

**Tentative Rulings for December 5, 2024**  
**Department 501**

**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.

21CECG00398      *Morteza Javaherie v. Henry Nunez* is continued to Thursday, December 12, 2024, at 3:30 p.m. in Department 501

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(Tentative Rulings begin at the next page)

# **Tentative Rulings for Department 501**

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**Tentative Ruling**

Re: **Osborn v. Osborn, et al.**  
Superior Court Case No. 22CECG03938

Hearing Date: December 5, 2024 (Dept. 501)

Motion: by Plaintiffs for Leave to File a First Amended Complaint

**Tentative Ruling:**

To grant the motion for leave to file a first amended complaint. (Code Civ. Proc. § 473.) Plaintiffs shall file their first amended complaint within 10 days of the date of service of this order. All new allegations shall be in **boldface**.

**Explanation:**

“ ‘Code of Civil Procedure section 473, which gives the courts power to permit amendments in furtherance of justice, has received a very liberal interpretation by the courts of this state.... In spite of this policy of liberality, a court may deny a good amendment in proper form where there is unwarranted delay in presenting it.... On the other hand, where there is no prejudice to the adverse party, it may be an abuse of discretion to deny leave to amend.’ ‘In the furtherance of justice, trial courts may allow amendments to pleadings and if necessary, postpone trial.... Motions to amend are appropriately granted as late as the first day of trial ... or even during trial ... if the defendant is alerted to the charges by the factual allegations, no matter how framed ... and the defendant will not be prejudiced.’” (*Rickley v. Goodfriend* (2013) 212 Cal.App.4th 1136, 1159, citations omitted.)

“While a motion to permit an amendment to a pleading to be filed is one addressed to the discretion of the court, the exercise of this discretion must be sound and reasonable and not arbitrary or capricious. And it is a rare case in which ‘a court will be justified in refusing a party leave to amend his pleadings so that he may properly present his case.’ If the motion to amend is timely made and the granting of the motion will not prejudice the opposing party, it is error to refuse permission to amend and where the refusal also results in a party being deprived of the right to assert a meritorious cause of action or a meritorious defense, it is not only error but an abuse of discretion.” (*Morgan v. Superior Court of Cal. In and For Los Angeles County* (1959) 172 Cal.App.2d 527, 530, internal citations omitted.)

Plaintiffs move the court for an order permitting them to file a first amended complaint, which will add causes of action to set aside fraudulent trust, for declaratory

relief, and for cancellation of instrument. (Cuttone Decl., ¶ 3.) Defendants have not opposed the motion. Accordingly, the court intends to grant plaintiff's 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:** DTT **on** 11/27/2024.  
(Judge's initials) (Date)

(37)

**Tentative Ruling**

Re: ***Johnny Payne v. Platinum Roadlines, Inc.***  
Superior Court Case No. 21CECG01118

Hearing Date: December 5, 2024 (Dept. 501)

Motion: by Plaintiffs to Tax Costs as to Defendant Jear Logistics, LLC

**Tentative Ruling:**

To grant and tax costs of defendant Jear Logistics, LLC. Defendant's recoverable costs are reduced to \$7,093.16. (Code Civ. Proc., § 1033.5.)

**Explanation:**

Items of allowable costs are set forth in Code of Civil Procedure section 1033.5, subdivision (a), and disallowed costs are set forth in subdivision (b). Items not expressly mentioned in the statute "upon application may be allowed or denied in the court's discretion." (Code Civ. Proc., § 1033.5, subd. (c)(4).) All allowable costs must be reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation, and they must be reasonable in amount and actually incurred. (Code Civ. Proc., § 1033.5, subd. (c)(1), (2) and (3).) Here, while defendant sought to recover costs totaling \$12,696.61, it has agreed to plaintiffs' requested reduction to \$7,093.16. The court finds that the recoverable costs amount to \$7,093.16.

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:** DTT on 12/2/2024.  
(Judge's initials) (Date)

(37)

**Tentative Ruling**

Re: **North Mill Equipment Finance LLC v. Gurjit Singh**  
Superior Court Case No. 24CECG03897

Hearing Date: December 5, 2024 (Dept. 501)

Motion: by Plaintiff for Writs of Possession Against Defendants Armaan Bajwa Trans Inc., Gurjit Singh, and Mandeep Bagri

**Tentative Ruling:**

To deny in light of the entry of default against defendants Armaan Bajwa Trans Inc., Gurjit Singh, and Mandeep Bagri entered on November 22, 2024.

**Explanation:**

These motions request a prejudgment writ of possession, which is proper to request before final adjudication of the claims sued upon. (*Kemp Bros. Const., Inc. v. Titan Elec. Corp.* (2007) 146 Cal.App.4th 1474, 1476.) However, after serving the moving papers on defendants, plaintiff requested entry of defendants' defaults. The clerk entered default against Armaan Bajwa Trans Inc., Gurjit Singh, and Mandeep Bagri on November 22, 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 defendants notice of a motion, but then cut off their right to defend themselves regarding that motion. Post-judgment enforcement procedures following judgment are available to plaintiff, if necessary.

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:** DTT on 12/2/2024.  
(Judge's initials) (Date)