

Tentative Rulings for June 30, 2026 Department PS1

**To request oral argument, you must notify Judicial Secretary
Carol Delfosse-Kidd at (760) 904-5722
and inform all other counsel no later than 4:30 p.m.**

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at [Riverside Superior Court-Tentative Rulings](#). If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department PS1 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

COUNSEL AND SELF-REPRESENTED PARTIES ARE ENCOURAGED TO APPEAR AT ANY LAW AND MOTION DEPARTMENT TELEPHONICALLY WHEN REQUESTING ORAL ARGUMENTS.

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You may also make a Telephonic Appearance: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252,
1-669-216-1590, 1-551-285-1373 or 1-646-828-7666
- Meeting Number: **160 520 9376**

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.

1.

CASE #	CASE NAME	HEARING NAME
CVPS2406454	GUBIN VS MAJER	MOTION TO QUASH SERVICE OF SUMMONS ON COMPLAINT OF SYDNEY GUBIN BY DENNIS N. WALSH

Tentative Ruling: Code of Civil Procedure section 473(d) permits the court to vacate a void judgment or order. “[C]ompliance with the statutory procedures for service of process is essential to establish personal jurisdiction. Thus, a default judgment entered against a defendant who was not served with a summons in the manner prescribed by statute is void.” (*Dill v. Berquist Construction Co.* (1994) 24 Cal.App.4th 1426, 1444 (internal citations omitted) (emphasis added).)

A summons is a form of court process issued in the course of a judicial proceeding. (Civ. Proc. Code, § 17(b)(7).) “A summons is the process by which a court acquires personal jurisdiction over a defendant in a civil action.” (*MJS Enterprises, Inc. v. Superior Court* (1984) 153 Cal.App.3d 555, 557.)

Under Code of Civil Procedure section 418.10(a), a defendant may file a motion to quash service of summons on the following grounds: (1) lack of jurisdiction; (2) inconvenient forum; or (3) dismissal pursuant to a delay in prosecution. The motion must be brought on or before the last day to plead or any further time for good cause. (*Id.* at § 418.10(a).)

When a defendant challenges the court’s personal jurisdiction on the ground of improper service of process, the plaintiff has the burden to prove the existence of jurisdiction by proving the facts requisite to an effective service. (*Summers v. McClanahan* (2006) 140 Cal.App.4th 403, 413.) However, a registered process server creates a rebuttable presumption, affecting the burden of producing evidence, that the facts stated in the declaration are true. (Evid. Code § 647.) The filing of a proof of service creates a rebuttable presumption that service was proper only if the proof of service complies with the applicable statutory requirements. (*Floveyor International, Ltd. v. Superior Court* (1997) 59 Cal.App.4th 789, 795.) “To establish personal jurisdiction, compliance with statutory procedures for service of process is essential....” (*Braugh v. Dow* (2023) 93 Cal.App.5th 76, 87.)

Code of Civil Procedure section 415.20(b) permits substituted service at a person’s dwelling house, usual place of abode, usual place of business or usual mailing address. For individuals, there must be a showing that the summons “cannot with reasonable diligence be personally delivered.” (*Id.* at § 415.20.) This usually requires two or three attempts to personally serve. (*Rodriguez v. Cho* (2015) 236 Cal.App.4th 742, 750; *American Express Centurion Bank v. Zara* (2011) 199 Cal.App.4th 383, 389.) The summons must be left with a “competent member of the household” or person “apparently in charge of his or her office, place of business or usual mailing address.” (Code Civ. Proc. § 415.20.) “Service must be made upon a person whose ‘relationship with the person to be served makes it more likely than not that they will deliver process to the named party.’” (*Bein v. Brechtel-Jochim Group, Inc.* (1992) 6 Cal.App.4th 1387, 139.) Here, the proof of service indicates a registered process server attempted service on 7/17/25, 7/19/25 and 7/21/25 before finally sub-serving Defendant on 7/23/25.

Defendant does not even challenge service. Instead, he argues that the default is void because there is no statement of damages. However, that is not a proper challenge to the service of summons, but rather, whether a default judgment can be entered.

