

Tentative Rulings for May 5, 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)

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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.*

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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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| 22JCCP05241 | <i>In Re: Imidacloprid Cases</i> is continued to Tuesday, June 9, 2026, at 3:30 p.m. in Department 502.                            |
| 24CECG03956 | <i>David Valencia Arevalo v. General Motors LLC</i> is continued to Tuesday, June 2, 2026, at 3:30 p.m. in Department 502.         |
| 25CECG04155 | <i>Campus Pointe Commercial L.P. v. FIVE FIVE NINE LLC</i> is continued to Tuesday, June 16, 2026, at 3:30 p.m. in Department 502. |

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(Tentative Rulings begin at the next page)

# **Tentative Rulings for Department 502**

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(03)

**Tentative Ruling**

Re: **Arguello v. Moran Law Firm, LLP**  
Case No. 24CECG02662

Hearing Date: May 5, 2026 (Dept. 502)

Motion: Plaintiff's Motion to Compel Further Responses to Form Interrogatories, Set One, Special Interrogatories, Set One, Requests for Admissions, Set One, and Request for Sanctions

Plaintiff's Motion to Compel Depositions and for Sanctions

**If oral argument is timely requested, it will be entertained on Tuesday, May 5, 2026, at 3:00 p.m. in Department 502.**

**Tentative Ruling:**

To deny plaintiff's motion to compel further responses to written discovery, as untimely filed. To deny plaintiff's request for sanctions. To grant sanctions against plaintiff in the amount of \$1,600. Plaintiff shall pay sanctions to defense counsel within 30 days of the date of service of this order.

To deny plaintiff's motion to compel the depositions of Victoria Short, Kevin Hines, Pedro Ramirez, and Jodi Ecols. To deny plaintiff's request for sanctions.

**Explanation:**

**Motion to Compel Further Responses to Written Discovery:** Under Code of Civil Procedure section 2030.300, subdivision (c), "Unless notice of this motion is given within 45 days of the service of the verified response, or any supplemental verified response, or on or before any specific later date to which the propounding party and the responding party have agreed in writing, the propounding party waives any right to compel a further response to the interrogatories." There is an identical 45-day deadline to bring motions to compel further responses to requests for admissions. (Code Civ. Proc., §§ 2031.310, subd. (c); 2033.290, subd. (c).)

Thus, if the propounding party fails to bring their motion to compel further responses within 45 days of service of the responses, or any later date agreed to in writing by the parties, the party waives any right to move to compel a further response to the disputed requests. The 45-day deadline to bring a motion to compel is mandatory. The court has no jurisdiction to grant a motion brought after the deadline has run, and such an untimely motion must be denied. (*Golf & Tennis Pro Shop, Inc. v. Superior Court* (2022) 84 Cal.App.5th 127, 137; *Vidal Sassoon, Inc. v. Superior Court* (1983) 147 Cal.App.3d 683.)

Here, defendant served its supplemental verified responses to the form interrogatories, special interrogatories, and requests for admissions on September 23, 2025. (Arguello decl., ¶ 16.) Service of the responses was by electronic delivery, which

extended the time to bring the motions by two days. Thus, plaintiff had 47 days in which to file and serve his motions to compel further responses to the form and special interrogatories and requests for admissions, unless the parties agreed in writing to a later date. The parties never agreed to extend the time to bring the motions to compel. As a result, plaintiff need to file and serve his motions to compel by November 10, 2025, as November 9 was a Sunday.

After the parties were unable to resolve their dispute in the meet and confer process, plaintiff filed a request for pretrial discovery conference on November 10, 2025. The filing of the request tolled the deadline to bring the motions until the request was ruled on by the court. (Fresno Sup. Ct. Local Rules, rule 2.1.17 G.) The court denied the request on November 24, 2025 and granted plaintiff leave to file his motions to compel. (Order on Request for Pretrial Discovery Conference dated November 24, 2025.) The court noted that the time to bring the motions was tolled by 14 days. (*Ibid.*) The court served its order on the parties by electronic delivery on November 24, 2025, which extended the tolling period for another two days. (*Ibid.*) Plaintiff filed his motion to compel on December 8, 2025.

However, even taking into account the additional 14 days of tolling due to the filing of the pretrial discovery conference request, plus another two days for electronic service of the court's order denying the request for pretrial discovery conference, plaintiff still needed to file and serve his motion by November 26, 2025. Plaintiff did not file his motion until December 8, 2025, twelve days after the deadline ran. Thus, plaintiff waived his right to move for a further response to the form and special interrogatories and requests for admissions. As a result, the court has no jurisdiction to grant the motion to compel or the related request for sanctions. (*Vidal Sassoon, Inc. v. Superior Court, supra*, 147 Cal.App.3d at p. 683; *Golf & Tennis Pro Shop, Inc. v. Superior Court, supra*, 84 Cal.App.5th at p. 137.) Therefore, the court must deny the motion for untimeliness.

