

Tentative Rulings for August 27, 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.

23CECG00841	<i>Celso Tranquillino v. Antonio Almeida</i> is continued to Wednesday, October 1, 2025, at 3:30 p.m. in Department 403.
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Tentative Rulings for Department 403

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(20)

Tentative Ruling

Re: **McCubbin v. City of Fresno**
Superior Court Case No. 23CECG05100

Hearing Date: August 27, 2025 (Dept. 403)

Motion: By City of Fresno to Compel Further Responses to Special Interrogatories, Set One, and Request for Production of Documents, Set One

Tentative Ruling:

To grant both motions. Within 20 days of service of the order by the clerk, plaintiff John McCubbin ("Plaintiff") shall serve further verified responses, omitting all objections previously raised, to Special Interrogatory nos. 47, 71, and 100, and Request for Production of Documents nos. 1-4, 6-7, 11-13. To impose \$935 in monetary sanctions against Plaintiff and in favor of City of Fresno, to be paid to the City's counsel within 20 days of service of the order by the clerk.

Explanation:

Special Interrogatories

Responses to interrogatories must be "as complete and straightforward as the information reasonably available to the responding party permits," answered to the extent possible, and the responding party has an obligation to make a good faith effort to obtain the information. (Code Civ. Proc., § 2030.220, subd. (a).)

Special Interrogatory number 47 requests all facts supporting Plaintiff's contention that the City exceeded the scope of the abatement warrant. Plaintiff merely states, "The Warrant which speaks for itself lists what items were to be abated and it did not include the items listed in Exhibits 2 and 3. The City was only authorized to remove what was in the Warrant and thus when it removed the items listed in Exhibits 2 and 3 which were not part of the Warrant, the City exceeded the scope of the Warrant."

A code-compliant response cannot reference other documents. If the question requires reference to some other document, it should be identified and its contents summarized so that the answer *by itself* is fully responsive to the interrogatory. (Weil & Brown, *Cal. Practice Guide: Civ. Proc. Before Trial* (TRG 2024) ¶ 8:1049, citing *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 783-784.) Here, the response does not *require* reference to another document. Plaintiff simply references it out of apparent preference not to repeat information contained elsewhere. The response is not complete in and of itself.

Special Interrogatory 71 requests all facts supporting Plaintiff's contention that the City engaged in a wrongful act when it removed Plaintiff's property pursuant to the abatement warrant. Plaintiff objects "on the grounds it is vague and ambiguous and calls for a legal conclusion and it is compound." These objections lack any merit. It is improper

Special Interrogatory 100 calls on Plaintiff to provide all facts to support his contention that the City made a “wholesale removal of [his] personal property.” Plaintiff merely responds, “That is what happened. The City removed personal property without regard to what it was or whether it was covered by the Warrant.” This does not state all facts which would require a detailed description of what actions the City to that would support this contention. This response is improper, incomplete and evasive.

The City moves to compel further responses to demand nos. 1-4, 6-7, and 11-13. As detailed in the City's Separate Statement, Plaintiff's responses to Request for Production of Documents are evasive and incomplete. Plaintiff offers no argument in response. Accordingly, the court intends to grant the motion for the reasons stated in the moving papers.

Sanctions

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.

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Tentative Ruling

Re: **Delacruz v. Hernandez**
Superior Court Case No. 24CECG02299

Hearing Date: August 27, 2025 (Dept. 403)

Motion: by Defendant for an Order Compelling Plaintiff's Responses to Form Interrogatories, Set Two, Special Interrogatories, Set Two, and Request for Production of Documents, Set Two; for an Order Deeming Requests for Admissions, Set Two, admitted by Plaintiff

Tentative Ruling:

To grant defendant Rosanna Hernandez's motion to compel plaintiff Joshuamir Delacruz to provide verified responses to Form Interrogatories, Set Two, Special Interrogatories, Set Two, and Request for Production of Documents, Set Two. (Code Civ. Proc. §§ 2030.290, subd. (b); 2031.300, subd. (b).) Plaintiff is ordered to serve complete verified responses to the discovery set forth above, without objection, within 20 days of the clerk's service of the minute order.

To deem defendant's Request for Admissions, Set Two, admitted by plaintiff Joshuamir Delacruz, unless plaintiff serves, before the hearing, a proposed response to the requests for admission that is in substantial compliance with Code of Civil Procedure, section 2033.220. (Code Civ. Proc. §2033.280, subd. (b) and (c).)

