

Tentative Rulings for April 23, 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.*

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 Rulings for Department 502

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Tentative Ruling

Re: ***Imidacloprid Cases.***, Superior Court Case No. 22JCCP05241

Hearing Date: April 23, 2026 (Dept. 502)

Motion: By Nutrien Ag Solutions, Inc., to Tax Costs of Brian Watte dba M.C. Watte Farms

By Nutrien Ag Solutions, Inc., to Tax Costs of M.C. Watte Ranches

Tentative Ruling:

Nutrien Ag Solutions., Inc.'s ("Nutrien") Motion to Tax Costs of Brian Watte dba Brian Watte Farms ("Watte") – To grant in part and tax costs in the sum of \$119,485.62. Watte's recoverable costs are reduced to \$75,244.50. (Code Civ. Proc., § 1033.5.)

Nutrien's Motion to Tax Costs of M.C. Watte Ranches – To grant and tax costs in the sum of \$16,966.91. M.C. Watte Ranches' recoverable costs are reduced to \$93,416.63, 80% of which is apportioned to Nutrien, leaving \$74,733.30 recoverable from Nutrien.

Explanation:

Motion to Tax Watte's Costs

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).)

Timeliness

Nutrien seeks to strike the entire cost memorandum as untimely.

The costs memorandum must be served and filed within the *earlier* of:

- 15 days after the *clerk's* service of notice of entry of judgment or dismissal (under CCP § 664.5); or
- 15 days after any *party's* service of such notice; or
- 180 days after entry of judgment.
(Cal. Rules of Court, rule 3.1700(a)(1).)

"The time provisions relating to the filing of a memorandum of costs, while not jurisdictional, are mandatory. (*Sepulveda v. Apablaza* (1938) 25 Cal.App.2d 381, 388-

389." (*Hydratec, Inc. v. Sun Valley 260 Orchard & Vineyard Co.* (1990) 223 Cal.App.3d 924, 929.)

Here, Notice of Entry of Judgment was filed and served by email on 12/18/25. Fifteen days after service of the Notice of Entry of Judgment was 1/2/2026. Adding two court days for service by email (Code Civ. Proc., § 1010.6(a)(3)(B) [Nutrien impliedly misrepresents that the extension is two calendar days], Watte's deadline was 1/6/26. The memorandum was timely filed.

Apportionment

Nutrien requests that the court tax Watte's Memorandum of Costs by a reduction of the total allowable and awardable costs by 20% based on the comparative fault determined by the jury verdict and judgment.

The only authority cited by Nutrien for apportionment is *Acosta v. SI Corp.* (2005) 129 Cal.App.4th 1370, 1376, which stands for the proposition that "[a] defendant prevailing against multiple plaintiffs who joined together and sued on a single theory of recovery (e.g., product liability) is not required to file separate costs memoranda against each plaintiff or otherwise apportion its costs among the plaintiffs. Rather, defendant may file a single memorandum of costs for which all plaintiffs would be jointly and severally liable. If some costs are not related to the single theory of liability, but are specific to a particular plaintiff, plaintiffs may move to tax particular costs on the ground that it is unfair to include such costs in a joint award. [*Acosta v. SI Corp.* (2005) 129 CA4th 1370, 1376-1379, 29 CR3d 306, 310-313] In *Acosta*, however, the trial court did not fulfill its duty to engage in an itemized review before awarding costs to D (*Acosta v. SI Corp.*, supra, 129 CA4th at 1380, 29 CR3d at 314)." (Fairbank, Wegner & Wegner, *Cal. Prac. Guid Civ. Trials & Evid.* (TRG 2025) ¶ 17:274.)

Acosta does not provide support for the apportionment requested. Code of Civil Procedure section 1032, subdivision (a)(4), defines prevailing party as "the party with a net monetary recovery." Clearly that is the case here based on the monetary award and recovery in favor of Watte against Nutrien. Code of Civil Procedure section 1032 provides that if a party recovers "other than monetary relief and in situations other than as specified," the court has discretion to "apportion costs between the parties on the same or adverse sides" pursuant to the rules found in section 1034. That is not the case here – there was no nonmonetary relief. The request for apportionment should be denied.

Item 4 – Deposition Transcripts and Video Recordings

Watte seeks recovery of deposition costs in the amount of \$72,150.72. According to Nutrien, the vast majority of the costs are for depositions and witnesses not in this case but, in other cases totaling at least \$49,643.49. (Davis Decl., ¶ 4, Ex. C.) Given that this is a coordinated proceeding, and Watte was brought into this coordinated proceeding at the insistence of Nutrien, the court finds that Watte's participation in depositions from other actions in this coordinated proceeding was reasonably necessary to the conduct of the litigation and should be allowed.

