

**Tentative Rulings for April 2, 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.*

**24CECG05348**

***In re Petition of: J.G. Wentworth Originations, LLC***

\*\*\* All parties and their counsel must appear, including Linda Dougherty \*\*\*

---

---

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

---

(Tentative Rulings begin at the next page)

# **Tentative Rulings for Department 501**

Begin at the next page

(20)

**Tentative Ruling**

Re: **Korkis v. Torres**  
Superior Court Case No. 19CECG04127

Hearing Date: April 2, 2025 (Dept. 501)

Motion: Default Prove-Up

**Tentative Ruling:**

To deny, unless plaintiff requests oral argument (see Local Rule 2.2.5) and appears at the hearing to present *admissible* evidence proving up the damages sought.

**Explanation:**

Plaintiff seeks a default judgment consisting of \$50,000 in general damages (\$25,000 pain and suffering, \$25,000 emotional distress), but no special damages.

The court is required to render default judgment only “for that relief ... as appears by the evidence to be just.” (Code Civ. Proc., § 585, subd. (b)].) Therefore, it is up to plaintiff to “prove up” the right to relief, by introducing sufficient evidence to support plaintiff’s claim. Without such evidence, the court may refuse to grant a default judgment for any amount, notwithstanding defendant’s default. (*Taliaferro v. Hoogs* (1963) 219 Cal.App.2d 559; *Holloway v. Quetel* (2015) 242 Cal.App.4th 1425, 1434-1435 [trial court did not err in refusing to enter default judgment for pro per plaintiff who failed to submit appropriate supporting documentation].)

When special damages for personal injury are proved, general damages are presumed, although the plaintiff need not prove special damages to recover general damages. (*Hilliard v. A. H. Robins Co.* (1983) 148 Cal.App.3d 374, 412.) Damages recovered for pain and suffering compensate the injured person for all the physical, mental, and emotional suffering and distress that attend on and follow a bodily injury. (See CACI 3905A.) The trier of fact must place a monetary value on pain and suffering, and an appellate court cannot measure the validity of an award by making comparisons with other cases. (*Rodriguez v. McDonnell Douglas Corp.* (1978) 87 Cal.App.3d 626, 655.)

Here, plaintiff has submitted a number of exhibits with the notice of hearing and application for default judgment, but *none of the exhibits are authenticated*. The “verification” of counsel accompanying the application does not authenticate anything, nor would he appear to have standing or personal knowledge to do so. Nor has any evidence from plaintiff herself been presented. It is not unclear whether plaintiff intends to appear at the hearing to explain her pain and suffering and emotional distress. That would be helpful, if she is able to appear and give testimony.

“The amount of general damages awarded is usually correlated to the special damages proved.” (*Jones v. Interstate Recovery Serv.* (1984) 160 Cal. App. 3d 925, 928.) This is an unusual situation in that plaintiff presumably has special damages, but plaintiff

has opted not to seek any special damages in the request for court judgment. It is unclear how the general damages of \$50,000 correlate to the special damages.

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** 3/25/2025.  
(Judge's initials) (Date)

(20)

**Tentative Ruling**

Re: **Holley v. Ford Motor Company**  
Superior Court Case No. 24CECG04518

Hearing Date: April 2, 2025 (Dept. 501)

Motion: by Ford Motor Company for Protective Order

**Tentative Ruling:**

To deny without prejudice. (Fresno Superior Court Local Rule 2.1.17.)

**Explanation:**

Local Rule 2.1.17(A) provides, subject to limited exceptions that do not apply here, that 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."

Defendant moves for a protective order pursuant to California Civil Procedure Section 2031.060, but has not complied with Local Rule 2.1.17.

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 3/26/2025.  
(Judge's initials) (Date)

(46)

**Tentative Ruling**

Re: ***The City of Kingsburg, a Municipal Corporation v. Shea Owens***  
Superior Court Case No. 25CECG00678

Hearing Date: April 2, 2025 (Dept. 501)

Motion: Petition for Order to Abate Substandard Building,  
Appointment of Receiver, and Orders Pursuant to California  
Health & Safety Code

**Tentative Ruling:**

To continue to Thursday, May 28, 2025, at 3:30 p.m., in Department 501. If petitioner intends to file any supplemental briefings, these should be filed no later than Friday, April 25, 2025, at 5:00 p.m.

