## Tentative Rulings for December 12, 2024 Department 503

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.

24CECG02502	Advanced Pools, Inc. v. David Nino Land & Investments			
	ontinued the following cases. The deadlines for opposition and reply in the same as for the original hearing date.			
(Tentative Rulings	s begin at the next page)			

# **Tentative Rulings for Department 503**

Begin at the next page

(34)

#### **Tentative Ruling**

Re: Deere & Company v. Bath, et al.

Superior Court Case No. 22CECG04010

Hearing Date: December 12, 2024 (Dept. 503)

Motion: Plaintiff's Application for Writ of Possession

### Tentative Ruling:

To deny in light of the entry of default against defendants Paramjot Kaur Bath and Gurmej Singh Bath on April 18, 2023.

#### **Explanation:**

This motion requests a prejudgment writ of attachment, which is proper before final adjudication of the claims sued upon. (Kemp Bros. Const., Inc. v. Titan Elec. Corp. (2007) 146 Cal.App.4th 1474, 1476.) However, the default of both defendants was entered well before service of the moving papers on them (defaults entered on April 18, 2023, and moving papers served on November 6, 2024). The entry of default instantly cuts off a defendant's right to appear in the action or participate in the proceedings unless the default is set aside or judgment is entered (i.e., giving the defendant the right to appeal). (Devlin v. Kearny Mesa AMC/Jeep/Renault, Inc. (1984) 155 Cal.App.3d 381, 385.) Due process would not be served by allowing a plaintiff to give the defendant notice of a motion when defendant's right to defend itself regarding that motion had already been cut off. Plaintiff may proceed to obtain a judgment against defendants, and after judgment has been obtained it may proceed with all post-judgment enforcement procedures available.

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:	jyh	on	12/10/24			
,	(Judge's initials)		(Date)	_		