<u>Tentative Rulings for April 17, 2025</u> <u>Department 502</u>

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.

24CECG01006 Hedrick Ranch, a Sole Proprietorship v. Doris Dickens is continued to Tuesday, May 6, 2025, at 3:30 p.m. in Department 502

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(20)

Tentative Ruling

Re: Maria Angel v. The Heirs or Devisees of Maria Teresa Agripine Castillo

Ocampo

Superior Court Case No. 25CECG00686

and

Felicitas Ocampo v. Maria Angel

Superior Court Case No. 22CECL03151

Hearing Date: April 17, 2025 (Dept. 502)

Motion: Plaintiff Maria Angel's Motion to Consolidate Unlimited Civil Action

with Unlawful Detainer Action

Tentative Ruling:

To grant and stay enforcement of judgment in the Unlawful Detainer ("UD") action. Execution of judgment and the lockout currently scheduled for 4/18/2025 (as issued in Case 22CECL03151) is stayed pending the outcome of the Unlimited Civil Action.

Explanation:

The purpose of consolidation is to enhance trial court efficiency by avoiding unnecessary duplication of evidence and procedures, and to avoid the substantial danger of inconsistent adjudications. (Todd-Stenberg v. Dalkon Shield Claimants Trust (1996) 48 Cal.App.4th 976, 978.) And where the issue is consolidating an unlawful detainer action with a civil action making a claim of ownership of the subject property, the additional issue is one of prejudice to the party making the ownership claim. Given the summary nature of unlawful detainer proceedings, it is a rule of long standing that questions of title cannot be raised and litigated by cross-complaint or affirmative defense in an unlawful detainer case. (Cheney v. Trauzettel (1937) 9 Cal.2d 158, 159.)

The party moving for consolidation must file a notice of motion in each of the pending lawsuits, while supporting papers are filed only in the lead (lower numbered) case. (Cal. Rules of Court, Rule 3.350(a).) All the moving party needs to show in its motion is that the issues in each case are basically the same, and that "economy and convenience" would be served by consolidation. (Jud Whitehead Heater Co. v. Obler (1952) 111 Cal.App.2d 861, 867.) The court has broad discretion to grant or deny the motion. (Fellner v. Steinbaum (1955) 132 Cal.App.2d 509, 511.)

While the UD action has proceeded to judgment, defendants seek to evict plaintiff's family from the property. Plaintiff was initially included as a defendant to the UD action, but was dismissed once defendants learned she does not reside at the property. Based on her claim to title, plaintiff does have an interest in the property and the outcome of the UD action. In light of plaintiff's pending claim to title to the property advanced in this Unlimited Civil action, she is an indispensable party to the UD action.

Consolidation with UD actions is typically appropriate where title to the property is at issue. (See Martin-Bragg v. Moore (2013) 219 Cal.App.4th 367, 385.) Title to the property is an issue in these actions. Defendants will not be prejudiced by granting consolidation and staying enforcement of the UD judgment, as plaintiff will pay the fair market daily rental value of the property to defense counsel's client trust account during the pendency of the Unlimited Civil action.

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_	(Judge's initials)		(Date)	

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<u>Tentative Ruling</u>

Re: Michael DeRaffaele v. Jeff Crane

Superior Court Case No. 22CECG02759

Hearing Date: April 17, 2025 (Dept. 502)

Motion: By Plaintiff for Entry of Default Judgment

Tentative Ruling:

To take off calendar, as no moving papers have been filed.1

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Issued By:	KCK	on	04/14/25	
-	(Judge's initials)		(Date)	

¹ Form CIV-100 is a mandatory form in seeking default judgment. (Cal. Rules of Ct., Rule 3.1800(a).)

(46)

Tentative Ruling

Re: Anthony Villarreal v. The City of Reedley

Superior Court Case No. 24CECG01776

Hearing Date: April 17, 2025 (Dept. 502)

Motion: Petition for Relief from Government Code Section 945.4

Tentative Ruling:

To continue the hearing on this motion to Thursday, May 29, 2025, at 3:30 p.m. in Department 502. Petitioner is ordered to file a copy of the petition he served on respondent by Friday, May 2, 2025, at 5:00 p.m.

