

Tentative Rulings for June 8, 2022
Department 501

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

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Tentative Ruling

Re: **Moreno v. RJMS Corporation**
Superior Court Case No. 21CECG00458

Hearing Date: June 8, 2022 (Dept. 501)

Motion: by Plaintiff for an Order Compelling Verified Responses from Defendant RJMS Corporation DBA Toyota Material Handling of Northern California to Form Interrogatories, Special Interrogatories and Request for Production of Documents and for an Order that Matters in Requests for Admissions be Deemed Admitted

Tentative Ruling:

To find the plaintiff's motions for orders granting verified responses from defendant RJMS Corporation DBA Toyota Material Handling of Northern California to form interrogatories, sets one and two, special interrogatories, set one, and request for production of documents, set one, moot in light of the service of verifications on May 20, 2022.

To deny the motion for an order deeming matters in requests for admission be admitted by defendant RJMS Corporation DBA Toyota Material Handling of Northern California in light of the service of verifications on May 20, 2022.

To impose monetary sanctions in favor of Plaintiff, and against Defendant RJMS Corporation DBA Toyota Material Handling of Northern California. (Code Civ. Proc. §§ 2023.010(d); 2023.030(a); 2031.300(c).) Defendant is ordered to pay \$1,440 in sanctions to D&Z Law Group LLP law firm within 30 days of service of this order.

If oral argument is timely requested, such argument will be heard on Thursday, June 9, 2022, at 3:30 p.m. in Dept. 501.

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, plaintiff has served Form Interrogatories (sets one and two), Requests for Production of Documents (set one), Special Interrogatories (set one) and Request for Admissions (set one) upon defendant RJMS Corporation DBA Toyota Material Handling of Northern California. Unverified responses were served October 28, 2021. An opposition was filed to only the motion regarding Form Interrogatories and indicates amended responses were served April 5, 2022 and verifications to Form Interrogatories (sets one and two) were served May 20, 2022. (Waterman Decl., ¶¶ 5 and 6.) The proof of service attached to Exhibit A of the Declaration of John Waterman lists the verifications of the form interrogatories at issue in this motion as well as those for special interrogatories, requests for production and request for admissions that are the subject of this motion.

The motion to compel verified responses to Form Interrogatories (sets one and two) is moot in light of the responses and verifications served. It appears verifications have also been served for the previously unverified responses to special interrogatories, request for production of documents and request for admission. This being the case, the motions to compel verified responses are also moot. If this is incorrect plaintiff is to request a hearing for an order compelling outstanding verified responses.

Sanctions

The court may award sanctions against a party that fails to provide discovery responses. (Code Civ. Proc. §2023.010(d).) 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).)

As set forth above, it appears all discovery at issue has verified responses from defendant RJMS Corporation DBA Toyota Material Handling of Northern California. It also appears these motions were required to obtain those verified responses. The attorney declarations requests a total of \$6,640 in attorney fees and costs for filing the motions to compel interrogatories, requests for production and to deem admissions admitted. The requests are premised on the necessity of reviewing an opposition, preparing a reply and a hearing going forward. Anticipating a hearing will not go forward, sanctions for all motions totaling \$1,440 are awarded in favor of plaintiff. This amount reflects three hours spent preparing the four identical motions and the filing fees.

The sanctions are ordered payable jointly and severally by defendant RJMS Corporation DBA Toyota Material Handling of Northern California and the defense firm.

Although Mr. Waterman worked to address the missing verifications upon the filing of the motion, the firm's lack of attention to the case over the four months between service of the unverified responses and filing of the motions necessitated the filing of the motions.

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: DTT on 6/6/2022.
(Judge's initials) (Date)

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Tentative Ruling

Re: ***In re: Nikki Somphoume***
Superior Court Case No. 21CECG03479

Hearing Date: June 8, 2022 (Dept. 501)

Motion: Petition to Compromise Claim of Minor

Tentative Ruling:

To deny, without prejudice. Petitioner must file an amended petition, with appropriate supporting papers and proposed orders, and obtain a new hearing date for consideration of the amended petition. (Super. Ct. Fresno County, Local Rules, rule 2.8.4.)

If oral argument is timely requested, such argument will be heard on Thursday, June 9, 2022, at 3:30 p.m. in Dept. 501.

Explanation:

Items 8, 11, 12, 13, attachment 18b(2), and both proposed orders are incomplete. The petition is therefore 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: DTT on 6/6/2022.
(Judge's initials) (Date)