

Tentative Rulings for October 21, 2025
Department 503

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.*

23CECG03634 *Kirsten Krejcik v. City of Fresno* (See below for further instructions.)

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

25CECG02373 *New Life Physical Therapy Services, P.C. v. John Goodfellow* is continued to Thursday, October 23, 2025, at 3:30 p.m. in Department 503.

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Tentative Ruling

Re: ***Kirsten Krejcik v. City of Fresno***
Superior Court Case No. 23CECG03634

Hearing Date: October 21, 2025 (Dept. 503)

Motion: 1) By Plaintiff for Reconsideration
2) By Plaintiff for Sanctions
3) By Defendants for Terminating Sanctions

Tentative Ruling:

An appearance is required by all counsel. Counsel should be prepared to address the status of payment of sanctions.

To deny Plaintiff's motion for reconsideration of the July 8, 2025 orders.

To take Plaintiff's motion for sanctions off calendar as no papers were filed.

To deny Defendants' motions for terminating sanctions.

Explanation:

RECONSIDERATION

On July 21, 2025, Plaintiff filed her notice of motion for reconsideration of the July 8, 2025 orders. Just 11 court days prior to this hearing, on October 7, 2025, Plaintiff filed her memorandum of points and authorities for this motion. As the memorandum was filed untimely, the Court intends to deny the motion for reconsideration. The Court would note that Plaintiff is able to file any appropriate motion seeking relief from relevant orders made on July 8, 2025.

TERMINATING SANCTIONS

Once a motion to compel discovery is granted, continued failure to comply may support a request for more severe sanctions. Code of Civil Procedure section 2023.010, subdivision (g), makes "[d]isobeying a court order to provide discovery" a "misuse of the discovery process," but sanctions are only authorized to the extent permitted by each discovery procedure. For failure to obey the court's discovery orders or to appear at a noticed deposition, the court may:

"[M]ake 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)...."

(Code Civ. Proc. §§ 2025.450, subd. (d) [depositions]; 2030.290, subd. (c) [interrogatories]; and 2031.300, subd. (c) [production demands].) Factors relevant to determining which sanction is appropriate include:

1. The time which has elapsed since the discovery was served;
2. Whether the party received extensions of time to answer;
3. The amount of discovery propounded;
4. The importance of the discovery sought;
5. Whether the party failing to answer acted in good faith and with reasonable diligence (i.e. whether he or she was aware of the duty to furnish the requested information and had the ability to do so);
6. Whether answers were supplied that were evasive or incomplete;
7. The amount of unanswered discovery remaining;
8. Whether the unanswered discovery requested information that was difficult to obtain;
9. The existence of prior discovery orders and the responding party's compliance with those prior orders;
10. Whether the responding party was unable to comply with prior discovery orders;
11. Whether an order allowing more time to answer would enable the responding party to comply; and
12. Whether a sanction short of dismissal or default would be appropriate to the dereliction.

(Weil & Brown, California Practice Guide: Civil Procedure Before Trial (The Rutter Group 2022), ¶ 8:2205, citing *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 796.)

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. (Weil & Brown, *supra*, at ¶ 8:2212.) "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." (*Caryl Richards, Inc. v. Superior Court* (1961) 188 Cal.App.2d 300, 304.) It is an abuse of discretion to issue terminating sanctions for failure to pay monetary sanctions. (*Newland v. Superior Court* (1995) 40 Cal.App.4th 608, 610.)

Here, the parties acknowledge that Plaintiff has served responses to the discovery ordered. For the sanctions ordered on February 6, 2025, it appears that Plaintiff is working toward paying these. For the sanctions ordered on July 8, 2025, the Court would anticipate that these will also be addressed by Plaintiff following the denial of Plaintiff's motion to reconsider. As the discovery responses have been served, the Court denies both Defendants' motions for terminating sanctions.

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Tentative Ruling

Re: ***In re Mila Stevens***
Superior Court Case No. 25CECG04453

Hearing Date: October 21, 2025 (Dept. 503)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To deny, without prejudice.

Explanation:

According to the petition, the minor has fully recovered from injuries received from a dog bite and is to receive a gross settlement in excess of \$1 million. However, the minor received significant injuries requiring air transport to Palo Alto and multiple surgeries. Despite the gravity of injury and expense, the petition provides little, if any, information regarding the minor's prognosis – save for a checked box indicating “complet[e]” recovery. (See Pet., item 9(a).) In the court's estimation, greater information is required regarding prognosis and settlement before the petition is granted. Accordingly, the petition is denied, without prejudice.

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: JS on 10/20/2025.
(Judge's initials) (Date)

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Tentative Ruling

Re: ***Leroy Candler v. Rick Callender***
Superior Court Case No. 22CECG00930

Hearing Date: October 21, 2025 (Dept. 503)

Motion: Judgment on the Pleadings

Tentative Ruling:

This motion is taken off calendar as it does not appear from the court's record that moving papers were filed.

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: JS **on** 10/20/2025.
(Judge's initials) (Date)