As for sanctions under Code of Civil Procedure section 128.5, the court should deny Plaintiffs' request. Section 128.5 allows a court to order a party or counsel, or both to pay the reasonable expenses, including attorney's fees, incurred by the other party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. Section 128.5(a) requires either: (1) bad faith actions or tactics or (2) a frivolous action. Actions or tactics includes "the making or opposing of motions or the filing and service of a complaint, cross-complaint, answer or other responsive pleading." (*Id.* at § 128.5(b)(1).) Frivolous is "totally and completely without merit or for the sole purpose of harassing an opposing party." (*Id.* at § 128.5(b)(2).) The standard is based on a subjective bad faith determination rather than objective. (*In re Marriage of Sahafzadeh-Taeb & Taeb* (2019) 39 Cal.App.5th 124, 134.)

Despite the denial of the motion, the court shall not impose sanctions as Defendant's motion has merit regarding the ability of Plaintiff in obtaining a default judgment. Under the current situation, Plaintiffs will not receive a default judgment. The complaint lacks any notice about the amount of damages, and therefore, any default judgment would violate due process. (*Marriage of Lippel* (1990) 51 Cal.3d 1160, 1166.) Nor would a statement of damages cure any defect, because it applies to personal injury and wrongful death actions, and must be served before entry of default. (Code Civ. Pro. §425.11.) This is not a personal injury or wrongful death action, and thus a statement of damages does not cure a defect. (*Dhawan v. Biring* (2015) 24 Cal.App.4th 963, 968.)

Motion to Quash Service of Summons DENIED.

Request for Sanctions DENIED.

2.

CASE #	CASE NAME	HEARING NAME
CVPS2406454	GUBIN VS MAJER	MOTION TO SET ASIDE DEFAULT ON COMPLAINT OF SYDNEY GUBIN BY DENNIS N. WALSH

Tentative Ruling: No tentative ruling, a hearing shall be conducted.

3.

CASE #	CASE NAME	HEARING NAME
CVPS2506601	TAPIA MORALES VS KIRKPATRICK	MOTION FOR AMENDING THE FILING DATE OF COMPLAINT NUNC PRO TUNC BY REYNA AIDEE TAPIA MORALES, YOVANI AGUILAR TAPIA

Tentative Ruling: Code of Civil Procedure section 473(d) permits the court, upon motion, to correct clerical mistakes in its judgments or orders. A clerical error is an inadvertent error in entering or recording the judgment rather than in rendering the judgment, i.e. judicial error. (*Bell v. Farmers Ins. Exch.* (2006) 135 Cal.App.4th 1138, 1144.) While section 473(d) speaks in terms of judgments and orders, California courts have consistently applied nunc pro tunc principles to deem complaints filed when clerks improperly reject them. (*Rojas v. Cutsforth* (1998) 67 Cal.App.4th 774, 778; *Carlson v. State of California Department of Fish & Game* (1998) 68 Cal.App.4th 1268, 1282-1283.) The remedy is not limited to post-judgment corrections.

The clerk's functions are ministerial and the clerk has no discretion to reject a complaint that substantially complies; the remedy is to issue a nunc pro tunc that deems the complaint filed when it was presented. (*Rojas*, supra, 67 Cal.App.4th at 777-778.) In *Rojas*, the court of appeal reversed a summary judgment where the clerk rejected a complaint because a declaration for court assignment lacked a signature and the summons contained the address of the wrong court division. (*Id.* at 775.) The court held: "It is difficult enough to practice law without having the clerk's office as an adversary. Where, as here, the defect, if any, is insubstantial, the clerk should file the complaint and notify the attorney or party that the perceived defect should be corrected at the earliest opportunity." (*Id.* at p. 777.)

Similarly, in *Carlson v. State of California Department of Fish & Game* (1998) 68 Cal.App.4th 1268, 1271-1272, the plaintiff's counsel had failed to include a "certificate of assignment" required under local rule and the court clerk rejected it; by the time counsel was able to return to court, the statute of limitations had passed. "Government Code section 69846.5 provides that '[t]he clerk of the superior court shall endorse on each paper filed with the court the day, month, and year it is filed.' For purposes of the statute of limitations, 'filing' means delivery to the clerk during business hours." (*Id.* at 1273.) "[S]tate law is clear that a paper is deemed filed when it is presented to the clerk for filing in a form that complies with [former] CRC 201. If a paper is thus presented, the clerk has a ministerial duty to file it." As to local rules, they cannot conflict with state law. (*Id.* at 1279.) While there are some consequences for failure to comply with a local rule, it does not authorize a clerk to refuse to file a pleading that complies with the California Rules of Court. (*Id.* at 1279-1280.)

As explained by one court: "If a document is presented to the clerk's office for filing in a form that complies with the rules of court, the clerk's office has a ministerial duty to file it. [Citation.] Even if the document contains defects, the clerk's office should file it and notify the party that the defect should be corrected." (*Voit v. Superior Court* (2011) 201 Cal.App.4th 1285, 1287.)