Nutrien also points out that there are duplicate entries, so that the total cost is \$66,130.72, as opposed to the \$72,150.72 claimed. (See Davis Decl, ¶ 4 Exh. C.) Since Watte does not respond to this, the point seems to be conceded. The motion to tax deposition costs is granted in the sum of \$6,020.

Item 8 – Expert Witness Fees

Watte claims \$91,818.37 in expert witness fees. Code of Civil Procedure section 1033.5(c)(1) provides that fees for *court-ordered* expert witnesses are allowable costs. Expert witness fees not ordered by the court are not allowable. (*Olson v. Automobile Club of Southern Calif.* (2008) 42 Cal.4th 1142, 1149-1150, 1156-1157.)

Watte only attempts to justify \$4,987.80 of the expert witness fees that it claims. This amount was the cost of taking the depositions of two Nutrien experts prior to trial. Watte claims that these costs were incurred and necessary to the litigation and should be allowed under section 1044.5, subdivision (a)(3)(A). That is the general provision for recovery of deposition costs. But given that subdivision (c)(1) specifically addresses expert witness fees, and Watte cites to no authority supporting recovery of fees for taking the depositions of an opposing party's expert witnesses, the full \$91,818.37 should be taxed.

Item 9 – Trial Transcripts

Watte claims \$15,777.25 for hearing and trial transcripts. Transcripts of court proceedings *ordered by the court* are allowable costs under section 1033.5, subdivision (a)(9)(B). Watte in the opposition states that this was mistakenly included in Item 9, when it should have been included in Item 11 – Court Reporter Fees, which are recoverable under subdivision (a)(11). Subdivision (a)(11) provides that “[c]ourt reporter fees as *established by statute*” (emphasis added) are an allowable item of cost. Watte in the opposition identifies no applicable statute establishing recoverability of the court reporter fees in this action. Accordingly, the motion to tax should be granted in the sum of \$15,777.25.

Item 15 – Mediation Fees

Watte seeks \$5,870 in mediation fees for two mediations that were not ordered by the court. Mediation fees are allowable in the discretion of the court *if ordered by the court*. (Code Civ. Proc., § 1033.5, subd. (c)(4); *Gibson v. Bobroff* (1996) 49 Cal.App.4th 1202.) Because the opposition does not show that these fees were ordered by the court, the motion to tax this item should be granted.

Motion to Tax M.C. Watte Ranches' Costs

Nutrien requests that the court apportion costs claimed by M.C. Watte Ranches, as it did with respect to Watte. In this scenario, M.C. Watte Farms was the plaintiff and defendants named in the complaint are Nutrien and Brian Watte Farms. Liability in the jury verdict was apportioned 80% to Nutrien and 20% to Brian Watte Farms. The relationship of the parties fits better within the context of *Acosta v. SI Corp.* (2005) 129 Cal.App.4th 1370, discussed above, as M.C. Watte Farms asserted claims against two

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Tentative Ruling

Re: ***In Re: Imidacloprid Cases***
Superior Court Case No. 22JCCP05241

Hearing Date: April 23, 2026 (Dept. 502)

Motion: By Eriksson LLC for Relief From Waiver of Objections to Defendant Loveland Products Inc.'s Request for Production of Documents, Set Two

By Loveland Products, Inc. to Compel Eriksson LLC's Discovery Response

Tentative Ruling:

To grant Eriksson LLC's ("Eriksson") motion for relief of objections.

To grant Loveland Products, Inc.'s ("Loveland") motion to compel further response and production of documents pursuant to Loveland's Request for Production of Documents – Set Two ("RFP"), in part as set forth below. To the extent the motion is granted, Eriksson shall produce responsive documents within 20 days of service of the order by the clerk.

Explanation:

Eriksson's Motion for Relief From Waiver

The two motions at bench concern the same set of discovery, Loveland's RFP propounded on defendant Eriksson. On November 8, 2024, Loveland served Eriksson with Request for Production of Documents, Set Two. On December 10, 2024, counsel for Eriksson requested an extension to January 10, 2025, to serve its responses, which Loveland granted. Eriksson's counsel neglected to calendar the response deadline and did not timely serve a response. According to counsel, contributing to the cause of the calendaring error was the fact that he was in trial in Stanislaus County and concurrently received a difficult medical diagnosis. (McCarron Decl., ¶ 4.) Though there were some reminders in meet and confer letters addressing other issues, Eriksson became aware of the outstanding discovery when Loveland first filed its motion to compel on October 13, 2025. (Id. ¶¶ 6, 8.) Once the motion to compel was filed, Eriksson's counsel prepared responses and compiled documents to produce, and served verified responses on November 3, 2025 (Id. ¶ 8.) Eriksson produced over 54,000 additional pages of documents in January 2026 in response to meet and confer over the issue.

