

Tentative Rulings for December 10, 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)

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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.*

24CECG01346      *Michael Hamp v. Eric Bush*—**THIS MOTION WILL BE HEARD IN DEPT. 503**

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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.

24CECG01665      *Cynthia Porraz v. Quality Group Homes, Inc.* is continued to  
Thursday, December 12, 2024, at 3:30 p.m. in Department 502

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# **Tentative Rulings for Department 502**

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(46)

**Tentative Ruling**

Re: ***Linda Luu v. State Farm General Insurance Company***  
Superior Court Case No. 23CECG04046

Hearing Date: December 10, 2024 (Dept. 502)

Motion: Cross-Petition by Respondent/Cross-Petitioner State Farm  
General Insurance Company to Disqualify Insureds' Appraiser

**If oral argument is timely requested, it will be entertained on  
Thursday, December 12, 2024, at 3:30 p.m. in Department 502.**

**Tentative Ruling:**

To deny.

**Explanation:**

"Appraisal hearings are a form of arbitration and are generally subject to the rules governing arbitration. Judicial review of an arbitration, or appraisal award, is circumscribed." (*Kacha v. Allstate Ins. Co.* (2006) 140 Cal.App.4th 1023, 1031.) It is not the court's role to review the merits of the controversy or to determine whether the evidence is sufficient to support the appraisal award. (*Ibid.*)

In bringing this cross-petition, respondent/cross-petitioner State Farm relies heavily on *Mahnke v. Superior Court* (2009) 180 Cal.App.4th 565, as precedent for the superior court hearing a petition to disqualify a party appointed appraiser. In *Mahnke*, the party-selected appraisers provided disclosure statements in compliance with section 1281.9 of the Arbitration Act. (*Id.* at p. 571.) Based on the disclosures provided, the insurer sought to disqualify the appraiser appointed by the insureds. (*Ibid.*) The trial court granted the petition, reasoning that section 1281.9, subdivision (e) requires party-selected appraisers, as well as the neutral umpire to make the specified disclosures based on *Michael v. Aetna Life & Cas. Ins. Co.* (2001) 88 Cal.App.4th. 925, 934-935. (*Id.* at p. 572.) However, shortly after the *Michael* decision was published the California Legislature revised section 1281.9 and amended subdivision (e) as relied upon by the trial court.

The version of subdivision (e) in effect at the time of the *Michael* decision stated: "An arbitrator shall disclose to all parties the existence of any grounds specified in Section 170.1 for disqualification of a judge; and, if any such ground exists, shall disqualify himself or herself upon demand of any party made before the conclusion of the arbitration proceeding. ..." (Former Code. Civ. Proc. § 1281.9, subd. (e), added by Stats. 1994, ch. 1202, § 1, amended by Stats. 1997, ch. 445, § 2, and repealed by Stats. 2001, ch. 362, § 5.) Section 1281.9, as amended, only imposes a disclosure obligation on the "proposed neutral arbitrator," rather than the more general "arbitrator." (*Mahnke, supra*, 180 Cal.App.4th at p. 577.)