Here, Plaintiff provides proof that she submitted the complaint on August 13, 2025 with a confirmation number. (Lowrey Decl., Ex. 2.) While Plaintiff did file a long-form complaint on September 4 rather than resubmitting the August 13 version, this was done "out of an abundance of caution" in response to the clerk's vague rejection notice. (Lowrey Decl. ¶ 6.) The September 4 filing asserted the same causes of action—motor vehicle negligence, general negligence, and negligence per se arising from the same September 3, 2023 accident. Where a clerk improperly rejects a compliant filing, the party should not be penalized for attempting to cure perceived defects, particularly when the nature of those defects was unclear by the court clerk. The court clerk's vague rejection "Parties must be named on petition to ascertain the information is in fact correct" does not provide a violation of the rule of court. But as explained above, even if there was a violation, the clerk's office has a ministerial duty to file it and then notify Plaintiff of the defect.

Defendant's argument is that Plaintiff assumed the risk by waiting until shortly before the deadline. But, Plaintiff filed well before the deadline—21 days in advance—and took appropriate steps to follow up on the filing status. (Lowrey Decl. ¶¶ 2, 4.)

Defendant's contention as to the electronic filing service provider is unavailing under Rule 2.259. The issue is not whether the court's electronic filing system was in error or whether a OneLegal.com made an error, but whether the court clerk properly rejected the filing. The record contains no evidence that OneLegal.com failed to transmit the

documents or that Plaintiff's counsel failed to provide proper documents to OneLegal.com.

“Unless otherwise provided, a document is deemed filed on the date it is received by the court clerk.” (Cal. R. Ct., rule 1.20.)

Motion for Nunc Pro Tunc Order Pursuant to C.C.P. § 473(d) GRANTED.

The Complaint is deemed filed August 13, 2025.

OSC re Proof of Service is continued to 9.15.26.

Case Management Conference is continued to 9.15.26.

4.

CASE #	CASE NAME	HEARING NAME
CVPS2509899	COUNTY OF RIVERSIDE VS MONROE SHOPS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY	DEMURRER TO ANSWER ON COMPLAINT FOR EMINENT DOMAIN/INVERSE CONDEMNATION (OVER \$35,000) OF COUNTY OF RIVERSIDE

Tentative Ruling: A demurrer to an answer tests whether it states facts sufficient to constitute a defense. (Code Civ. Proc., § 430.20(a).) In an eminent domain action, an answer objecting to the plaintiff's right to take **shall** state the “specific facts upon which the objection is based.” (Code Civ. Proc., § 1250.350, emphasis added.)

Defendants filed an Answer on 4/24/26. There, affirmative defenses nos. 1, 2, 3, 4, 8, 9, 10 challenge the public necessity findings that the Resolution of Necessity established. (Code Civ. Proc., § 1245.250(a).) In *City of Lincoln v. Barringer* (2002) 102 Cal.App.4th 1211, the court held that a property owner who objects to a taking must exhaust his or her remedies by appearing and objecting at the public hearing on the resolution. Here, the Resolution of Necessity on file shows that Defendants did *not* appear or object. Defendants did not rebut their non-appearance. Instead, they argue that the hearing notice given was defective since it provided 10 days instead of the required 15 days. (CCP § 1245.235(b)(3).) County counters that there is no mandatory 15-day service requirement under CCP §1245.235(d). Section 1245.235(d) states:

Notwithstanding subdivision (b), the governing body may satisfy the requirements of this section through any other procedure that has given each person described in subdivision (a) **reasonable** written personal notice and a **reasonable** opportunity to appear and be heard.

Accordingly, County argues that property owners are *not* guaranteed a minimum of 15 days after notice is mailed to file objections. It also argues that reasonable notice was provided. Here, the record reflects that the County complied with CCP § 1245.235 by mailing notice by first class mail to Monroe Shops, LLC at the address it provided for the tax assessor roll as shown in the 7/31/25 grant deed. This creates a presumption of receipt. (Evid. Code, §§ 641, 664.) Defendants claimed only insufficient time of notice, but do not contest the actual receipt of the notice. Accordingly, Defendants' argument

does not negate the fact that notice was provided and that Defendants were afforded an opportunity to be heard. The statute allows for a flexible, “reasonable” procedures. (CCP § 1245.235(d).)