Because Eriksson's responses were served late, all objections are waived. (Code Civ. Proc., § 2031.300, subd. (a).) The court may grant relief from waiver of objections upon the satisfaction of two conditions: (1) the party subsequently serves a response that is in substantial compliance with statutory requirements, and (2) the party's failure to timely respond was the result of mistake, inadvertence, or excusable neglect. (Ibid.)

Substantial compliance “means actual compliance in respect to the substance essential to every reasonable objective of the statute. [Citation.] Where there is compliance as to all matters of substance[,] technical deviations are not to be given the stature of noncompliance. [Citation.] Substance prevails over form.” (*St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 779 [interpreting the identical phrase in connection with requests for admissions].)

The court concludes that Eriksson's November 3, 2025 response substantially complies with the pertinent sections of the Code of Civil Procedure. The statute requires *substantial* compliance, not perfection in every particular of the responses. Loveland of contends the opposite, pointing as an example to Request No. 28, which demands six years of “documents and communications RELATED TO the transport and storage of pistachios” harvested by Eriksson. (McCarron Decl., ¶ 8 Ex. 1.) This is obviously a very broad discovery request that probably seeks a good deal of information not relevant to the claims in this action. Eriksson points out that “[t]ransportation and storage of pistachios are distinct processes, both of which occur at multiple stages of harvest, processing, and sale. Pistachios are transported from the orchard to the processing facility, moved within the processing facility, and then transported for distribution. The pistachios are otherwise stored when they are not in transit. This compound request thus potentially encompasses an extraordinarily broad range of almost entirely irrelevant documents that may only tangentially relate to Eriksson's transport and storage of the pistachios at issue in this case.” The court agrees. The objection of undue burden is a reasonable one under the circumstances.

Loveland contends that the responses were not substantially compliant because Eriksson refused to produce documents based on the claim that the documents are available elsewhere. Eriksson responds that it has not withheld any responsive documents on this basis. Rather, Eriksson asserts that specified documents (namely, the 2019-2020 Product Use Reports) are not within Eriksson's possession, custody, or control. Eriksson instead provided information identifying the governmental entity from which these documents may be obtained. Compliance with discovery obligations does not require Eriksson to produce documents not in its possession, custody, or control. (See Code Civ. Proc., § 2031.010, subd. (a).)

The court concludes that the responses are substantially compliant.

The next issue is whether the waiver was the result of mistake, inadvertence, or excusable neglect. This is similar to the ground for relief pursuant to Code of Civil Procedure section 473, subdivision (b) (“mistake, inadvertence, surprise, or excusable neglect”), and the same standards apply (*City of Fresno v. Superior Court* (1988) 205 Cal.App.3d 1459, 1467).

Here we have a simple failure to calendar the response deadline. The issue apparently completely slipped Eriksson's counsel's mind until the motion to compel was filed in October 2025. Counsel also points to being in trial at the time the responses were due, and a “challenging medical diagnosis” as contributing factors. “[C]alendar errors by an attorney or member of his staff are, under appropriate circumstances excusable”. (*Nilsson v. Los Angeles* (1967) 249 Cal.App.2d 976, 980.)

It certainly was a big missed deadline, and it was missed for a long time. But Loveland did not seem too concerned about it as it waited nine months to file a motion to compel. As Eriksson points out, it was not completely disregarding its discovery obligations, as from January 2025 to March 2025 Eriksson produced thousands of documents in response to other discovery requests propounded by Loveland. (McCarron Decl., ¶ 7.) This continued engagement near the January 10, 2025, deadline demonstrates Eriksson's intent to prosecute this action and respond to Loveland's discovery demands.

The court finds the failure to calendar the deadline or timely catch the omission to be excusable neglect. Therefore the court intends to grant relief from waiver of the objections to Loveland's RFP.

