday, January 8, 2026, at 3:30 p.m. in Department 501**

24CECG01917 ***Daisy Ramirez v. Behavioral Intervention Association*** **is continued to Tuesday, December 30, 2025, at 3:30 p.m. in Department 501**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

Begin at the next page

(29)

Tentative Ruling

Re: ***Amador v. Velasco***
Superior Court Case No. 24CECG01270

Hearing Date: December 11, 2025 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant the Petition. The Proposed Orders have been signed. No appearances are necessary.

The court sets a status conference for Wednesday, March 11, 2026, at 3:30 p.m., in Department 501, for confirmation of deposit of claimant's funds into the blocked account. If petitioner files the Acknowledgment 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(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 **DTT** **on** **12/4/2025**.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re: ***Mario Quintanilla v Becky Modesto***
Superior Court Case No. 23CECG03747

Hearing Date: December 11, 2025 (Dept. 501)

Motion: by Plaintiff to Set Aside Dismissal

Tentative Ruling:

To grant and restore the case to active status with a Case Management Conference set for February 18, 2026, at 3:00 p.m., in Department 97E.

Explanation:

"The law favors judgments based on the merits, not procedural missteps." (*Lasalle v. Vogel* (2019) 36 Cal.App.5th 127, 134; see also *Riskin v. Towers* (1944) 24 Cal.2d 274, 279 ["the provisions of section 473 of the Code of Civil Procedure are to be liberally construed and sound policy favors the determination of actions on their merits."].)

Plaintiff filed this motion within six months of the dismissal and specifically seeks relief under Code of Civil Procedure section 473, subdivision (b), contending that counsel's staff's mistake caused the failure to appear. Plaintiff's counsel has submitted a declaration admitting the mistake.

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: DTT on 12/9/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Morrone v. Fresno Unified School District***
Superior Court Case No. 25CECG04711

Hearing Date: December 11, 2025 (Dept. 501)

Motion: by Petitioner for Relief from Late Claim

Tentative Ruling:

To grant. (Gov. Code, §§ 911.2, 911.4, 911.6.)

Explanation:

The Government Claims Act articulates 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.) When such a claim is not presented within six months of accrual of the cause of action, a written application may be made to the entity for leave to present a late claim, within a reasonable time, not to exceed one year. (Gov. Code, § 911.4, subds. (a)-(b).) Such application must be either granted or denied within 45 days after its presentation. (Gov. Code, § 911.6, subd. (a).) Such application shall be granted where "[t]he person who sustained the alleged injury, damage, or loss was a minor during all of the time specified in Section 911.2 for the presentation of the claim." (Gov. Code, § 911.6, subd. (b)(2).)

Here, the incident occurred on December 19, 2024, but was not discovered by the minor's Guardian Ad Litem until March 2025. On August 7, 2025, an Application for Leave to Present a Late Claim was served on Fresno Unified School District ("FUSD"). FUSD did not respond. Petitioner was born on August 12, 2015. Petitioner was a minor during all of the time specified in Government Code section 911.2 for presentation of a claim. As such, the court grants the Petition.

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: DTT on 12/9/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Sanchez v. Duffy***
Superior Court Case No. 24CECG00278

Hearing Date: December 11, 2025 (Dept. 501)

Motion: Plaintiff Ernesto Sanchez's Default Prove-Up

Explanation:

The hearing will go forward on this matter as scheduled.

Plaintiff is to file a proposed order dismissing the class claims no later than 10:00 a.m. on December 11, 2025.

Tentative Ruling
Issued By: DTT (Judge's initials) on 12/9/2025 (Date).

(36)

Tentative Ruling

Re: ***Lopez v. Papich Construction Company, Inc.***
Superior Court Case No. 25CECG03389

Hearing Date: December 11, 2025 (Dept. 501)

Motion: by Defendant to Compel Arbitration

Tentative Ruling:

To grant and order plaintiff to arbitrate his individual claims against defendant, and dismissing the class claims. The action, including the representative PAGA claim, is stayed pending completion of arbitration.

Explanation:

A trial court is required to grant a motion to compel arbitration "if it determines that an agreement to arbitrate the controversy exists." (Code Civ. Proc., § 1281.2) However, there is "no public policy in favor of forcing arbitration of issues the parties have not agreed to arbitrate." (*Garlach v. Sports Club Co.* (2012) 209 Cal.App.4th 1497, 1505) Thus, when a motion to compel arbitration is filed and accompanied by prima facie evidence of a written agreement to arbitrate the controversy, the court itself must determine: (1) whether the agreement exists, and (2) if any defense to its enforcement is raised, whether it is enforceable. The moving party bears the burden of proving the existence of an arbitration agreement by a preponderance of the evidence. The party claiming a defense bears the same burden as to the defense. (*Rosenthal v. Great Western Fin. Securities Corp.* (1996) 14 Cal.4th 394, 413-414.)