**Explanation:**

Petitioner City of Kingsburg was given permission on March 21, 2025, to serve the Summons in this matter by publication. The court will continue the hearing for the Petition to allow sufficient time for petitioner to effect service.

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 3/27/2025.  
(Judge's initials) (Date)

(35)

**Tentative Ruling**

Re: **Correia v. The Board of Trustees of the California State University**

Superior Court Case No. 23CECG00658

Hearing Date: April 2, 2025 (Dept. 501)

Motion: by Plaintiff Calliope Correia for an Order Compelling Responses from Defendant The Board of Trustees of the California State University to First Request for Production of Documents; and Request for Sanctions

**Tentative Ruling:**

To order the motion off calendar owing to plaintiff Calliope Correia's failure to comply with Fresno Superior Court Local Rules, rule 2.1.17.

**Explanation:**

As these parties are aware, Fresno County Superior Court Local Rules, rule 2.1.17, *requires* that before filing, *inter alia*, a motion under Code of Civil Procedure sections 2016.010 through 2036.050, inclusive, the party desiring to file such a motion must first request an informal Pretrial Discovery Conference with the court, and wait until either the court denies that request and gives permission to file the motion, or the conference is held and the dispute is not resolved at the conference. Forms for requesting the conference and opposing the request are available on the court's website. The parties are referred to rule 2.1.17 for further particulars.

In reviewing the docket, the court notes that an order has already issued on the discovery in question. Further, the original responses that were subject to the prior order were superseded, as required by the order, through amended responses. (See also Dimitre Decl., ¶ 22, and Ex. 19.) Accordingly, to the extent that plaintiff Calliope Correia ("plaintiff") seeks a further response from the amended responses to the First Request for Production, plaintiff was *required* to engage the informal discovery conference process again for possible resolution and, failing that, obtaining leave to file the instant motion. At present, no leave was granted to file the instant motion. Though plaintiff suggests that the court invited a further motion, the January 16, 2025, order simply notes that "[a]ny deficiencies in the amended responses are the subject of a separate challenge." Whether the reasons are because the amended responses are deficient or noncompliant, or because production was not made, all grounds upon which plaintiff now seeks relief must follow rule 2.1.17.

Accordingly, the motion will not be heard, and is ordered off calendar.

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





(34)

**Tentative Ruling**

Re: **Barbosa v. Sierra Pacific Orthopaedic Center Medical Group, Inc.**

Superior Court Case No. 23CECG04847

Hearing Date: April 2, 2025 (Dept. 501)

Motion: by Defendant to Stay the Proceedings

**Tentative Ruling:**

To grant and stay these proceedings pending the outcome of the appeal filed November 21, 2024, or further order of the court.

**Explanation:**

Under Code of Civil Procedure section 1294, subdivision (a), “[a]n aggrieved party may appeal from: (a) An order dismissing or denying a petition to compel arbitration.” Also, under Code of Civil Procedure section 916, subdivision (a), “[e]xcept as provided in Sections 917.1 to 917.9, inclusive, and in Section 116.810, the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order.” However, the Legislature amended section 1294 to state that, “[n]otwithstanding Section 916, the perfecting of such an appeal shall not automatically stay any proceedings in the trial court during the pendency of the appeal.” (Code Civ. Proc., § 1294, subd. (a).)

Thus, the filing of an appeal by the party who moved to compel arbitration no longer automatically stays the underlying proceedings. The legislative history<sup>1</sup> of the amendment to section 1294 indicates that the amendment was intended to address some of the perceived unfairness of the prior statute, which allowed employers and other defendants being sued for allegedly illegal practices to delay the plaintiffs' cases for years by filing an appeal of an order denying a petition to compel arbitration and obtaining an automatic stay of the pending court case while the appeal was pending, while at the same time denying plaintiffs the right to appeal an order granting a petition to compel arbitration until after the arbitration had been fully resolved. Additionally, automatically staying the pending court action whenever an appeal is filed could prejudice the rights of employees and consumers who are frequently the plaintiffs in the types of actions that employers and businesses seek to have arbitrated. However, the amendment to section 1294(a) did not eliminate the court's inherent power to stay the matter pending the appeal if a stay would be in the interest of justice and promote judicial efficiency. (*Freiberg v. City of Mission Viejo* (1995) 33 Cal.App.4th 1484, 1489.)

---

<sup>1</sup> Plaintiff's Request for Judicial Notice Nos. 1 and 2 of the Bill Analysis are granted under Evidence Code section 452, subdivision (c).

