Tentative Rulings for December 17, 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.***

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

23CECG05268 ***Parminder Kaler v. Carmax Auto Superstores, Inc*** **is continued to Wednesday, December 31, 2025 at 3:30 p.m. in Department 501.**

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

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(20)

Tentative Ruling

Re: ***Hammack v. FCA US LLC***
Superior Court Case No. 24CECG04078

Hearing Date: December 17, 2025 (Dept. 501)

Motion: by Plaintiffs for an Award of Attorney Fees and Costs

Tentative Ruling:

To grant the motion and award plaintiffs $16,075 in attorney's fees and $1,579.43 in costs, for a total award of $17,654.43.

If oral argument is timely requested, such argument will be entertained on Friday, December 19, 2025, at 10:30 a.m. in Department 501.

Explanation:

Plaintiff Mechelle Hammack and Flo Patton ("plaintiffs") seek an award of attorney fees under Civil Code section 1794, subdivision (d). Plaintiffs submit an executed Offer to Compromise pursuant to Code of Civil Procedure section 998 authorizing plaintiffs to seek fees and costs from defendant by noticed motion. The court finds that plaintiffs sufficiently state a basis upon which to seek an award of fees and costs. By way of the settlement defendant repurchased the vehicle. Plaintiffs' Complaint alleges violations of the Song-Beverly Warranty Act.

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.)

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. As a result, the court intends to award fees based on local rates.

Counsel for plaintiffs seeks to set the lodestar at **$14,755**, including 5 hours anticipated to be spent on the reply and hearing on this motion. Counsel submits detailed time records, claiming a billing rate of $450 per hour for himself and $200 per hour for his paralegal (who billed just 0.2 hour).

The opposition disputes the rates, but also seeks to set the attorney's rate at $450 per hour, and the paralegal's at $100 per hour. The court agrees that these are reasonable rates, resulting in a savings of $20 for defendant.

The attorney time is documented in Exhibit 2 to the Ledbetter Declaration. Defendant contends that the hours should be reduced by five hours as follows:

- $810.00 (**1.8 hours**) billed on 02/12/25 by TKL for "Initial analysis of FCA's document production in response to requests for production"
- $810.00 (**2.2 hours**) billed on 02/13/2025 by TKL for "Continued analysis of FCA's document production"
- $810.00 (**1.0 hours**) billed on 03/24/2025 by TKL for "Prepare email correspondence to e. Hanson. Carrol with Plaintiffs' counteroffer with repurchase demand."

(Oppo. pp. 5-6.)

While this math does not add up, the court does not feel that four hours for reviewing discovery responses to be excessive, even if the responses are substantially the same as that provided in other cases. It still must be reviewed. As for the email, the court cannot can't say for sure that an hour is unreasonable to respond to a settlement offer, as the email in question is not produced to show that an hour is unreasonable.

FCA also objects to the anticipated 5 hours to respond to the opposition and appear at the hearing. Plaintiffs did submit a reply brief, and filed a declaration with the reply, but did not state how many hours were spent on the reply (only showing that in another case FCA didn't pay a fee award, which is entirely irrelevant to this motion). Since plaintiffs failed to provide evidence of fees incurred following preparation of the moving papers, this time will not be allowed, resulting in a further (in addition to the $20) reduction of $1,875.

Plaintiffs request a multiplier of 0.5. It appears that what they intend to ask for is a 1.5 multiplier, as a 0.5 multiplier would cut the fee award in half. The court will approve a multiplier of 1.25. As stated by the California Supreme Court regarding lodestar multipliers, sometimes referred to as fee enhancements:

> …the trial court is *not required* to include a fee enhancement to the basic lodestar figure for contingent risk, exceptional skill, or other factors, although it retains discretion to do so in the appropriate case; moreover, the party seeking a fee enhancement bears the burden of proof. In each case, the trial court should consider whether, and to what extent, the attorney and client have been able to mitigate the risk of nonpayment, e.g., because the client has agreed to pay some portion of the lodestar amount regardless of outcome. It should also consider the degree to which the relevant market compensates for contingency risk, extraordinary skill, or other factors under *Serrano III*. We emphasize that when determining the appropriate enhancement, a trial court should not consider these factors to the extent they are already encompassed within the lodestar. The factor of extraordinary skill, in particular, appears susceptible to improper double counting; for the most part, the difficulty of a legal question and the quality of representation are already encompassed in the lodestar. A more difficult legal question typically requires more attorney hours, and a more skillful and experienced attorney will command a higher hourly rate. (*See Margolin v. Regional Planning Com.* (1982) 134 Cal.App.3d 999, 1004, 185 Cal.Rptr. 145.) Indeed, the " 'reasonable hourly rate [used to calculate the lodestar] is the product of a multiplicity of factors ... the level of skill necessary, time limitations, the amount to be obtained in the litigation, the attorney's reputation, and the undesirability of the case.' " (*Ibid*.) Thus, a trial court should award a multiplier for exceptional representation only when the quality of representation far exceeds the quality of representation that would have been provided by an attorney of comparable skill and experience billing at the hourly rate used in the lodestar calculation. Otherwise, the fee award will result in unfair double counting and be unreasonable. Nor should a fee enhancement be imposed for the purpose of punishing the losing party. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138-1139 [emphasis original].)

Once a lodestar is fixed, the lodestar may be adjusted based on certain factors, including: (1) the novelty and difficulty of the questions involved; (2) the skill displayed in presenting them; (3) the extent to which the nature of the litigation precluded other employment by the attorneys; and (4) the contingent nature of the fee award. (*Id.* at p. 1132, *citing Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25, 49.)

Here, plaintiffs submit that counsel took the matter on contingency, and obtained a good result. The court acknowledges the contingent risk taken by counsel, and finds the settlement to be a good (if not typical) result. The court sees no basis for a negative multiplier, as argued in the opposition.

Costs and expenses are sought via declaration in the amount of $6,933.28. (Ledbetter Decl., Exh. 2.)

If the items on a verified statement appear to be proper charges, the statement 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. (*See 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, 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.)

In Song-Beverly Act cases, Civil Code section 1794, subdivision (d), provides for an award of not only "costs", but also "expenses" to the prevailing buyer if the costs and expenses were reasonably incurred in the commencement and prosecution of the action. Courts have interpreted the term "expenses" to mean that the trial court has discretion to award more than just the costs provided under section 1033.5, and that the court may grant other costs that were reasonably incurred by the buyer in connection with the commencement and prosecution of the action. (*Jensen v. BMW of North America, Inc*. (1995) 35 Cal.App.4th 112, 137-138, [finding trial court should not have denied plaintiff's request for expert witness fees simply because they were not permitted under section 1033.5]; disapproved on other grounds by *Rodriguez v. FCA US, LLC* (2024) 17 Cal.5th 189.) Given that there is no opposition, the costs and expenses will be approved as requested.

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 12/12/2025.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re: ***Janet Mondragon v Matthew Halvorson***
Superior Court Case No. 24CECG05088

Hearing Date: December 17, 2025 (Dept. 501)

Motion: by Plaintiffs to Set Aside Dismissal

Tentative Ruling:

To grant and restore the case to active status with a Case Management Conference set for Tuesday, February 24, 2026, at 3:00 p.m., in Department 97E.

If oral argument is timely requested, such argument will be entertained on Friday, December 19, 2025, at 10:30 a.m. in Department 501.

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."].)

Plaintiffs 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. Plaintiffs' 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 (Judge's initials) on 12/15/2025 (Date).

(36)

Tentative Ruling

Re: ***Doe, et al. v. Spatafore, et al.***
Superior Court Case No. 21CECG03118

Hearing Date: December 17, 2025 (Dept. 501)

Motions (x2): by Defendant Community Hospitals of Central California:
(1) To Seal; and
(2) For an Order Compelling Plaintiffs' Depositions

Tentative Ruling:

To grant Community Hospitals of Central California's ("CHCC") motion to seal unredacted versions of the memorandum of points and authorities, separate statement of undisputed facts, and declaration of Frank P. Kelly III in support of its renewed motion for summary judgment or, in the alternative, summary adjudication, filed on October 10, 2025. (Cal. Rules of Ct., rule 2.550(d).)