Loveland's Motion to Compel

Loveland seeks an order:

2. Compelling Eriksson to produce all responsive documents to RFPs Set Two in its possession or control, including to:
 - a. Produce the final and/or interim Arbitration Award that resulted from the arbitration between Eriksson and Munger Brothers;
 - b. Produce copies of all exhibits, testimony transcripts, or other evidence offered in the arbitration between Eriksson and Munger Brothers;
 - c. Produce transcripts of the audio recordings referred to by Eriksson's counsel in his December 16, 2025 email to Hallie Arena (exhibit F to Warden Dec. at 6);
 - d. Produce the underlying recordings from which the transcripts referenced above were prepared;
 - e. Produce a privilege log identifying any responsive records that have not been produced based on a claim of privilege;
 - f. Conduct a search of the email accounts of Hans Koefoed, Mette Hoyer, Lisbet Rausing, William Camp, Matts Svensson, Truels Damsgaard, and Johannes Burger for any documents related to the decision by Eriksson (or its agents) to apply imidacloprid to the pistachio trees at Burrel Ranch or related to Eriksson's response to the fact that some of the pistachios grown at its Burrel Ranch were determined to have elevated imidacloprid residue levels;
 - g. Produce all responsive documents discovered in the search describe above; and
 - h. Produce all documents responsive to Request for Production Numbers 60 and 61 where Eriksson indicated it is standing on its waived objections including, but not limited to, all financial statements and all documents showing total sales, gross margins, and net profits.

(See Loveland's Notice of Motion ["NOM"].) The court will refer to these issues by item letter as set forth in Loveland's NOM.

The motion for order compelling further responses “shall set forth specific facts showing good cause justifying the discovery sought by the demand.” (Code Civ. Proc., § 2031.310(b)(1); *Kirkland v. Superior Court*. (2002) 95 Cal.App.4th 92, 98.) To establish “good cause,” the burden is on the moving party to show both: (a) Relevance to the subject matter (e.g., how the information in the documents would tend to prove or disprove some issue in the case); and specific facts justifying discovery (e.g., why such information is necessary for trial preparation or to prevent surprise at trial). (*Glenfed Develop. Corp. v. Superior Court* (1997) 53 Cal.App.4th 1113, 1117; see also *Kirkland, supra*, 95 Cal.App.4th at p. 115.) Declarations are generally used to show the requisite “good cause” for an order to compel inspection. The declarations must contain “specific facts” rather than mere conclusions. (*Fireman's Fund Ins. Co. v. Superior Court* (1991) 233 Cal.App.3d 1138, 1141.)

Here, the declaration of Nicholas Warden in support of the motion does not set forth any facts establishing good cause. The declaration only address the procedural history of the motion and discovery dispute. But arguments showing relevance are made in the moving and reply papers, and Eriksson does not challenge the good cause showing other than to sometimes argue that some documents sought are not relevant.

The first two categories (a, b in Loveland's NOM) seek documents from the Eriksson / Munger arbitration. Loveland already moved to compel Munger's compliance with a subpoena for arbitration records, and the court granted the motion. The court has rejected Munger's reliance on a confidentiality agreement entered into between Eriksson and Munger as a basis for refusing to produce otherwise discoverable documents. (See Warren Decl., Exh. G.) Eriksson continues to rely on this agreement as a basis for not producing the documents sought. (See McCarron Decl., ¶¶ 16, 17.) The confidentiality agreement does not provide a basis for not producing relevant documents, as the court already held.

Loveland argues that the arbitration award, audio transcripts, and any other withheld exhibits are both relevant and responsive to its requests for production. Loveland shows that the arbitration related to the 2017 alleged imidacloprid issue, and contends that the audio transcripts and arbitration award necessarily discuss the exact facts that are being litigated here. Records from the arbitration may be responsive five requests: RFP no. 24 (requesting all "documents that relate to testing, analysis, acceptance, rejection, or regulatory compliance of pistachios on or in which the chemical imidacloprid has been applied or detected"); RFP no. 25 (requesting documents "regarding any incidents in which pistachios were determined to ... potentially violate any regulation or law"); RFP no. 27 (requesting documents" related to [Eriksson's] harvest of pistachios"); RFP no. 28 (requesting documents related to the transport and storage of pistachios [Eriksson] harvested"); RFP no. 29 (requesting all communications "related to the sale of pistachios" including communications "related to any unsuccessful attempts to sell pistachios"). Loveland believes that evidence admitted in the Eriksson-Munger Arbitration is likely to bear on testing, analysis, acceptance, rejection, and regulatory compliance of the 2017

pistachio harvest, as well as attempts to sell the pistachios either in the United States or overseas. (MPA 9:14-28.)