Here, defendant has met its burden of showing that an agreement to arbitrate the parties' dispute exists. Defendant has presented evidence that plaintiff signed an agreement to arbitrate employment related disputes. (Garcia Decl., Exh. A; Lopez Decl., Exh. A.) Plaintiff does not dispute that an agreement to arbitrate exists, but argues that the agreement is both procedurally and substantively unconscionable.

Unconscionability

"'[U]nconscionability has generally been recognized to include an absence of meaningful choice on the part of one of the parties together with contract terms which are unreasonably favorable to the other party.' Phrased another way, unconscionability has both a 'procedural' and a 'substantive' element. [¶] The procedural element focuses on two factors: 'oppression' and 'surprise.' 'Oppression' arises from an inequality of bargaining power which results in no real negotiation and 'an absence of meaningful choice.' 'Surprise' involves the extent to which the supposedly agreed-upon terms of the bargain are hidden in a prolix printed form drafted by the party seeking to enforce the disputed terms. Characteristically, the form contract is drafted by the party with the superior bargaining position." (*A & M Produce Co. v. FMC Corp.* (1982) 135 Cal.App.3d 473, 486, citations omitted.)

"Substantive unconscionability is less easily explained. 'Cases have talked in terms of "overly harsh" or "one-sided" results. One commentator has pointed out, however, that ' ... unconscionability turns not only on a 'one-sided' result, but also on an absence of 'justification' for it", which is only to say that substantive unconscionability must be evaluated as of the time the contract was made." (*Stirlen v. Supercuts, Inc.* (1997) 51 Cal.App.4th 1519, 1532, citations omitted.) In other words, the contract terms must be so one-sided as to "shock the conscience." (*Ibid*.) "The prevailing view is that these two elements must *both* be present in order for a court to exercise its discretion to refuse to enforce a contract or clause under the doctrine of unconscionability." (*Id.* at p. 1533, citations omitted, italics in original.)

Here, plaintiff argues that the agreement is procedurally unconscionable because it was presented as a condition of employment and the arbitration rules were not attached to the agreement. Plaintiff further indicates that the agreement was presented in a large packet of onboarding paperwork, he was rushed to sign it without explanation of its terms, and it was presented as a condition of employment. He also contends that the agreement is substantively unconscionable, as it requires the parties to arbitrate all legal claims, and not just employment related disputes; lacks mutuality because it requires him to arbitrate his claims against third parties without requiring the third parties to arbitrate their claims against him; and contains a waiver of his PAGA claims. He contends that the unconscionable terms cannot be severed from the rest of the agreement because the entire agreement is permeated with unconscionability.

It does appear that the arbitration agreement is at least somewhat procedurally unconscionable. It was presented to plaintiff on a take-it-or-leave-it basis as a condition of employment. The agreement is a form drafted by the employer, the party with the greater power, with no opportunity for negotiation. It does not include an opt-out clause. The arbitration agreement itself contains many complicated legal terms that a layperson like plaintiff would not be likely to understand, and the terms of which were not explained to plaintiff. As a result, the circumstances suggest some degree of procedural unconscionability.

However, the court does not find that defendant's failure to provide plaintiff with a copy of the arbitration rules increases the degree of procedural unconscionability. Plaintiff relies on *Trivedi v. Curexo Tech. Corp.* (2010) 189 Cal.App.4th 387 amongst other similar cases to argue "that the failure to provide a copy of the arbitration rules to which the employee would be bound support[s] a finding of procedural unconscionability." (*Id*., at p. 393.) As explained in *Baltazar v. Forever 21, Inc.* (2016) 62 Cal.4th 1237, 1246, *Trivedi* "stand[s] for the proposition that courts will more closely scrutinize the substantive unconscionability of terms that were 'artfully hidden' by the simple expedient of incorporating them by reference rather than including them in or attaching them to the arbitration agreement." (*Baltazar v. Forever 21, Inc.* (2016) 62 Cal.4th 1237, 1246 [determining the employer's failure to attach arbitration rules to arbitration agreement did not increase agreement's procedural unconscionability.) Here, there are no "artfully hidden" terms by the incorporation of rules of an arbitration service provider (e.g., JAMS, AAA, etc.), since the agreement does not incorporate any rules by reference whatsoever. Therefore, there is no need to provide a copy of any such rules and the

degree of procedurally unconscionability is not increased by defendant's failure to provide the rules of a specific arbitration service provider.