Explanation:

A copy of the petition and a written notice of the time and place of hearing shall be served before the hearing as prescribed by subdivision (b) of Section 1005 of the Code of Civil Procedure on the clerk or secretary or board of the local public entity, if the respondent is a local public entity. (Gov. Code, § 946.6 subd. (d).)

Per the Proof of Service filed by petitioner Anthony Villarreal on March 6, 2025, petitioner served respondent the City of Reedley with a copy of the Notice and Petition. However, petitioner only filed a copy of the Notice and did not file the Petition. As respondent filed opposition that addresses the merits of the Petition, the court intends to continue the hearing rather than deny outright.

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(46)

<u>Tentative Ruling</u>

Re: Israel Mota v. Jose Vera

Superior Court Case No. 24CECG00285

Hearing Date: April 17, 2025 (Dept. 502)

Motion: Default Prove-Up

Tentative Ruling:

To grant and sign the proposed judgment. No appearance necessary.

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-	(Judge's initials)		(Date)	

(41)

<u>Tentative Ruling</u>

Re: Skyrun, LLC v. Oracio Saiz, Jr.

Superior Court Case No. 24CECG00695

Hearing Date: April 17, 2025 (Dept. 502)

Motion: By Plaintiff for Entry of Judgment Quieting Title After Default

Tentative Ruling:

To deny Plaintiff's request for entry of judgment quieting title without prejudice.

Explanation:

Complaint Includes Erroneous APNs

The plaintiff, Skyrun, LLC (Plaintiff) filed a verified complaint (Complaint) with two causes of action for each parcel of real property seeking to quiet title based on reformation of deed or adverse possession as follows:

- 1. Quiet Title to Real Property Reformation of Deed (APN 328-140-008);
- 2. Quiet Title to Real Property Via Adverse Possession (APN 328-140-008);
- 3. Quiet Title to Real Property Reformation of Deed (APN 328-140-010);
- 4. Quiet Title to Real Property Via Adverse Possession (APN 328-140-010);
- 5. Quiet Title to Real Property Reformation of Deed (APN 328-140-011);
- 6. Quiet Title to Real Property Via Adverse Possession (APN 328-140-011).

In the Complaint, Plaintiff identifies the subject parcels by their correct legal descriptions and also by erroneous Assessor Parcel Numbers (APNs), by adding an extra zero to each APN. Based on Plaintiff's submitted evidence, the correct APNs are as follows: 328-140-08, 328-140-10, and 328-140-11.

<u>Dismissal of Doe and Other Defendants</u>

In the Complaint, Plaintiff originally sought a judgment to quiet title against the following defendants: ORACIO SAIZ, JR., an individual; RENATE SAIZ, an individual; the testate and intestate successors of ELLEN V. MISAKIAN, deceased, and all persons claiming by, through or under ELLEN V. MISAKIAN; IVAN A. VALLEJO, an individual; CITY OF FRESNO, a municipal corporation; All persons unknown, claiming any legal or equitable right, title, estate, lien, or interest in the Properties described in the Complaint adverse to Plaintiff's title, or any cloud on Plaintiff's title thereto (Unknown Defendants); and Does 1through100, inclusive.

Plaintiff entered into stipulated judgments with all named defendants except City of Fresno, which Plaintiff dismissed. Plaintiff now seeks a judgment against Unknown Defendants only.

The court has been unable to locate Plaintiff's Request for Dismissal of the Doe defendants. The court notes the statement in Plaintiff's case summary that "this request for dismissal **not** be entered unless and until Plaintiff's instant Request for Default Court Judgment against Unknown Defendants is granted." (*Id.* at p. 5:16-19.) But default judgment may not be entered unless Plaintiff files a Request for Dismissal of all remaining defendants, including the Doe defendants.

No Proof of Posting Notice at the Properties

When service has been made by publication in a quiet title action, the plaintiff must post a copy of the summons and complaint at a conspicuous place on the subject property. (Code Civ. Proc., § 763.020.) Plaintiff fails to file a proof of service to prove compliance with this requirement.

No Lis Pendens

Code of Civil Procedure section 761.010, subdivision (b) provides that immediately upon commencement of a quiet title action, plaintiff "shall file" a notice of pendency of action in the county recorder's office. Plaintiff submits no evidence to show compliance with this requirement.

Form CIV-100—Missing Signatures

Plaintiff submits a Form CIV-100, but the declarations of mailing and nonmilitary status are unsigned.

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