

Tentative Rulings for April 3, 2025  
Department 403

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)

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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.*

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

24CECG02012      *Lorenzo Garcia v. Bruce Hudson, Jr.* is continued to Tuesday, April 22, 2025, at 3:30 p.m., in Department 403. (See below.)

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# **Tentative Rulings for Department 403**

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(36)

**Tentative Ruling**

Re: **Garcia v. Hudson, Jr.**  
Superior Court Case No. 24CECG02012

Hearing Date: April 3, 2025 (Dept. 403)

Motion: To be Relieved as Counsel

**Tentative Ruling:**

To continue the hearing to Tuesday, April 22, 2025, at 3:30 p.m., in Department 403 to allow plaintiff's counsel an opportunity to resubmit a proof of service of the moving papers.

**Explanation:**


Proof of Service Rejected:

"Unless otherwise ordered or specifically provided by law, all moving and supporting papers must be served and filed in accordance with Code of Civil Procedure section 1005..." (Cal. Rules of Court, rule 3.1300, subd. (a).) All moving and support papers must be served and filed at least 16 court days before the hearing. (Code Civ. Proc., § 1005, subd. (b).) "Proof of service of the moving papers must be filed no later than five court days before the time appointed for the hearing." (Cal. Rules of Court, rule 3.1300, subd., (c).)

Odyssey shows that plaintiff attempted to e-file a proof of service on March 6, 2025. However, this attempt was rejected. Consequently, no proof of service has been filed to show that the client has been served notice of this motion. It appears appropriate to continue the hearing to allow time for counsel to resubmit a proof of 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:          on     4-1-25    .

(Judge's initials) (Date)

(36)

**Tentative Ruling**

Re: **California Department of Public Health v. Prestige Biotech, Inc.**  
Superior Court Case No. 24CECG02431

Hearing Date: April 3, 2025 (Dept. 403)

Motion: by Petitioner for Judgment on Petition for Condemnation and  
Destruction of Embargoed Articles

**Tentative Ruling:**

To deny without prejudice.

**Explanation:**

This is a continuation from the February 26, 2025 hearing on Petitioner California Department of Public Health's motion for judgment on its petition for condemnation and destruction of embargoed articles. In the court's previous tentative ruling, the court listed procedural defects pertaining to service, and proof thereof, and continued the hearing to allow Petitioner an opportunity to present evidence to show that its service of the summons and petition in this proceeding was valid. However, the service remains defective for the reasons outlined below.

Service of Summons

*Return Receipt Unsigned*

"A summons may be served on a person outside this state in any manner provided by this article or by sending a copy of the summons and of the complaint to the person to be served by first-class mail, postage prepaid, requiring a return receipt." (Code Civ. Proc., § 415.40.) "[I]f service is made by mail pursuant to [Code of Civil Procedure s]ection 415.40, proof of service shall include evidence satisfactory to the court establishing actual delivery to the person to be served, by a signed return receipt or other evidence. . . ." (Code Civ. Proc., § 417.20, subd. (a).)

Petitioner filed two proofs of service on August 22, 2024, indicating that the summons and petition were served: (1) on Universal Meditech, Inc. ("UMI") by mail and acknowledgement of receipt of service on UMI's authorized agent, Lin Law Group in Las Vegas, NV, on August 1, 2024; and (2) on Prestige Biotech, Inc. ("Prestige") by mail and acknowledgement of receipt of service on Prestige's authorized agent, Barry Zhang, CPA in Las Vegas, NV, for Prestige Biotech, Inc. on August 1, 2024. The return receipt for both are attached. However, the return receipt for the service to UMI's authorized agent, Lin Law Group, is unsigned. No other evidence is presented to show actual delivery of the summons and petition to UMI. Petitioner's assertion based on information and belief, that simply because the return receipt was returned, despite not being signed, established that service was completed is unsupported by legal authority or evidence.

Moreover, the Respondent's actual knowledge of the proceedings does not dispense with the statutory requirements for the service of summons. (*Kappel v. Barlett* (1988) 200 Cal.App.3d 1457, 1466; *Ruttenberg v. Ruttenberg* (1997) 51 Cal.App.4th 801, 808.)


*Service Must Comply with Code of Civil Procedure section 416.10*

“ ‘Service on a corporation . . . can only be accomplished by serving some individual as its representative. [Code of Civil Procedure s]ection 416.10 enumerates the individuals who are authorized to receive service on behalf of an ongoing corporation. . . .’ [Citation.] ” (*Dill v. Berquist Construction Co.* (1994) 24 Cal.App.4th 1426, 1435 [applying the statutory requirements on out-of-state corporations].) Code of Civil Procedure “[s]ection 416.10 provides that a corporation is served by delivering a copy of the summons and complaint to a corporate officer, a general manager, ‘or a person authorized by the corporation to receive service of process....’ (*Id.*, subd. (b).)” (*Dill v. Berquist Construction Co, supra*, 24 Cal.App.4th at p. 1434.)

Counsel's declaration submitted in support of this motion, clarifies that Lin Law Group is not in fact, UMI's authorized agent, but rather, Lin Law Group is listed as UMI's mailing address on the California Secretary of State website. (Carnevale Decl., ¶ 3; Mtn., Ex. C.) The unsigned return receipt reflects that service of the summons was inappropriately mailed and addressed directly to the law firm, rather than to any of the statutorily described persons to be served in Code of Civil Procedure section 416.10.

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:**          **on**     4-1-25    .

(Judge's initials)

(Date)