

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION ONE

Maynard Matthews et al. v. Patrick Ryan

Matthews v. Ryan · No. B335736, B338256, B339211 · Decided January 28, 2026

SUMMARY

The California Court of Appeal held that the defendant forfeited his challenge to the trial court’s use of volunteer prospective jurors for voir dire because he did not timely object. The court also held that plaintiffs’ Code of Civil Procedure section 998 settlement offer was not invalid merely because it expressly required the defendant’s insurer to consent, since insurer consent was implicitly necessary to bind the insurer. The judgment and order denying costs of proof were affirmed, the order denying prejudgment interest was reversed, and the matter was remanded for consideration of whether the settlement offer was reasonable and made in good faith.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division One
WRITING FOR THE COURT	Bendix, Acting Presiding Justice; Weingart, Justice; M. Kim, Justice
JURISDICTION	California Court of Appeal, Second Appellate District, Division One
DECIDED	January 28, 2026
DOCKET	B335736, B338256, B339211
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed from the judgment entered after a jury verdict in plaintiffs' favor. Plaintiffs cross-appealed from postjudgment orders denying prejudgment interest under Code of Civil Procedure section 998 and Civil Code section 3291 and denying costs of proof under Code of Civil Procedure section 2033.420.
STANDARD OF REVIEW	The challenge to the conditional nature of a section 998 offer is reviewed de novo. The reasonableness and good-faith determination under section 998 is generally reviewed for abuse of discretion. Denial of a motion for costs of proof under section 2033.420 is reviewed for abuse of discretion. Unpreserved jury-selection challenges are forfeited absent an applicable exception.
PRECEDENTIAL VALUE	Published in part; part C is unpublished

PARTIES

Maynard Matthews, Tanis Matthews, Patrick Ryan v. Maynard Matthews, Tanis Matthews, Patrick Ryan

TOPICS

offer of judgment prejudgment interest costs waiver appellate procedure

PRACTICE AREAS

civil procedure appellate procedure personal injury remedies insurance

QUESTIONS PRESENTED

1. Whether Ryan forfeited his challenge to the trial court's use of volunteers when seating prospective jurors for voir dire.
2. Whether plaintiffs' section 998 settlement offer was invalid because it expressly conditioned settlement on consent by Ryan's insurer.
3. Whether the trial court abused its discretion in denying plaintiffs' motion for costs of proof under Code of Civil Procedure section 2033.420.

HOLDINGS

1. Ryan forfeited his challenge because he did not object to the trial court's use of volunteer prospective jurors to fill the jury box, despite having multiple opportunities to do so.
2. The offer was not invalid merely because it expressly stated that Ryan's insurer had to consent to Ryan's acceptance.
3. The Court of Appeal did not decide whether the offer was reasonable and made in good faith. It remanded for the trial court to make that determination in the first instance.
4. The trial court did not abuse its discretion in denying plaintiffs' motion for costs of proof.

KEY QUOTATIONS

"Implicit in any settlement offer to a party defended by an insurer, therefore, is a requirement of insurer consent, because without that consent there is no settlement." (p. 17)

"Plaintiffs' 'condition' was nothing more than an express, and redundant, recognition of that implicit requirement." (p. 17)

"A 998 offer is made in good faith only if the offer is 'realistically reasonable under the circumstances of the particular case' [citation] — that is, if the offer 'carr[ies] with it some reasonable prospect of acceptance' [citation]." (p. 19)

FACTUAL BACKGROUND

Ryan's vehicle collided with Maynard Matthews's vehicle, severely injuring Matthews. The Matthewses offered to settle for \$749,999.99, expressly conditioning the offer on Ryan's insurer consenting to Ryan's acceptance;

Ryan did not accept. After trial, the jury found Ryan 100 percent at fault and awarded substantial damages to both plaintiffs.

PROCEDURAL HISTORY

Maynard and Tanis Matthews sued Patrick Ryan for negligence and loss of consortium arising from an automobile collision. A jury found Ryan negligent and 100 percent at fault and awarded \$6,536,330.66 to Maynard Matthews and \$343,750 to Tanis Matthews. The trial court denied Ryan's new trial motion and denied plaintiffs' motions for prejudgment interest and costs of proof. The Court of Appeal affirmed the judgment and costs-of-proof order, reversed the prejudgment-interest order, and remanded for a determination whether plaintiffs' section 998 offer was reasonable and made in good faith.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must determine whether plaintiffs' Code of Civil Procedure section 998 settlement offer was reasonable and made in good faith. The judgment and the order denying costs of proof are affirmed; the order denying prejudgment interest is reversed.

CASES CITED

- People v. Visciotti, 2 Cal. 4th 1, 37-38 (1992)
- People v. Eubanks, 53 Cal. 4th 110, 126 (2011)
- People v. Johnson, 104 Cal. 418, 419 (1894)
- People v. Wright, 52 Cal. 3d 367, 395 (1990)
- People v. Williams, 49 Cal. 4th 405 (2010)
- Westamerica Bank v. MBG Industries, Inc., 158 Cal. App. 4th 109, 129 (2007)
- Finlan v. Chase, 68 Cal. App. 5th 934, 940 (2021)
- Gorobets v. Jaguar Land Rover North America, LLC, 105 Cal. App. 5th 913, 926 (2024)
- Toste v. CalPortland Construction, 245 Cal. App. 4th 362, 373-374 (2016)
- Deocampo v. Ahn, 101 Cal. App. 4th 758, 776-778 (2002)
- Markow v. Rosner, 3 Cal. App. 5th 1027, 1054 (2016)
- Menges v. Department of Transportation, 59 Cal. App. 5th 13, 26 (2020)
- Barella v. Exchange Bank, 84 Cal. App. 4th 793, 803 (2000)
- Menees v. Andrews, 122 Cal. App. 4th 1540, 1544 (2004)
- Meissner v. Paulson, 212 Cal. App. 3d 785, 790-791 (1989)
- Hutchins v. Waters, 51 Cal. App. 3d 69, 73 (1975)
- Wickware v. Tanner, 53 Cal. App. 4th 570, 577 (1997)
- Vick v. DaCorsi, 110 Cal. App. 4th 206, 211-212 (2003)

- *Hamilton v. Maryland Casualty Co.*, 27 Cal. 4th 718, 722 (2002)
- *Calvo Fisher & Jacob LLP v. Lujan*, 234 Cal. App. 4th 608, 629 (2015)
- *Licudine v. Cedars-Sinai Medical Center*, 30 Cal. App. 5th 918, 924-925 (2019)
- *Miller v. Elite Insurance Co.*, 100 Cal. App. 3d 739, 756-757 (1980)
- *Samson v. Transamerica Insurance Co.*, 30 Cal. 3d 220, 243 (1981)
- *Association for Los Angeles Deputy Sheriffs v. Macias*, 63 Cal. App. 5th 1007, 1024, 1029 (2021)
- *In re S.G.*, 71 Cal. App. 5th 654, 673 (2021)
- *GoTek Energy, Inc. v. SoCal IP Law Group, LLP*, 3 Cal. App. 5th 1240, 1248 (2016)

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