

Tentative Rulings for July 30, 2025
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.

24CECG04695 *Alexander C. Sherriffs, Jr. v. Chrissy Burkett-Johnson* is continued to Tuesday, August 26, 2025 at 3:30 p.m. in Department 502

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Tentative Rulings for Department 502

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Tentative Ruling

Re: ***Lucia Mireles Roman v. Adriana Ruybal, et al.***
Superior Court Case No. 24CECG01686

Hearing Date: July 30, 2025 (Dept. 502)

Motion: by Plaintiff for Leave to File a Second Amended Complaint

Tentative Ruling:

To grant plaintiff Lucia Mireles Roman's motion for leave to file a second amended complaint. (Code Civ. Proc. § 473.) Plaintiff shall file her second amended complaint within 10 days of the date of service of this order. All new allegations shall be in **boldface**.

Explanation:

“ ‘Code of Civil Procedure section 473, which gives the courts power to permit amendments in furtherance of justice, has received a very liberal interpretation by the courts of this state.... In spite of this policy of liberality, a court may deny a good amendment in proper form where there is unwarranted delay in presenting it.... On the other hand, where there is no prejudice to the adverse party, it may be an abuse of discretion to deny leave to amend.’ [Citation.] ‘In the furtherance of justice, trial courts may allow amendments to pleadings and if necessary, postpone trial.... Motions to amend are appropriately granted as late as the first day of trial ... or even during trial ... if the defendant is alerted to the charges by the factual allegations, no matter how framed ... and the defendant will not be prejudiced.’ [Citation.]” (*Rickley v. Goodfriend* (2013) 212 Cal.App.4th 1136, 1159.)

“While a motion to permit an amendment to a pleading to be filed is one addressed to the discretion of the court, the exercise of this discretion must be sound and reasonable and not arbitrary or capricious. And it is a rare case in which ‘a court will be justified in refusing a party leave to amend his pleadings so that he may properly present his case.’ If the motion to amend is timely made and the granting of the motion will not prejudice the opposing party, it is error to refuse permission to amend and where the refusal also results in a party being deprived of the right to assert a meritorious cause of action or a meritorious defense, it is not only error but an abuse of discretion.” (*Morgan v. Superior Court of Cal. In and For Los Angeles County* (1959) 172 Cal.App.2d 527, 530, internal citations omitted.)

Plaintiff moves the court for an order permitting her to file the Second Amended Complaint, which will add allegations against defendant Pacific Bells, LLC as Doe 1 and will amend the date of the motor vehicle accident to September 8, 2022. The amendments are intended to ensure litigation includes all claims against the proper parties and to correct clerical errors. (Torres Decl., ¶ 9.) The amendments do not appear to prejudice defendants, as discovery is in its infancy and counsel for defendant Taco Bell Corp. alerted plaintiff to the identify of defendant Ruybal's employer. (*Id.* at ¶¶ 6, 10.)

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.

Issued By: KCK on 07/28/25
(Judge's initials) (Date)

(36)

Tentative Ruling

Re: ***Garcia v. Kaira22 Express, Inc., et al.***
Superior Court Case No. 23CECG04496

Hearing Date: July 30, 2025 (Dept. 502)

Motions (x2): by defendants for: (1) Terminating Sanctions against Plaintiff
and (2) Deeming Requests for Admission Admitted

Tentative Ruling:

To grant and impose terminating sanctions against plaintiff Esmeralda Garcia, for plaintiff's willful refusal to comply with this court's order compelling her to respond to discovery requests and pay sanctions. (Code Civ. Proc. §§ 2023.010 (d), (g).) The complaint filed by plaintiff Esmeralda Garcia on October 27, 2023 is dismissed, without prejudice. (Code Civ. Proc. §2023.030, subd. (d)(3).)

Defendants' motion to deem requests for admission admitted is rendered moot in light of the court's ruling on defendants' terminating sanctions motion.

