Tentative Rulings for July 23, 2024 Department 502

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.

Joey Reyes v. Valley Chrome Plating, Inc. is continued to Thursday, July 25, 2024, at 3:30 p.m. in Department 502

(Tentative Rulings begin at the next page)

<u>Tentative Rulings for Department 502</u>

Begin at the next page

(03)

<u>Tentative Ruling</u>

Re: The State of California v. Raven Family Limited Partnership

Superior Court Case No. 17CECG02845 [Lead Case]

Hearing Date: July 23, 2024 (Dept. 502)

Motion: Plaintiff's Motion to Compel Further Responses to Special

Interrogatories, Set One, and Request for Production of

Documents, Set One

Tentative Ruling:

To deny plaintiff's motion to compel further responses to special interrogatories, set one, and request for production of documents, set one, for failure to comply with Fresno Superior Court Local Rules, rule 2.1.17.

Explanation:

Plaintiff has not complied with Local Rule 2.1.17 by seeking a pretrial discovery conference and obtaining leave of court before filing its motion to compel. "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." (Fresno Sup. Ct. Local Rules, rule 2.1.17(A).) Here, plaintiff did not file a request for pretrial discovery conference before bringing its motion, nor did it obtain leave of court to file the motion. Therefore, since plaintiff has not complied with Local Rule 2.1.17, the court will not hear the merits of the motion to compel. Instead, it intends to deny the motion for failure to obtain leave of court to bring the motion.

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:	KCK	on 07/22/24				
	(Judge's initials)	(Date)				

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<u>Tentative Ruling</u>

Re: Jacob Salcido v. PB Loader Corporation/COMPLEX

Superior Court Case No. 23CECG04509

Hearing Date: July 23, 2024 (Dept. 502)

Motion: Defendant PB Loader Corporation's Motion to Stay the

Representative PAGA Action

Tentative Ruling:

To grant defendant PB Loader Corporation's motion to stay the representative PAGA action pending arbitration of plaintiff Jacob Salcido's individual PAGA claim. (Code Civ. Proc., § 1281.4.)

Explanation:

If a court of competent jurisdiction has ordered arbitration of an issue involved in a pending action, the court, upon motion of a party to the action, shall stay the action until an arbitration is had in accordance with the order to arbitrate. (Code Civ. Proc., § 1281.4.) Specifically, "the trial court may exercise its discretion to stay the non-individual [PAGA] claims pending the outcome of the arbitration [of a plaintiff's individual PAGA claims] pursuant to section 1281.4 of the Code of Civil Procedure." (Adolph v. Uber Technologies, Inc. (2023) 14 Cal.5th 1104, 1123.) The opposing party would need to present a convincing argument as to why this would be an impractical manner of proceeding. (Id., at 1124.)

The court has discretion to stay the action until after arbitration. As set forth in Adolph, the determination of whether the plaintiff is an aggrieved employee and the ensuing judgment on the issue is one that will affect the plaintiff's standing to prosecute the non-individual PAGA claim. (Adolph v. Uber Technologies, Inc., supra, 14 Cal.5th, 1124.)

As the court has already ordered arbitration for what could be a dispositive issue, and there has been no clear showing of prejudice that will result from staying the action, the court is inclined to order a stay of the proceedings until after arbitration of plaintiff's individual PAGA claim.

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:	KCK	on	07/22/24			
_	(Judge's initials)		(Date)			

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<u>Tentative Ruling</u>

Re: In Re: Destiny Rose Hernandez

Superior Court Case No. 24CECG02690

Hearing Date: July 23, 2024 (Dept. 502)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant. Orders signed. No appearances necessary.

The court sets a status conference for Tuesday, October 22, 2024, at 3:30 p.m., in Department 502, 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(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:	KCK	on	07/22/24			
-	(Judge's initials)		(Date)			