To impose monetary sanctions in favor of defendant and against plaintiff Joshuamir Delacruz. (Code Civ. Proc. §§ 2023.010, subd. (d), 2030.290, subd. (c), 2031.300, subd. (c), 2033.280, subd. (c).) Defendant is ordered to pay \$1,140 in sanctions to Leach & McGreevy, LLP, within 30 days of the clerk's service of the minute order.

Explanation:

A party that fails to serve a timely response to a discovery request waives "any objection" to the request. (Code Civ. Proc. §§ 2030.290(a), 2031.300(a), 2033.280(a).) The propounding party may move for an order compelling a party to respond to the discovery request. (Code Civ. Proc. §§ 2030.290(b), 2031.300(b).) In the case of requests for admission, the propounding party may move for an order that the truth of any matters specified in the requests be deemed admitted. (Code Civ. Proc. § 2033.280(b).)

Where responses are served after the motion is filed, the motion to compel may still properly be heard. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 409.) Unless the propounding party takes the matter off calendar, the court may determine whether the responses are legally sufficient, and award sanctions for the failure to respond on time. (*Ibid.*)

Where a party fails to timely respond to a propounding party's request for admissions, the court must grant the propounding party's motion requesting that matters be deemed admitted, unless it finds that the party to whom the requests were directed has served, prior to the hearing on the motion, a proposed response that is substantially in compliance with Code of Civil Procedure section 2033.220. (Code Civ. Proc. §2033.280(c); see also *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 778.) "Substantial compliance" means compliance with respect to " 'every reasonable objective of the statute.' [Citation.]" (*Id.* at p. 779.) Where the responding party serves its responses before the hearing, the court "has no discretion but to deny the motion." (*Id.* at p. 776.)

In the case at bench, defendant has served Form Interrogatories, Set Two, Special Interrogatories, Set Two, Requests for Production of Documents, Set Two, and Request for Admissions, Set Two, upon plaintiff by electronic mail on March 14, 2025. (Leach Decl., ¶ 2, Exh. A.) Plaintiff requested and was granted extensions of time to respond to the discovery by June 16, 2025. (*Id.* at ¶ 3, Exh. B.) Plaintiff failed to serve responses by the extended deadline. (*Id.* at ¶ 4.)

Therefore, defendant is entitled to an order compelling plaintiff to respond to the discovery, including Form Interrogatories, Set Two, Special Interrogatories, Set Two, and Request for Production of Documents, Set Two. (Code Civ. Proc. §§ 2030.290, subd. (b), 2031.300, subd. (b).) Defendant is likewise entitled to an order deeming Requests for Admission, Set Two, admitted by plaintiff Joshuamir Delacruz unless plaintiff serves, before the hearing, a proposed response to the requests for admission that is in substantial compliance with Code of Civil Procedure, Section 2033.220. (Code Civ. Proc. § 2033.280, subd. (b) and (c).)

In addition, since plaintiff did not respond to the discovery in a timely manner, he has waived all objections. (Code Civ. Proc. §§ 2030.290, subd. (a), 2031.300, subd. (a), 2033.280, subd. (a).)

Sanctions

The court may award sanctions against a party that fails to provide discovery responses. (Code Civ. Proc. § 2023.010(d), (h).) The court must impose a monetary sanction against the party or attorney, or both, whose failure to respond necessitated the motion to deem matters admitted. (Code Civ. Proc. §2033.280(c).)

Where responding party provided the requested discovery after the motion to compel was filed, the court is authorized to award sanctions. (Cal. Rules of Court, rule 3.1348(a).)

Defendant's requests for sanctions in connection with the motions at bench is granted. The court finds it reasonable to award sanctions for two hours of attorney time preparing the largely-identical motions to compel and motion to deem admissions admitted at counsel's hourly rate of \$450 as well as the filing fees associated with each motion. (Leach Decl., ¶ 5.) Plaintiff is ordered to pay \$1,140.00 in sanctions to Leach & McGreevy LLP within 30 days of the clerk's service of the minute order.

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Tentative Ruling

Re: ***Diane Heskett v. Jaime Flores, JR***
Superior Court Case No. 23CECG01771

Hearing Date: August 27, 2025 (Dept. 403)

Motion: to Compel Plaintiff's Deposition

Tentative Ruling:

To deny, as moot.

Explanation:

Defendants Russell Daniel and Rosalinda Daniel ("defendants" or "the Daniels") move for an order compelling plaintiff Diane Antoinette Heskett ("plaintiff") to appear for her deposition.

In light of the court's order on August 20, 2025 granting summary judgment against plaintiff in favor of the Daniels, the present motion is denied as moot. (See August 20, 2025 Minute 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 8-26-25
(Judge's initials) (Date)