

Tentative Rulings for May 1, 2025
Department 501

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.*

20CECG01307 *Zart Transmission v. Loveman*

24CECG05087 *Armor v. Voigt, Inc.*

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 501

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Tentative Ruling

Re: **John Roe 927 D.W., et al. v. County of Fresno**
Superior Court Case No. 22CECG03958

Hearing Date: May 1, 2025 (Dept. 501)

Motions (x3): by Defendant County of Fresno for Terminating Sanctions against Plaintiffs John Roe 117 G.M., John Roe 868 D.M., and John Roe 1072 K.M.

Tentative Ruling:

To grant defendant County of Fresno's motions for terminating sanctions against plaintiffs John Roe 117 G.M., John Roe 868 D.M., and John Roe 1072 K.M. (collectively "plaintiffs"), as plaintiffs have willfully refused to comply with this court's orders compelling them to respond to discovery. (Code Civ. Proc., § 2023.010, subd. (g); 2030, 290, subd. (c); 2031.300, subd. (c).) To dismiss plaintiffs' action against defendant. (Code Civ. Proc., § 2023.030, subd. (d)(3).)

Monetary sanctions in the amount of \$250 are ordered in favor of defendant and against plaintiff John Roe 117 G.M. payable no later than 20 days from the date of the order, with time to run from the service of the order by the clerk.

Monetary sanctions in the amount of \$250 are ordered in favor of defendant and against plaintiff John Roe 868 D.M. payable no later than 20 days from the date of the order, with time to run from the service of the order by the clerk.

Monetary sanctions in the amount of \$250 are ordered in favor of defendant and against plaintiff John Roe 1072 K.M. payable no later than 20 days from the date of the order, with time to run from the service of the order by the clerk.

Defendant shall submit a proposed judgment consistent with the court's order within 10 days.

Explanation:

Code of Civil Procedure section 2023.010, subdivision (g), makes "[d]isobeying a court order to provide discovery" a "misuse of the discovery process," but sanctions are only authorized to the extent permitted by each discovery procedure. Once a motion to compel answers is granted, continued failure to respond or inadequate answers may result in more severe sanctions, including evidence, issue or terminating sanctions, or further monetary sanctions. (Code Civ. Proc., §§ 2030.290, subd. (c), 2031.300, subd. (c).)

Sanctions for failure to comply with a court order are allowed only where the failure was willful. (*R.S. Creative, Inc. v. Creative Cotton, Ltd.* (1999) 75 Cal.App.4th 486, 495; *Vallbona v. Springer* (1996) 43 Cal.App.4th 1525, 1545; *Biles v. Exxon Mobil Corp.* (2004) 124 Cal.App.4th 1315, 1327.) If there has been a willful failure to comply with a

discovery order, the court may strike out the offending party's pleadings or parts thereof, stay further proceedings by that party until the order is obeyed, dismiss that party's action, or render default judgment against that party. (Code Civ. Proc., § 2023.030, subd. (d).)

On August 1, 2024, the court ordered plaintiff John Roe 117 G.M. to serve verified responses to discovery requests within 20 days of service of the court's order. On August 6, 2024, the court ordered plaintiff John Roe 1072 K.M. to serve verified responses to discovery requests within 20 days of service of the court's order. On August 20, 2024, the court ordered plaintiff John Roe 868 D.M. to serve verified responses to discovery request within 10 days of service of the court's order. The court also ordered each plaintiff to pay \$300 in monetary sanctions to defendant within 30 days. The court's orders were served on plaintiffs on August 2, 2024 (John Roe 117 G.M.), August 7, 2024 (John Roe 1072 K.M.), and August 20, 2024 (John Roe 868 D.M.), respectively. However, plaintiffs have not served verified responses to any of the discovery requests, nor have any of them paid the monetary sanctions as ordered, despite the passage of more than 30 days since each of the orders were served on them.

Therefore, it appears that plaintiffs are willfully refusing to comply with the court's orders compelling them to answer the discovery requests, as well as the order to pay monetary sanctions. It does not appear likely that any lesser sanctions would be effective to obtain plaintiffs' compliance, as it appears that plaintiffs have no interest in responding to defendant's discovery or otherwise participating in the action that they filed. As a result, the court grants the motions for terminating sanctions and orders each plaintiffs' action dismissed. Additionally, the court orders monetary sanctions against each plaintiff for the reasonable attorney's fees and costs of \$250 incurred to bring these motions since each motion was significantly similar to one another.

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: DTT **on** 4/30/2025.
(Judge's initials) (Date)

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Tentative Ruling

Re: **Ray Thacker v. Jose Anguiano**
Superior Court Case No. 23CECG02079

Hearing Date: May 1, 2025 (Dept. 501)

Motion: Default Prove Up

Tentative Ruling:

To deny, without prejudice.

Explanation:

CIV-100 Application for Court Judgment Incomplete or Insufficient

Plaintiff's application for a court judgment is incomplete in multiple sections. Item 1e(3) is not filled out. Item 2 should be completed pursuant to statement of damages (see asterisk to Item 2b). Item 4 is not marked. Item 5b is not marked.

Item 8 is insufficient. Plaintiff indicates only an "understanding and belief" that defendant is not in U.S. military service but offers no foundation for this belief. Plaintiff must provide a more concrete affirmation that defendant is not in military service prior to a court entry of judgment.

Incomplete Proposed Judgment

Section 6 of the proposed order is not complete and should be revised prior to any refiling of the plaintiff's application for default judgment.

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: DTT on 4/30/2025.
(Judge's initials) (Date)