In addition, the court intends to grant sanctions against plaintiff for bringing an unjustified motion to compel further responses. Sanctions are mandatory where a party unsuccessfully brings a motion to compel further responses, unless the court finds that the party subject to sanctions acted with substantial justification or other circumstances that make imposition of sanctions unjust. (Code Civ. Proc., §§ 2030.300, subd. (d); 2031.310, subd. (h); 2033.290, subd. (d).)

Here, plaintiff has brought a motion to compel further responses despite the fact that the deadline for bringing the motion had expired, and he has insisted on prosecuting the motion even after defendant pointed out that the motion was untimely. Thus, plaintiff's actions were not substantially unjustified, and have resulted in defendant and the court wasting a significant amount of time on motion that cannot be granted. As a result, the court intends to impose sanctions against plaintiff for bringing an unjustified and untimely motion to compel.

Defendant has requested \$2,600 in sanctions based on 6.5 hours of attorney time billed at \$400. (Dobbins decl., ¶ 16.) The court finds that counsel's hourly rate of \$400 is reasonable. However, it should not have taken 6.5 hours of attorney time to oppose the motion, which is similar to another recent set of motions to compel brought by plaintiff. Instead, the court will calculate sanctions based on four hours of attorney time billed at \$400 per hour. Therefore, the court will only award \$1,600 in sanctions to defendant.

However, if a hearing is required and plaintiff fails to prevail on his motions, then the court may order plaintiff to pay additional sanctions.

**Motion to Compel Depositions:** First, plaintiff's motion is procedurally defective, as plaintiff did not obtain leave of court before filing the motion. Under Fresno Superior Court Local Rule 2.1.17 A, "No motion under sections 2017.010 through 2036.050, inclusive, of the California Code of Civil Procedure shall be heard in a civil unlimited case unless the moving party has first requested an informal Pretrial Discovery Conference with the Court and such request has either been denied and permission to file the motion is granted via court order or the discovery dispute has not been resolved as a result of the Conference and permission to file the motion is expressly granted." However, "[t]his rule shall not apply the following: 1. Motions to compel the deposition of a duly noticed party or subpoenaed person(s) who have not timely served an objection pursuant to Code of Civil Procedure section 2025.410." (Fresno Sup. Ct. Local Rules, rule 2.1.17 A1, para. break omitted.)

Here, the plaintiff served notices of the depositions of the witnesses on December 9, 2025. Defendant served objections to some of the deposition notices, contending that plaintiff's counsel chose the deposition dates unilaterally and that defense counsel was not available on the dates chosen by plaintiff. Thus, plaintiff was obligated to file a request for pretrial discovery conference and obtain leave of court before filing his motion to compel the depositions. However, plaintiff did not file a request for pretrial discovery conference, and instead filed his motion to compel the depositions on January 9, 2026.

Notably, defense counsel did file a request for pretrial discovery conference on January 13, 2026 regarding the depositions. Plaintiff opposed the request. The court denied the request on January 15, 2026, but did not grant plaintiff permission to file a motion to compel the depositions. Instead, the court indicated that the parties should work the matter out amongst themselves "without games", and that "depositions should not be unilaterally set." "If the parties truly cannot come to an agreement, a motion to compel can be filed; however, sanctions will be awarded for utilizing the court to essentially calendar depositions for you." (January 15, 2026 Order on Request for Pretrial Discovery Conference.)

Thus, the court did not grant plaintiff permission to file his motion to compel depositions before the motion was filed. Nor did the court grant permission to file the motion retroactively. Instead, the court indicated that the parties should work their dispute out without involving the court, if possible. Since the motion was filed without the court's permission, it is not properly before the court and the court may deny it for that reason alone.

Also, it is worth noting that, at the ex parte hearing on January 15, 2026, the parties indicated that they had agreed to dates for the depositions of Pedro Ramirez and Jodi Ecols. (January 15, 2026 Minute Order on Ex Parte Hearing.) The court also ordered defense counsel to facilitate the depositions of Victoria Short and Kevin Hines no later than March 3, 2026. (*Ibid.*) Thus, the parties may already had taken the depositions of all four of the witnesses, in which case the present motion is moot. However, the motion is still on calendar at this time, as plaintiff has not requested that it be taken off calendar.



(03)

**Tentative Ruling**

Re: ***Pimentel v. Madrigal***  
Case No. 24CECG00675

Hearing Date: May 5, 2026 (Dept. 502)

Motion: Plaintiff's Motion for Final Approval of Class Settlement

**If oral argument is timely requested, it will be entertained on Tuesday, May 5, 2026, at 3:00 p.m. in Department 502.**

**Tentative Ruling:**

To grant plaintiff's motion for final approval of the class settlement.

**Explanation:**

**1. Class Certification**

The court has already granted certification of the class for the purpose of settlement as part of its order granting preliminary approval of the settlement. Nothing has changed since the court granted its order, so the court intends to grant certification of class for the purpose of settlement.

