

Tentative Rulings for November 20, 2025
Department 503

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 503

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(03)

Tentative Ruling

Re: **Killian v. Jawad Co.**
Case No. 25CECG01273

Hearing Date: November 20, 2025 (Dept. 503)

Motion: Defendant's Motion to Enforce Settlement

**If oral argument is timely requested, it will be entertained on
Thursday, December 4, 2025, at 3:30 p.m. in Department 502.**

Tentative Ruling:

To take the motion to enforce settlement off calendar, as all hearings on the merits are subject to an automatic stay due to defendant's pending appeal.

Explanation:

"Subject to certain exceptions not relevant here, 'the perfecting of an appeal stays proceedings in the trial court upon the judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order.' ([Code Civ. Proc.], § 916, subd. (a).) The purpose of the automatic stay provision of section 916, subdivision (a) 'is to protect the appellate court's jurisdiction by preserving the status quo until the appeal is decided. The [automatic stay] prevents the trial court from rendering an appeal futile by altering the appealed judgment or order by conducting other proceedings that may affect it.'" (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 189, citation omitted.)

"To accomplish this purpose, section 916, subdivision (a) stays all further trial court proceedings 'upon the matters embraced' in or 'affected' by the appeal." (*Ibid.*) "[A] proceeding affects the effectiveness of the appeal if the very purpose of the appeal is to avoid the need for that proceeding. In that situation, the proceeding itself is inherently inconsistent with a possible outcome on appeal and must therefore be stayed under section 916, subdivision (a). **Thus, an appeal from the denial of a motion to compel arbitration automatically stays all further trial court proceedings on the merits.**" (*Varian Medical Systems, Inc. v. Delfino* (2005) 35 Cal.4th 180, 190, emphasis added.)

Here, defendant moves to enforce the settlement agreement that the parties executed on August 28, 2024, relying on Code of Civil Procedure section 664.6. However, defendant also filed an appeal of the trial court's order denying its petition to compel arbitration. (See Notice of Appeal filed November 3, 2025.) The appeal remains pending at this time. Therefore, there is an automatic stay of all court proceedings on the merits until the appeal is resolved. (*Varian, supra*, at p. 190.) In the present case, the motion to enforce the settlement agreement is a proceeding on the merits of the case, since defendant is essentially seeking to dismiss the action based on the alleged settlement

agreement. In other words, defendant seeks to have the court rule that the agreement waived plaintiff's claims and constitutes a complete defense to her claims against defendant. Ruling on the motion would interfere with the Court of Appeal's jurisdiction over the case and render the appeal futile. Therefore, the court finds that the automatic stay prevents the motion from being heard at this time. As a result, the court takes the matter off calendar based on the automatic stay.

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: JS **on** 11/14/2025.
(Judge's initials) (Date)

(36)

Tentative Ruling

Re: ***K.U. v. Nguyen, M.D., et al.***
Superior Court Case No. 25CECG00283

Hearing Date: November 20, 2025 (Dept. 503)

Motions (x4): by Plaintiff an Order Deeming Requests to Admit Truth of Facts Against Defendant Daniel Dzung Nguyen, M.D. Admitted; and Compelling Defendant's Responses to Compelling Plaintiff's Responses to Form Interrogatories, Special Interrogatories, and Requests for Production of Documents; and for Monetary Sanctions

**If oral argument is timely requested, it will be entertained on
Thursday, December 4, 2025, at 3:30 p.m. in Department 502.**

Tentative Ruling:

Plaintiff's motions to compel defendant Daniel Dzung Nguyen, M.D.'s responses to Form Interrogatories, Set One, Special Interrogatories, Set One, and Requests for Production of Documents, Set One, and for an order deeming the Requests for Admissions admitted, are rendered moot by Dr. Nguyen's response to the discovery requests, served on November 6, 2025. To the extent that plaintiff seeks further responses to the discovery requests, a separate motion will be required.

To award monetary sanctions in the total amount of \$1,140 against Dr. Nguyen, payable within 30 days of the date of this order, with the time to run from the service of the minute order by the clerk. (Code Civ. Proc., § 2030.290, subd. (c).)

Explanation:

While Dr. Nguyen indicates that he has served responses to plaintiff's discovery requests on November 6, 2025 (Brainich Decl., ¶¶ 2-5, Exs. A-D.), plaintiff is still entitled to monetary sanctions.

Sanctions are mandatory unless the court finds that the party acted "with substantial justification" or other circumstances that would render sanctions "unjust." (Code Civ. Proc., § 2030.290, subd. (c).) The California Rules of Court authorizes an award of sanctions for failure to provide discovery even if "the requested discovery was provided to the moving party after the motion was filed." (Cal. Rules of Court, rule 3.1348(a).) Dr. Nguyen fails to present any facts to warrant finding an award of sanctions to be unjust. Nor are any facts provided to show that plaintiff acted with substantial justification in his delay in serving the responses to the subject discovery. Although Dr. Nguyen's counsel indicates that the responses could not be served until after counsel reviewed the documents from the California Medical Board, which were received by defense counsel on November 3, 2025, no facts are provided to show why there was a delay in obtaining these documents.

Notably, the court finds the request for sanctions, no less than \$3,900 per motion, to be excessive. The court finds it reasonable to allow 2 hours for the preparation these simple discovery motions, which in large part, cite to similar statutes and authority and rely upon similar facts. Additionally, the court reduces counsel's rate to \$450 an hour. Where a party is seeking out-of-town rates, he or she is required to make a "[s]ufficient showing...that hiring local counsel was impractical." (*Nichols v. City of Taft* (2007) 155 Cal.App.4th 1233, 1244.) There is no showing of any attempt made by plaintiff to seek local counsel.

The court further awards \$240 for the cost of filing the motions. Therefore, the total amount of sanctions award is \$1,140.

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: JS **on** 11/19/2025.
(Judge's initials) (Date)