Courts frequently enforce even mandatory employment arbitration agreements, as long as they are not also substantively unconscionable. The California Supreme Court in Armendariz v. Foundation Health Pyschcare Services, Inc. (2000) 24 Cal.4th 83 listed five requirements for a finding that an employment arbitration clause to meet in order to be found lawful. The agreement must (1) provide for neutral arbitrators, (2) provide for more than minimal discovery, (3) require a written award, (4) provide for all types of relief that would otherwise be available in court, and (5) not require that the employee pay unreasonable fees or costs as a condition of access to the arbitration forum. (*Id.* at pp. 102, 110-111.) Plaintiff does not directly argue that the agreement does not meet these minimum standards but instead challenges specific provisions as unconscionable.

Plaintiff argues that the agreement is overbroad, because it requires the parties to arbitrate all legal claims. However, while the first paragraph of the agreement generally states that it applies to "all covered legal claims," the covered claims are more explicitly provided under Section 1, Covered Claims, which states that the claims actually subject to arbitration are those "arising out of, or related directly or indirectly to, [plaintiff's] employment relationship with, or the termination of [his] employment from, the Company…" (Garcia Decl., Exh. A, ¶¶ 1-2; Lopez Decl., Exh. A, ¶¶ 1-2.) As a result, the agreement sufficiently specifies that only claims arising out of employment disputes are subject to arbitration.

Next, plaintiff relies on *Cook v. University of Southern California* (2024) 102 Cal.App.5th 312 to support his contention that the agreement lacks mutuality as it requires him to arbitrate his claims against third parties without requiring the third parties to arbitrate their claims against him. The court in *Cook* found unconscionable a clause that required the employee plaintiff to arbitrate "any and all claims" she might have against the defendant university " 'or any of its related entities, including but not limited to faculty practice plans, or its or their officers, trustees, administrators, employees or agents, in their capacity as such or otherwise.' " (*Id.* at p. 326.) The agreement did not require the related entities to arbitrate their claims against the plaintiff and specifically only bound the employee plaintiff and defendant university. (*Ibid*.)

The agreement in *Cook* was demonstrably different from the agreement here. In *Cook*, "[t]he plain language of the agreement require[d] [the plaintiff] to arbitrate claims that [were] unrelated to her employment with [the defendant]." (*Cook, supra,* 102 Cal.App.5th at p. 321.) Moreover, the agreement in *Cook* had an "infinite" duration that survived termination of the plaintiff's employment and could only be revoked in a writing signed by the plaintiff and the president of the defendant. (*Id.* at pp. 316-318) There is nothing similar in the agreement here. Moreover, unlike in *Cook* and contrary to plaintiff's contention, the arbitration agreement applies equally to plaintiff and to defendant and its affiliates as these affiliates are included in the term the "Company" in the opening paragraph of the agreement. (See Garcia Decl., Exh. A, ¶ 1; Lopez Decl., Exh. A, ¶ 1.) Accordingly, the court does not find any lack of mutuality in the agreement.

Finally, plaintiff argues the agreement requires the employee to waive the ability to bring PAGA claims. Defendant does not dispute that the arbitration agreement

includes a PAGA representative action waiver, but indicates that it does not require plaintiff to waive her individual PAGA claims. (See Garcia Decl., Exh. A, Section 7; Lopez Decl., Exh. A, Section 7.) The court finds the arbitration agreement to be substantively unconscionable to the extent it requires plaintiff to waive his right to bring a representative PAGA action. PAGA claims cannot be waived in an employment arbitration agreement. (*Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 360, 382-384.) However, plaintiffs can be compelled to arbitrate their individual PAGA claims. (*Viking River Cruises, Inc. v. Moriana* (2022) 596 U.S. 639, 659-662.) "[T]he trial court may exercise its discretion to stay the non-individual claims pending the outcome of the arbitration pursuant to section 1281.4 of the Code of Civil Procedure." (*Adolph v. Uber Technologies, Inc.* (2023) 14 Cal.5th 1104, 1120-1121, 1123.) The court exercises its discretion to sever section 7's provision waiving representative PAGA actions, and finds the remainder of the agreement is not substantively unconscionable.

Accordingly, the court intends to grant the motion, requiring plaintiff to arbitrate all claims but the representative PAGA claim (except for the class claims which are dismissed). The action is stayed pending the outcome of arbitration of plaintiff's individual claims.

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: DTT on 12/9/2025.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***Jane Doe v. Fresno Unified School District / LEAD***
Superior Court Case No. 23CECG03638

Hearing Date: December 11, 2025 (Dept. 501)

Motion: Petitions to Withdraw from Blocked Account

Tentative Ruling:

To grant the petitions. Orders Signed. No appearances necessary.

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: DTT on 12/10/2025.
(Judge's initials) (Date)