To grant CHCC's motion to compel the deposition of plaintiff John Doe only.[1] Plaintiff John Doe shall appear for deposition on a date, within two weeks from service of the order by the clerk, to be agreed upon by the parties. (Code Civ. Proc., § 2025.450, subd. (c)(1).)

If oral argument is timely requested, such argument will be entertained on Friday, December 19, 2025, at 10:30 a.m. in Department 501.

Explanation:

Motion to Seal

CHCC seeks to file under seal unredacted versions of briefing and evidence in support of its renewed motion for summary adjudication which it purports to include plaintiffs' personal identifying information ("PII"), John Christopher Spatafore's web proxy logs accessed during his employment with CHCC, defendant's electronic audit log of plaintiff Jane Doe's medical records, and records from *The People of the State of California v. John Christopher Spatafore*, Fresno County Case No. F19908485 pertaining to Mr. Spatafore's Application/Request for Mental Health Diversion.

"A record must not be filed under seal without a court order. The court must not permit a record to be filed under seal based solely on the agreement or stipulation of the

[1] Although CHCC's notice of motion seeks an order compelling plaintiffs, i.e., John Doe, Jane Doe, and Daughter Doe, to appear for their depositions, which would equate to three motions to compel deposition, CHCC has only set and paid for two motions (one motion to seal and one motion to compel deposition respectively). Accordingly, this ruling is limited to only two motions: the motion to seal and one motion to compel deposition. Alternatively, CHCC may request to continue the motions and pay the additional motion fees of $120 (in addition to the $120 for the motion fees already paid). The additional motion fees must be paid prior to the continued hearing.

parties." (Cal. Rules of Ct., rule 2.551(a).) Further, the court must make certain express findings in order to seal records. Specifically, the court must find that the facts establish:

> (1) There exists an overriding interest that overcomes the right of public access to the record;
> (2) The overriding interest supports sealing the record;
> (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed;
> (4) The proposed sealing is narrowly tailored; and
> (5) No less restrictive means exist to achieve the overriding interest.

(Cal. Rules of Ct., rule 2.550(d).)

Also, "[a]n order sealing the record must: (A) Specifically state the facts that support the findings; and (B) Direct the sealing of only those documents and pages, or, if reasonably practicable, portions of those documents and pages, that contain the material that needs to be placed under seal. All other portions of each document or page must be included in the public file." (Cal. Rules of Court, rule 2.550, subd. (e)(1)(A), (B).)

In the present case, CHCC has met the requirements for obtaining and order to seal the records identified in the motion. CHCC sufficiently identifies the specific information entitled to protection from public disclosure constituting an overriding interest that overcomes the right of public access to the record, namely plaintiffs' PII that plaintiffs themselves have not otherwise disseminated in this action, plaintiff Jane Doe's medical information that is not the direct subject of the present litigation, CHCC's confidential business information that, if disclosed, could result in the compromise of user privacy, and Spatafore's mental health information that is not the direct subject of the present litigation. The right to privacy of one's medical and personal information is constitutionally and statutorily protected. (*Hill v. National Collegiate Athletic Assn*. (1994) 7 Cal.4th 1, 41, 52.) CHCC also sufficiently explains the harm threatened by disclosure of its confidential business information, if not sealed. The proposed sealing is narrowly tailored, affecting only the information sought to remain private. CHCC has filed redacted versions of documents, where practicable, in the public file. Based on the moving papers and lack of opposition, the court finds no countervailing considerations to sealing the specific information in the proposed sealing. There does not appear to be any less restrictive means to achieve the interest in privacy of the records.

Accordingly, the motion to seal is granted.

Compel Deposition

CHCC moves to compel the deposition of plaintiffs John Doe, Jane Doe and Daughter Doe. For reasons specified above, this ruling is limited to the motion regarding the deposition of John Doe only. The subject deposition notice was served on October 22, 2025, setting the deposition for November 4, 2025. On October 29, 2025, plaintiffs served written objections. On October 31, 2025, plaintiffs filed a request for pretrial discovery conference seeking a protective order establishing the sequence and timing

of depositions by plaintiffs as to CHCC's PMK on one side and by CHCC as to plaintiffs on the other. Plaintiff John Doe did not appear on November 4, 2025. On November 10, 2025, the court denied plaintiffs' request for pretrial discovery conference for insufficient meet and confer efforts prior to filing the request.