Affirmative defenses nos. 5 (impairment of access/severance damages), 6 (severance damages), and 7 (precondemnation damages/unreasonable delay) plead only conclusory allegations of damage. For example, no. 5 pleads that the scope and conditions of the easement are “excessive, unreasonable, and not necessary.” For no. 6, it pleads “diminution in value, loss of use, interference with tenant operations, and reduced income potential.” For no. 7, it pleads “unreasonable delay and/or precondemnation conduct” that “affects the value, use, and operation of Defendants’ property.” Here, they fail to plead the specific facts as required.

Affirmative defense no. 11 pleads inverse condemnation offset/credits. An inverse condemnation claim is a cause of action, not an affirmative defense, and is improper here. (*Red Mountain, LLC v. Fallbrook Public Utility Dist.* (2006) 143 Cal.App.4th 333, 356-357.) No. 12 (constitutional violations) again fails to plead any specific facts showing how the proposed taking violates constitutional principles beyond a claim for compensation. No. 13 (reservation of rights) is not an actual defense.

Plaintiff’s Request for Judicial Notice #s 1-6 GRANTED.

Plaintiff’s Demurrer to the Answer of Defendants Monroe Shops LLC; David A. Demers and Robert C. Tall as Trustees of Demers-Tall Trust SUSTAINED.

The 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th and 13th Affirmative Defenses are SUSTAINED with leave to amend.

Defendant shall file an amended answer within 20 days.

Case Management Conference is rescheduled from 7.20.26 to 8.31.26.

5.

CASE #	CASE NAME	HEARING NAME
CVPS2509899	COUNTY OF RIVERSIDE VS MONROE SHOPS, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY	MOTION FOR PREJUDGMENT POSSESSION

Tentative Ruling: CCP §1255.410(a) provides that when filing a complaint, and prior to entry of judgment, a plaintiff may move for an order for possession upon demonstrating that the plaintiff is entitled to take the property by eminent domain and has made the requisite deposit. The motion is required to: 1) describe the property, 2) state the date that plaintiff is seeking possession, 3) inform defendant they have a right to oppose the motion, and, 4) if opposing on the ground of hardship, a declaration of facts as to the hardship.

CCP §1255.410(c) states that a defendant or occupant must oppose the motion no later than 30 days after service of the motion. If the defendant asserts a hardship, it must be supported by a declaration under penalty of perjury. (*Id.*)

The court may make an order for possession if it finds the following: (1) the plaintiff is entitled to take the property by eminent domain; (2) the plaintiff has deposited the amount; (3) there is an overriding need for possession prior to the issuance of a final judgment and the plaintiff will suffer a hardship if the application is denied; and (4) the hardship plaintiff will suffer if the application is denied outweighs any hardship of the defendant. (CCP §1255.410.)

Here, there is no dispute that County is entitled to take the property via eminent domain. County has deposited the amount. County declares that it needs immediate possession because the failure to certify the right-of-way by 6/10/26 will result in the “guaranteed loss of \$1.5 million in federal funds and place an additional \$56 million in federal funding at severe risk.” (Junaid Supplemental Decl., ¶¶ 2-3.) Procedurally, the County argues that Defendants’ opposition is untimely as it was filed on 4/24/26, about one month after the statutory 30-day deadline expired on 3/25/26. (See McClure Supplemental Decl., ¶¶ 6, 8.) While the opposition is untimely, the court has discretion to consider an untimely-served opposition. (See CRC 3.1300(d); *Slayton v. Superior Court* 146 Cal.App.4th 55, 58, n. 2; *Kapitanski v. Von’s Grocery Co.* (1983) 146 Cal.App.3d 29.) However, even if addressing the Defendants’ untimely opposition, the opposition is still defective as it lacks the mandatory declaration signed under penalty of perjury required to support a claim of hardship. (Code of Civ. Proc., § 1255.410(c).)

On the merits, Defendants’ identification of hardship such as “operational disruption” and “interference with parking access and circulation” are speculative and there is a lack of detail. Defendants’ other arguments, such as their challenges to the amount of the deposit or the “specific scope” of the easement, are not grounds to deny this motion.

The County has satisfied the statutory requirements, the resolution of necessity identifies the temporary construction easement as 60 months to have access to the properties (Resolution of Necessity, p. 2), and its substantial hardship outweighs Defendants’ unsubstantiated claims.

Motion for Order of Prejudgment Possession GRANTED.

The proposed Order of Prejudgment Possession submitted by Plaintiff is effective as of the date of this order.