As to the arbitration award, this is sufficient to show relevancy. According to Eriksson's counsel, the arbitration award was only withheld because Munger did not consent to its disclosure. Eriksson makes no showing of any other basis for withholding the arbitration award. It must be produced by Eriksson.

As for item b (copies of **all** exhibits, testimony transcripts, or other evidence offered in the arbitration between Eriksson and Munger Brothers), Loveland makes no showing that every single exhibit, transcript or item of evidence from the arbitration is relevant. The request is not tailored to those exhibits or items that are relevant to specific issues in this action. A blanket request for every document related to the arbitration is facially overbroad. There is no showing of good cause for every single item of evidence, whether it relates to issues raised in this action or not. "For discovery purposes, information should be regarded as 'relevant to the subject matter' if it might reasonably assist a party in evaluating the case, preparing for trial, or facilitating the settlement thereof." (*City of Los Angeles v. Superior Court* (2017) 9 Cal.App.5th 272, 288.) Eriksson is ordered to produce exhibits and testimony transcripts *to the extent they are responsive to demand nos. 24, 25, 27, and 29* and relate to the 2017 pistachios at issue in this case.

As to items c and d, Loveland seeks an order compelling production of transcripts of the audio recordings referred to by Eriksson's counsel in his December 16, 2025 email to Hallie Arena (Warden Decl. ¶ 12 at Ex. F, p. 7); and the underlying audio recordings from which the transcripts were prepared. It is unclear where this is directly addressed in the papers in support of the motion. The court does not see references in the papers to this December 16, 2025 email to Hallie Arena in the moving papers. Given the failure of Loveland to clearly articulate good cause for compelled production of items c and d, it should be denied.

In the NOM's item e, Loveland seeks a privilege log identifying any responsive records that have not been produced based on a claim of privilege. Obviously to the extent any documents are withheld on the basis of privilege, a privilege log is required. (See Code Civ. Proc., § 2031.240, subd. (c)(1).)

Regarding the NOM's item f, Loveland seeks an order compelling Eriksson to "[c]onduct a search of the email accounts of Hans Koefoed, Mette Hoyer, Lisbet Rausing, William Camp, Matts Svensson, Truels Damsgaard, and Johannes Burger for any documents related to the decision by Eriksson (or its agents) to apply imidacloprid to the pistachio trees at Burrel Ranch or related to Eriksson's response to the fact that some of the pistachios grown at its Burrel Ranch were determined to have elevated imidacloprid residue levels ..." Item g seeks production of all documents from such search.

Counsel found that “Eriksson's production included no discernible collection of documents that appeared to be the results from a search of the Ingleby email custodians as requested.” (Warden Decl., ¶ 22.)

Apparently in response to this issue, Eriksson's counsel states,

I am not aware of any documents establishing that the Ingleby personnel referenced in Loveland's motion were directly involved in the recommendation to apply Wrangler in 2017, to purchase Wrangler, or the application of Wrangler. At most, some personnel may have had passive awareness of a recommendation, and any related communications are already in Loveland's possession. The individuals identified in Loveland's motion were involved in formulating Eriksson's response to the Maximum Residue Limit problem after the 2017 application of Wrangler, both with regard to Eriksson's nuts at Monarch Nut Company and the nuts at Eriksson's processing facility (the nuts at issue here), and documents have been produced concerning their involvement in those decisions.

(McCarron Decl., ¶ 25.) This is not responsive to the issue raised in the motion. McCarron's declaration demonstrates relevance of documents in possession of these individuals, to the extent they relate to the application of Wrangler in 2017.

A response stating inability to comply with a document demand shall state the following:

- That a diligent search and reasonable inquiry has been made in an effort to locate the item demanded; and
- The reason the party is unable to comply: e.g., the document:
 - never existed; or
 - has been lost or stolen; or
 - has been destroyed; or
 - is not in the possession, custody or control of the responding party, in which case, the response must state the name and address of anyone believed to have the document.

(Code Civ. Proc., § 2031.230.) Counsel stating that he is unaware of the existence of such documents does not satisfy the requirement of making a diligent search and reasonable inquiry. Eriksson's counsel does not indicate that either was done. Eriksson should be ordered to search the emails of the above-referenced individuals and produce any documents relevant to the document demands at issue in this motion.

NOM's item h seeks production of “all documents responsive to Request for Production Numbers 60 and 61 where Eriksson indicated it is standing on its waived objections including, but not limited to, all financial statements and all documents showing total sales, gross margins, and net profits.”

