

Tentative Rulings for May 8, 2025
Department 403

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.***

18CECG04501 **Diaz v. Sun-Maid Growers of California**

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

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 403

Begin at the next page

(41)

Tentative Ruling

Re: **Tech Ag Financial Group, Inc. v GC Almonds, LLC.**
Superior Court Case No. 24CECG04200

Hearing Date: May 8, 2025 (Dept. 403)

Motion: Default Prove-up

Tentative Ruling:

To grant. The court intends to sign and enter the proposed judgment submitted on April 29, 2025. No appearances are necessary.

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: lmg **on** 5-6-25.
(Judge's initials) (Date)

Tentative Ruling

Re:

Elizabeth Jaimes v. City of Fresno

Superior Court Case No. 24CECG02052

Hearing Date:

May 8, 2025 (Dept. 403)

Motion:

by Defendant Mezcal Lounge for Orders Compelling Plaintiff Elizabeth Jaimes to Provide Initial Verified Responses to Form Interrogatories, Set One; Special Interrogatories, Set One; Requests for Production of Documents, Set One; Deeming Matters Admitted in Requests for Admissions, Set One; and Imposing Monetary Sanctions.

Tentative Ruling:

To grant each of defendant Mezcal Lounge's motions to compel initial responses to form and special interrogatories, and demand for inspection of documents. Within twenty (20) days of service of the order by the clerk, plaintiff Elizabeth Jaimes shall serve verified responses, without objections, to Form Interrogatories, Set One; Special Interrogatories, Set One; and Request for Production, Set One, and produce all documents responsive to the Request for Production of Documents.

To grant defendant Mezcal Lounge's 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 plaintiff Elizabeth Jaimes unless responses in substantial conformity with Code of Civil Procedure section 2033.220 are served prior to the hearing.

To impose monetary sanctions in the total amount of \$740.00 against plaintiff Elizabeth Jaimes, in favor of defendant Mezcal Lounge. Within thirty (30) days of service of the order by the clerk, plaintiff Elizabeth Jaimes shall pay sanctions to defendant Mezcal Lounge's counsel.

Explanation:

On July 16, 2024, defendant Mezcal Lounge ("defendant") served the discovery at issue on plaintiff Elizabeth Jaimes. (Flores Decl., ¶ 3, Exh. 1.) Following various extensions granted by the propounding party, responses were due on November 1, 2024. (Id., ¶ 4.) At the time of filing the present motions to compel, no responses to any of the propounded discovery have been served on defendant. (Id., ¶ 12.) After plaintiff's former counsel withdrew from representation, effective on January 10, 2025, defendant sent a courtesy meet and confer letter to plaintiff on March 19, 2025 regarding her lack of discovery responses. (Id., ¶ 5, Exh. 2.) Although not a necessary contact, it is made more apparent that plaintiff has not been prompted to provide responses to the propounded discovery. Plaintiff has had ample time to respond to the discovery requests and has not done so. No opposition was filed. As such, the court will grant the defendant's motions to compel initial responses and to deem matters admitted.

Within 30 days of service of interrogatories, the party to whom the interrogatories are propounded shall serve the original of the response to them on the propounding party. (Code Civ. Proc. § 2030.260.) Within 30 days of service of a demand for inspection, the party to whom the requests are propounded shall serve the original of the response to them on the propounding party. (Code Civ. Proc. § 2031.260.) Within 30 days of service of requests for admission, the party to whom the requests are directed shall serve the original of the response to them on the requesting party. (Code Civ. Proc. § 2033.250.) To date, defendant has received no responses. Accordingly, an order compelling initial responses is warranted. (Code Civ. Proc. § 2030.290, subd. (b), 2031.300 subd. (b).) All objections are waived. (Id., §§ 2030.290, subd. (a), 2031.300, subd. (a).) The court may order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, unless responses in substantial conformity with Code of Civil Procedure section 2033.220 are served prior to the hearing. (Id., § 2033.280, subds. (b) and (c).)

Sanctions

Sanctions are mandatory unless the court finds that the party acted "with substantial justification" or other circumstances that would render sanctions "unjust." (Id., §§ 2030.290, subd. (c), 2031.300, subd. (c); see also Code Civ. Proc., § 2033.280, subd. (c) [fully mandatory for failing to initially respond to requests for admission].) As no opposition was filed, the court finds no circumstances that would render the mandatory sanctions unjust.

However, the amount of sanctions may be reduced. The motions are straightforward and without issue, and arise from the same set of facts. The motions are virtually identical. No opposition was filed, so no reply or appearance were necessary. The court will impose sanctions of \$500 reflecting 2.5 hours of attorney time billed at \$200/hour in preparation of the present motions and \$240 in filing fees, in favor of defendant. The sanctions imposed total to \$740 against plaintiff.

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: Img on 5-6-25.
(Judge's initials) (Date)

(41)

Tentative Ruling

Re: **Scorpio Purnell v. Georgette Purnell**
Superior Court Case No. 22CECG04129

Hearing Date: May 8, 2025 (Dept. 403)

Motion: By Plaintiff for Reconsideration

Tentative Ruling:

To deny.

Explanation:

Plaintiff Scorpio Purnell (Plaintiff) voluntarily dismissed this action without prejudice on November 8, 2023. Over a year later, Plaintiff filed a self-styled "Motion to Reinstate a Matter Voluntarily Dismissed Without Prejudice by Plaintiff Due to Extenuating Circumstances," which the court (Jon M. Skiles, Judge) denied on February 20, 2025. On March 3, 2025, Plaintiff moved for reconsideration under Code of Civil Procedure section 1008 of the court's February 20, 2025 order denying his motion to reinstate.

Plaintiff acknowledges Section 1008 generally requires a motion for reconsideration to be "based upon new or different facts, circumstances, or law." (§ 1008, subd. (a).) But Plaintiff ignores the rest of the language of subdivision (a), which provides in full:

When an application for an order has been made to a judge, or to a court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order. *The party making the application shall state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown.*

(*Ibid.*, italics added.)

Section 1008, subdivision (e) explicitly states the requirements set forth in the statute are jurisdictional:

This section specifies the court's jurisdiction with regard to applications for reconsideration of its orders and renewals of previous motions, and applies to all applications to reconsider any order of a judge or court, or for the renewal of a previous motion, whether the order deciding the previous matter or motion is interim or final. No application to reconsider any order

or for the renewal of a previous motion may be considered by any judge or court unless made according to this section.

Thus, "[a]ccording to the plain language of the statute, a court acts in excess of jurisdiction when it grants a motion to reconsider that is not based upon "new or different facts, circumstances, or law."'" *Pazderka v. Caballeros Dimas Alang, Inc.* (1998) 62 Cal.App.4th 658, 670 (Pazderka) [trial court lacked jurisdiction to reconsider its prior order where moving party's declaration failed to raise any new facts or law], quoting *Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500.) Here, as in Pazderka, Plaintiff offers no new facts or law. In fact, Plaintiff files no supporting affidavit or declaration at all. Plaintiff bases his motion for reconsideration solely on his belief that the court made a "clear mistake" that was "demonstrably wrong." By failing to present any new facts or law, Plaintiff fails to meet the jurisdictional prerequisites for relief under Section 1008. Therefore, the court lacks jurisdiction to reconsider the February 20, 2025 order.

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: Img **on** 5-7-25.
(Judge's initials) (Date)