

Tentative Rulings for February 24, 2026
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)

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.*

25CECG01545 *Gracie's Cabin LLC v. Figueroa et al.* (Department 502)

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

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Tentative Ruling

Re: **City of Fresno v. Art Terzian**
Superior Court Case No. 24CECG02985

Hearing Date: February 24, 2026 (Dept. 502)

Motion: Application by Plaintiff City of Fresno for Writ of Assistance

Tentative Ruling:

To deny the application, without prejudice.

To issue an Order to Show Cause as to counsel for plaintiff City of Fresno, Aleshire & Wynder, LLP, as to why the court should not impose sanctions in an amount up to \$10,000.00 for violation of Code of Civil Procedure section 128.7, subdivision (b). (Code Civ. Proc., § 128.7, subd. (c)(2).) To set the hearing for Tuesday, April 14, 2026, 3:30 p.m. in Department 502.

Explanation:

On March 25, 2025, this court granted plaintiff City of Fresno's ("plaintiff" or "City") motion for an order for pre-judgment possession of property owned by defendant Art Terzian ("defendant"). On September 10, 2025, this court denied plaintiff's motion for modification of the order seeking to move defendant's business inventory on the subject property into storage.

Application for Writ of Assistance

The City now applies for a writ of assistance. Defendant argues that this application is, in essence, a motion for reconsideration of the court's order denying modification of the order for pre-judgment possession. This argument appears to have some validity as plaintiff submits this writ is "necessary to authorize the City to move the business inventory and other personal property at its own expense, and to provide clarity for possible law enforcement Assistance[,]" which is the exact language used in the motion for modification. (Memo. P&A, 2:11-13.) In addition, plaintiff in the present application not only seeks the authority to move and store property and for offsets against future claims, but also for authorization for the Sheriff of Fresno County to enter and secure the property, supervise the removal of personal property and business inventory, use peace officers as reasonably necessary, and file returns as appropriate, until complete removal and storage of the personal property and business inventory. (See Proposed Order generally.)

However, the City has not presented satisfactory legal ground for its request. Pursuant to Code of Civil Procedure section 128, the court has the inherent power to compel obedience to its judgments, orders, and process. (Code Civ. Proc., § 128, subd. (a)(4).) But, as discussed below, none of the authorities provided in plaintiff's Memorandum of Points and Authorities support issuance of a Writ of Assistance in the

instance of pre-judgment possession under Code of Civil Procedure sections 1255.410-1255.450 (i.e. in conjunction with eminent domain laws). Accordingly, the court intends to deny the application, without prejudice.

As a note, defendant again relies on *Baldwin Park Redevelopment Agency v. Irving* (1984) 156 Cal.App.3d 428, now to say that the City is attempting a taking of the defendant's inventory without compensation. The court previously addressed the lack of authority (including that of *Baldwin Park*) to make a determination as to the defendant's arguments regarding compensation for defendant's business inventory. (See Minute Order dated September 10, 2025.) As defendant's arguments in his opposition on this point remain largely the same as presented in the motion for modification, the issue will not be reevaluated now by way of opposition to this application.

Frivolous Contentions

Under Code of Civil Procedure section 128.7, the court may, on its own motion, enter an order describing conduct that violates any of the criteria of subdivision (b) of the same. (Code Civ. Proc., § 128.7, subd. (c)(2).) Every pleading shall be signed by at least one attorney of record. (*Id.*, § 128.7, subd. (a).) By presenting to the court a pleading, an attorney is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that all of the following conditions are met: (1) it is not being presented primarily for an improper purpose; (2) the claims, defenses, and other legal contentions therein are warranted by existing law; (3) the allegations and other factual contentions have evidentiary support; and (4) the denials of factual contentions are warranted on the evidence. (*Id.*, § 128.7, subd. (b).)

The court has carefully reviewed plaintiff's application and found the following issues with the authorities provided:

1. "Courts possess inherent authority to enforce their orders and to issue all writs necessary to give effect to judgments. (*Witkin v. Superior Court* (2002) 99 Cal.App.4th 346, 352.)" — Case does not exist either at the citation or by its case name.
2. "Courts possess inherent authority to enforce their orders and to issue all writs necessary to give effect to judgments. ([...] *Gonzales v. Superior Court* (1935) 3 Cal.2d 260, 263.)" — Legitimate citation; case does not state or discuss the premise asserted.
3. "A writ of assistance is a recognized and appropriate mechanism to place a party in possession of property where another refuses to comply with a lawful order. (*Imperial Water Co. v. Imperial Irr. Dist.* (1923) 62 Cal.App. 286, 291.)" — Legitimate citation; case does not state or discuss the premise asserted.
4. "Where an occupant refuses to yield possession, the court may order removal of persons and property interfering with enforcement. (*Schubert v. Bates* (1947) 30 Cal.2d 785, 789.)" — Legitimate citation; case does not state or discuss the premise asserted; on a different point refers to unlawful detainer actions.
5. "Where an occupant refuses to yield possession, the court may order removal of persons and property interfering with enforcement. ([...] *McCauley v. Weller* (1859)