**2. Fairness and Reasonableness of the Settlement**

"In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.' The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244–245, internal citations omitted, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

Here, the court has already granted preliminary approval of the settlement, including finding that the amount of the settlement is fair, adequate and reasonable. After the court granted preliminary approval of the settlement, the class administrator served notice of the settlement on the class members, and no objections or requests for exclusion have been received. The lack of objections tends to support a finding that the settlement is fair, adequate, and reasonable. Therefore, the court intends to find that the settlement is fair, adequate, and reasonable.

**3. Attorney's Fees and Costs**

The court has already made a preliminary determination that the attorney's fees of \$95,000 are fair, adequate, and reasonable under the circumstances. The court has



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**Tentative Ruling**

Re: **Ortiz v. Cervantes et al.**  
Superior Court Case No. 24CECG02055

Hearing Date: May 5, 2026 (Dept. 502)

Motion: By Plaintiffs Juventino Ortiz and Mariano Carranza for an Order Deeming Admissions of Request for Admissions, Set One, and Request for Sanctions

**If oral argument is timely requested, it will be entertained on Tuesday, May 5, 2026, at 3:00 p.m. in Department 502.**

**Tentative Ruling:**

To grant the motion seeking an order deeming the truth of matters specified in the Requests for Admission, Set One established pursuant to Code of Civil Procedure section 2033.280, subdivision (b) against defendant Fernando Lugo Cervantes **unless** responses in substantial conformity with Code of Civil Procedure section 2033.220 are served **prior** to the hearing.

To deny the request for sanctions.

**Explanation:**

On December 24, 2025, the discovery at issue was served on defendant Fernando Lugo Cervantes. (Bolce Decl., ¶ 3 and Ex. 1.) As of the filing of the motion, no responses were served. (*Id.*, ¶ 4.) No opposition was filed.

Based on the above, the motion seeking an order deeming the truth of matters specified in Requests for Admissions, Set One deemed established, will be granted pursuant to Code of Civil Procedure section 2033.280, subdivision (b) **unless** responses in substantial conformity with Code of Civil Procedure section 2033.220 are served **prior** to the hearing.

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., § 2033.280, subd. (c).) As no opposition was filed, the court would typically find that no circumstances that would render the mandatory sanctions unjust. However, plaintiffs Juventino Ortiz and Mariano Carranza submit the declaration of Shiloh A. Parker of the Law Office of Shiloh A. Parker in support. Neither Parker nor the Law Office of Shiloh A. Parker are counsel of record. The declaration attests that Parker is a legal consultant to counsel of record. No corresponding declaration from counsel of record attests to Parker having done any work on the present motion, the papers for which are all subscribed by Cody Bolce, who is listed as from the law firm of record.





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**Tentative Ruling**

Re: **Corning Credit Union vs. Garcia**  
Superior Court Case No. 24CECG03656

Hearing Date: May 5, 2026 (Dept. 502)

Motion: Motion to Set Aside and Vacate Dismissal and Reinstate Case

**If oral argument is timely requested, it will be entertained on Tuesday, May 5, 2026, at 3:00 p.m. in Department 502.**

**Tentative Ruling:**

To grant and vacate the dismissal entered on September 19, 2025. (Code Civ. Proc., § 473, subd. (b).)

To set a Case Management Conference for Tuesday, June 9, 2026, 3:00 p.m. in Department 97E.

**Explanation:**

Plaintiff Corning Credit Union ("Plaintiff") moves to set aside and vacate the dismissal entered against Plaintiff on September 19, 2025. On April 14, 2026, Plaintiff was ordered to file the Declaration of Nathalia Aguirre identified in their Proof of Service on or before 5:00 p.m., April 17, 2026. Instead, on April 15, 2026, Plaintiff filed the Declaration of Laura D'Anna. Leave was not granted to file any substitute declaration. Leave was granted to file the declaration of Nathalia Aguirre. D'Anna explains that Aguirre is no longer with the firm. This statement does not explain why the Aguirre Declaration cannot be filed. Lorena Casas attested to as having served the Aguirre Declaration on December 12, 2025. Accordingly, this statement that Aguirre is no longer with the firm has no bearing. The court is troubled by this lack of compliance. However, due to the impaction of the law and motion calendars, the court considers Plaintiff's motion on its merits based on the new attorney declaration.

Plaintiff seeks relief under the mandatory relief provision of Code of Civil Procedure section 473, subdivision (b). Code of Civil Procedure section 473, subdivision (b), states, in pertinent part:

Notwithstanding any other requirements of this section, the court shall, whenever an application for relief is made no more than six months after entry of judgment, is in proper form, and is accompanied by an attorney's sworn affidavit attesting to his or her mistake, inadvertence, surprise, or neglect, vacate any (1) resulting default entered by the clerk against his or her client, and which will result in entry of a default judgment, or (2) resulting default judgment or dismissal entered against his or her client, unless the court finds that the default or dismissal was not in fact caused by the attorney's mistake, inadvertence, surprise, or neglect.