Plaintiffs oppose the motion on the grounds that CHCC failed to adhere to the Superior Court of Fresno County, Local Rules, rule 2.1.17 ("Local Rule 2.1.17"), and the court's November 10, 2025, order.

Code of Civil Procedure section 2025.280 provides, in relevant part: "The service of a deposition notice under Section 2025.240 is effective to require any deponent who is a party to the action … or employee of a party to attend and to testify … as well as to produce any document … for inspection and copying" (Code Civ. Proc., § 2025.280, subd. (a).) Code of Civil Procedure section 2025.450 provides, in relevant part: "If, after service of a deposition notice, a party to the action or employee of a party, or a person designated by an organization that is a party under Section 2025.230 … without having served a valid objection under Section 2025.410, fails to appear for examination … or to produce for inspection any document … the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document …" (Code Civ. Proc., § 2025.450, subd. (a).)

Local Rule 2.1.17, in relevant part, provides:

> 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. This rule shall not apply the following:
>
> 1. Motions 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 …

(Super. Ct. Fresno county, Local Rules, rule 2.1.17(A)(1).)

The court finds that this motion is not subject to Local Rule 2.1.17. Though plaintiffs did serve a timely objection to the deposition, the objection did not set forth any valid ground pursuant to Code of Civil Procedure section 2025.410 for plaintiff John Doe's refusal to appear for deposition. Code of Civil Procedure section 2025.410 provides for objections to any errors or irregularity in the deposition notice, specifically "a deposition notice that does not comply with Article 2 (commencing with [Code of Civil Procedure] Section 2025.210)" of Chapter 9, Oral Deposition Inside California, of Title 4, the Civil Discovery Act, of the California Code of Civil Procedure. (Code Civ. Proc., § 2025.410, subd. (a).) Plaintiffs object to the depositions on three grounds: (1) the noticed depositions are premature as plaintiffs' PMK deposition should proceed first; (2) defendant failed to cooperate in completing previously noticed discovery, i.e., the PMK deposition; and (3) undue burden and harassment. Plaintiffs argue that the scheduling

of multiple depositions within a short time frame imposes an undue burden on them. (See Ward Decl., Exh. D.) None of these are grounds for objection included within Article 2.

As the parties acknowledge, the court may issue a protective order establishing the order of priority of depositions. (Code Civ. Proc., § 2025.420, subd. (b).) However, plaintiffs have not moved for or obtained a protective order. Section 2025.420 puts on the party refusing to appear the burden of bringing the issue to the court's attention by way of motion for protective order. While plaintiffs have filed a request for pretrial discovery conference on the issue and the court has denied such request for insufficient meet and confer efforts prior to filing the request (See the Order on Request for Pretrial Discovery Conference, filed on Nov. 10, 2025), "the fact that a party is conducting discovery, whether by deposition or another method, shall not operate to delay the discovery of any other party." (Code Civ. Proc., § 2019.020, subd. (b).) A motion for protective order, even if actually filed, does not automatically stay a deposition, Section 2025.270, subdivision (d) places the burden on the party seeking a protective order to seek an order shortening or extending the time for scheduling a deposition, or staying its taking until the determination of a motion for protective order. (Code Civ. Proc., § 2025.270, subd. (d).) Inasmuch as this has not been sought and the protective order has not actually been obtained, the court intends to grant the motion to compel plaintiff John Doe's deposition.

Monetary Sanctions

"If a motion under subdivision (a) [of Code of Civil Procedure, section 2025.450] is granted, the court shall impose a monetary sanction… in favor of the party who noticed the deposition and against the deponent or the party with whom the deponent is affiliated, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." (Code Civ. Proc., § 2025.450, subd. (g)(1).) To the extent that plaintiffs were attempting to pursue a protective order, the court finds that there were circumstances that would render the issuance of sanctions unjust.

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 12/15/2025.
(Judge's initials) (Date)