

Tentative Rulings for August 5, 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.*

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

(47)

Tentative Ruling

Re: **Vickie Grayson v County of Fresno**
Superior Court Case No. 22CECG01628

Hearing Date: August 5, 2025 (Dept. 403)

Motion: By Plaintiff for leave to file a Third Amended Complaint

Tentative Ruling: To Grant

To grant, with the exception that the court does not grant the request to direct the clerk to file the document (the proposed Third Amended Complaint) that is attached, nor does it grant the request to deem the Third Amended Complaint filed as of the date of the order. Instead, plaintiff must separately file the Third Amended Complaint within 10 days from the clerk's service of the minute order granting this motion. New allegations/language must be set in **boldface** type.

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 8-4-25.
(Judge's initials) (Date)

(47)

Tentative Ruling

Re: **Monica Galvez v Donald Cooper**
Superior Court Case No. 24CECG04210

Hearing Date: August 5, 2025 (Dept. 403)

Motion: By Plaintiff to Vacate Dismissal

Tentative Ruling:

To grant and restore the case to active status.

Explanation:

“The law favors judgments based on the merits, not procedural missteps.” (*Lasalle v. Vogel* (2019) 36 Cal.App.5th 127, 134; see also *Riskin v. Towers* (1944) 24 Cal.2d 274, 279 [“the provisions of section 473 of the Code of Civil Procedure are to be liberally construed and sound policy favors the determination of actions on their merits.”].)

Plaintiff filed this motion within six months of the dismissal and specifically seeks relief under Code of Civil Procedure section 473, subdivision (b), contending that counsel's staff's mistake caused the failure to appear. Plaintiff's counsel has submitted a declaration admitting the mistake.

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 8-4-25
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: **Craig Boone v. Fresno Chrysler Jeep, Inc.**
Superior Court Case No. 24CECG04110

Hearing Date: August 5, 2025 (Dept. 403)

Motion: by Plaintiff to Compel Further Responses to Interrogatories

Tentative Ruling:

To continue to Tuesday, August 19, 2025 at 3:30 p.m. in Department 403. Plaintiff Craig Boone must file proof of the parties' written extension for filing this motion to compel further responses by Friday, August 8, 2025.

Explanation:

Plaintiff Craig Boone ("plaintiff") seeks a court order compelling defendant Fresno Chrysler Jeep, Inc. ("defendant") to provide further responses to its propounded Special Interrogatories, Set One, Nos. 58-60.

The Motion is Untimely Based on the Evidence Provided

Code of Civil Procedure section 2030.300, subdivision (c) provides with respect to motions to compel further responses to interrogatories: "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." (Code Civ. Proc., § 2030.300 subd. (c), emphasis added.)

In construing similar predecessor statutory provisions, the court in *Sexton v. Superior Court* (1997) 58 Cal.App.4th 1403, concluded that the 45-day time limitation or otherwise specified period to file for motions to compel further answers to interrogatories and to compel production of documents was not "'jurisdictional' in the fundamental sense, but is only 'jurisdictional' in the sense that it renders the court *without authority* to rule on motions to compel other than to deny them." (*Id.* at p. 1410, emphasis added.)

In Fresno County, Local Rule 2.1.17 provides for a tolling for the time to file a motion to compel between the filing of a request for a pretrial discovery conference and the "issuance by the Court of a subsequent order pertaining to the discovery dispute." (The Superior Court of Fresno County, Local Rules, rule 2.1.17(G).)

Pursuant to the Exhibits attached to the declaration of Mark E. Chielpegian, defendant served amended verified responses to the Special Interrogatories, Set One on March 21, 2025 by e-mail. (Chielpegian Decl., ¶ 4, Exh. C.) From this date, plaintiff had 47 days (45 days plus two days for electronic service) to bring this discovery motion. As required by Fresno County Superior Court Local Rule 2.1.17, plaintiff requested a pre-trial

discovery conference ("PTDC") on May 21, 2025, which was denied by the court on May 30, 2025, with permission granted for plaintiff to file the present discovery motion. The court calculates the time tolled as nine days between the date the PTDC request was filed and the date the court issued its order. Five additional days are allowed for service by mail of the court's order. Thus, the total amount of days tolled is 14, to be counted in addition to the 47 days required. The motion should have been filed 61 days following March 21, 2025.

By these calculations based on the evidence before the court, the deadline to file this motion was May 21, 2025, which is prior to when the motion was filed on June 5, 2025. As timeliness is jurisdictional in this matter, a late filing will preclude the court from hearing this motion.

However, plaintiff in his motion states in a footnote:

Plaintiff's motion is timely because, as the parties attempted to resolve their disputes, FCJ granted plaintiff a series of extensions regarding his deadline to initiate motion practice. Currently, per the parties' agreement, plaintiff has until August 29, 2025 to initiate motion practice.

(Mtn. Memo. P&A, 2:26-28 [fn. 1].)

This is the only time plaintiff (or defendant) mentions the timeliness of the motion. Mr. Chielpegian's declaration does not address this issue, nor do any of the exhibits attached demonstrate an agreement reached between the parties to extend the time for filing of this discovery motion. It is not clear whether this agreement is in writing.

Since plaintiff has purported that an agreement exists which may provide the court with jurisdiction, the court will briefly continue the hearing on this motion in order for plaintiff to provide evidence that the parties agreed in writing to extend the filing date for this motion to a specific later date, in compliance with Code of Civil Procedure, section 2030.300 subdivision (c). If plaintiff can provide such proof, then the court may be able to hear the motion. If no such evidence exists, the court has no jurisdiction to make any ruling other than a denial due to untimeliness.

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** 8-4-25.
(Judge's initials) (Date)