Explanation:

Section 2023.010 defines "misuses of the discovery process" as including, "failing to respond or submit to an authorized method of discovery" and "disobeying a court order to provide discovery." (Code Civ. Proc. § 2030.010, subds. (d) & (g).) Section 2023.030 states, in relevant part:

To the extent authorized by the chapter governing any particular discovery method or any other provision of this title, the court, after notice to any affected party, person, or attorney, and after opportunity for hearing, may impose the following sanctions against anyone engaging in conduct that is a misuse of the discovery process:

* * *

(d) The court may impose a terminating sanction by one of the following orders:

* * *

(3) An order dismissing the action or any part of the action, of that party.

(Code Civ. Proc. § 2023.030, subd. (d)(3).)

Accordingly, terminating sanctions must be authorized by a specific discovery statute; they are not available merely because they are an option listed in section 2023.030.

Order Compelling Discovery Responses:

The failure to respond to interrogatories is controlled by Code of Civil Procedure section 2030.290, subdivision (c). That section provides that if a party unsuccessfully makes or opposes a motion to compel a response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust, the court "shall" impose monetary sanctions. It is only when a party disobeys an order compelling responses that a terminating sanction is called for.

If a party then fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

(See Code Civ. Proc., § 2030.290, subd. (c).)

Courts generally follow a policy of imposing the least drastic sanction required to obtain discovery or enforce discovery orders, because the imposition of terminating sanctions is a drastic consequence, one that should not lightly be imposed, or requested. (*Ruvalcaba v. Government Employees Ins. Co.* (1990) 222 Cal.App.3d 1579, 1581.) Sanctions are supposed to further a legitimate purpose under the Discovery Act, i.e. to compel disclosure so that the party seeking the discovery can prepare their case, and secondarily to compensate the requesting party for the expenses incurred in enforcing discovery. Sanctions should not constitute a "windfall" to the requesting party; i.e. the choice of sanctions should not give that party more than would have been obtained had the discovery been answered. (Edmon & Karnow, *California Practice Guide: Civil Procedure Before Trial* (The Rutter Group 2024) § 8:2216.) "The sanctions the court may impose are such as are suitable and necessary to enable the party seeking discovery to obtain the objects of the discovery he seeks but the court may not impose sanctions which are designed not to accomplish the objects of the discovery but to impose punishment. [Citations.]" (*Caryl Richards, Inc. v. Superior Court* (1961) 188 Cal.App.2d 300, 304.)

Appellate courts have generally held that before imposing a terminating sanction, trial courts should usually grant lesser sanctions first. (Edmon & Karnow, *supra*, § 8:2235.) However this is not an "inflexible" policy, and it is not an abuse of discretion to issue terminating sanctions on the first request, where circumstances justify it (e.g. where the violation is egregious or the party is using failure to respond as a delaying tactic). (*Id.* at § 8:2236; *Mileikowsky v. Tenet Healthsystem* (2005) 128 Cal.App.4th 262, 279-280 ["A decision to order terminating sanctions should not be made lightly. But where a violation is willful, preceded by a history of abuse, and the evidence shows that less severe sanctions would not produce compliance with the discovery rules, the trial court is justified in imposing the ultimate sanction. [Citation.]".])

Here, plaintiff was ordered on April 16, 2025 to provide initial responses to form interrogatories, special interrogatories, document requests, and to pay monetary sanctions to defense counsel. Plaintiff failed to serve responses as ordered by the court and to pay monetary sanctions. (Denno Decl., ¶¶ 5, 6.)

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.

Issued By: KCK on 07/28/25
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***In re: 154 Buchanan Street, Coalinga, California 93210***
Superior Court Case No. 25CECG00030

Hearing Date: July 30, 2025 (Dept. 502)

Motion: By Petitioner City of Coalinga for Publication of Warrant

Tentative Ruling:

To grant. Order signed. No appearances 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: KCK **on** 07/29/25
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***In re: 325 East Houston Street, Coalinga, California 93210***
Superior Court Case No. 25CECG00031

Hearing Date: July 30, 2025 (Dept. 502)

Motion: By Petitioner City of Coalinga for Publication of Warrant

Tentative Ruling:

To grant. Order signed. No appearances 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: KCK on 07/29/25
(Judge's initials) (Date)