Request no. 60 seeks “DOCUMENTS sufficient to show your total sales, gross margin, and net profits by country from YOUR sale of pistachios between January 1, 2015, through December 31, 2020.” In response to no. 60, , following various objections, Eriksson stated that it produced documents reflecting the proceeds that

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Tentative Ruling

Re: **Alexandra Seifert v. Paul Michaelides**
Superior Court Case No. 25CECG03846

Hearing Date: April 23, 2026 (Dept. 502)

Motions (x3): Defendants' Motion for Extending Time to File Demurrer and Motion to Strike
Plaintiff's Motion to Strike Defendants Answer to Her Complaint
Plaintiff's Motion to Amend Clerical Mistake

Tentative Ruling:

The Court grants defendants Paul Leon Michaelides, D.D.S., and Paul L. Michaelides, D.D.S., M.Sc.D., Inc. for an extension of time to file their demurrer and motion to strike, and deems defendants' demurrer and motion to strike timely filed.

The Court denies plaintiff's motion to strike defendants' answer to her complaint.

The Court denies plaintiff's motion to correct clerical error.

Explanation:

Motion for Extending Time to File Demurrer and Motion to Strike

On February 19, 2026, defendants Paul Leon Michaelides, D.D.S., and Paul L. Michaelides, D.D.S., M.Sc.D., Inc. ("defendants") filed this motion seeking an extension to respond to plaintiff, Alexandra Seifert's ("Seifert" or "plaintiff") complaint.

Defendants answer to Seifert's complaint was due December 15, 2025, pursuant to the Court's December 11, 2025 Ex Parte Order. However, due to an oversight, the correct first appearance fees were not paid by defense counsel's assistant, and therefore the eFiling was rejected by the Court Clerk. Defense counsel did not receive notice of the rejection until after the December 15, 2025 filing deadline. The Demurrer and Motion to Strike were re-filed with the correct first appearance fees. However, because the re-filing occurred after the December 15, 2025 deadline for responding to the complaint, an extension of time to allow the filing was required. (Mark Gibson Declaration, ¶¶ 3-6.)

Defendants appeared *ex parte* on December 30, 2025, to request an extension. This Court denied the *ex parte* application due to lack of exigency but did so without prejudice to filing the instant motion. (Gibson Decl., ¶¶ 10.)

Defendants filed their demurrer and motion to strike Seifert's complaint on December 30, 2025.

California Rules of Court, rule 3.503 provides “[t]he assigned judge, on terms that are just, may shorten or extend the time within which any act is permitted or required to be done by a party.” Additionally, Code of Civil Procedure Section 128 provides trial courts with broad discretion to regulate the proceedings before them.

The Court notes that the demurrer and motion to strike which are the subject of this motion, have already been filed, and have a hearing scheduled for May 14, 2026. Accordingly, the Court grants this motion and deems defendants' demurrer and motion to strike timely filed.

Plaintiff's Motion to Strike Defendants Answer to Her Complaint

Seifert files this motion on February 10, 2026 in order to strike the answer filed by defendants, which defendants filed on December 30, 2025. (Seifert's February 10, 2026 Decl., ¶¶ 3-4.)

Seifert makes this motion “on the grounds that defendants' answer was filed after the expiration of the response deadline, and after expiration of a stipulated extension by the parties, and after a court order extending that deadline and without further leave of court.” (Code of Civ. Proc., §§ 4 35(b)(1), 436(b).) (Plaintiff's Moving Papers, pg. 2, lns. 4-6.)

However, it should be noted that the court has discretion to accept a late filing without a noticed motion. (*Harlan v. Dep't of Transp.* (2005) 132 Cal. App. 4th 868, 873.) Furthermore, Code of Civil Procedure section 475 provides:

The court must, in every stage of an action, disregard any error, improper ruling, instruction, or defect, in the pleadings or proceedings which, in the opinion of said court, does not affect the substantial rights of the parties. No judgment, decision, or decree shall be reversed or affected by reason of any error, ruling, instruction, or defect, unless it shall appear from the record that such error, ruling, instruction, or defect was prejudicial, and also that by reason of such error, ruling, instruction, or defect, the said party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error, ruling, instruction, or defect had not occurred or existed. There shall be no presumption that error is prejudicial, or that injury was done if error is shown.

Under these circumstances, Seifert has failed to show how defendants late filed responses due to an administrative mistake, by at most, 2 weeks, prejudiced her or caused substantial injury.

Accordingly, plaintiff's motion is denied.

Motion to Correct Clerical Mistake

