

Tentative Rulings for January 29, 2025
Department 501

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.

20CECG00607 *Pete Hall v. Fresno Unified School District Employee Health Care Plan* is continued to Thursday, February 27, 2025, at 3:30 p.m. in Department 501

23CECG04477 *Kenneth Lovette vs. Vishnu V. Bezwada, M.D.* is continued to Thursday, January 30, 2025, at 3:30 p.m. in Department 501

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(03)

Tentative Ruling

Re: ***Pacheco v. Izarraraz***
Case No. 23CECG04017

Hearing Date: January 29, 2025 (Dept. 501)

Motion: by Plaintiff to Compel Responses to Form Interrogatories, Set One, and Requests for Production of Documents, Set One, and Request for Monetary Sanctions against Defendants Izarraraz and Cruz

Tentative Ruling:

To grant plaintiff's motions to compel initial responses to the form interrogatories, set one, requests for production of documents, set one, and request for monetary sanctions against defendants Izarraraz and Cruz. To order defendants to provide initial responses without objections to the discovery requests within 10 days of the date of service of this order. To order defendants to pay sanctions of \$645 each within 30 days of the date of service of this order.

If oral argument is timely requested, such argument will be entertained on Thursday, January 30, 2025, at 3:30 p.m. in Department 501.

Explanation:

Since defendants have not responded to the form interrogatories or document requests, they are subject to an order compelling them to respond to the discovery. (Code Civ. Proc., § 2030.290, subd. (b); 2031.300, subd. (b).) Furthermore, defendants are deemed to have waived all objections to the unanswered discovery requests. (*Ibid.*) They are also subject to monetary sanctions for their willful failure to respond to discovery. (Code Civ. Proc., § 2030.290, subd. (c); 2031.300, subd. (c).)

On the other hand, the court intends to reduce the requested amount of sanctions to a more reasonable amount. Plaintiff seeks \$585 per motion based on 1.5 hours of attorney time billed at \$350 per hour, plus \$60 in filing fees per motion. However, given the relatively simple and straightforward nature of the motions and the lack of any opposition, it would be excessive to award \$2,340 in sanctions to plaintiff. Instead, the court will grant a total of \$1,050 in attorney's fees based on 1.5 hours of attorney time billed at \$350 per hour, plus \$240 in filing fees, for a grand total of \$1,290 in sanctions (\$645 against each defendant).

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

(36)

Tentative Ruling

Re: ***Fresno Oxygen and Welding Suppliers, Inc. v. The Body Building, Inc.***

Superior Court Case No. 24CECG02709

Hearing Date: January 29, 2025 (Dept. 501)

Motion: by Plaintiff for Writ of Possession, Temporary Restraining Order, and to Set an Order to Show Cause re: Preliminary Injunction

Tentative Ruling:

To deny the application for Writ of Possession without prejudice. (Code Civ. Proc., § 516.020.) To deny the request for Temporary Restraining Order. (Code Civ. Proc., §§ 526, 527.)

If oral argument is timely requested, such argument will be entertained on Thursday, January 30, 2025, at 3:30 p.m. in Department 501.

Explanation:

Writ of Possession

The mandatory Judicial Council forms starting with CIV-100 Application for Writ of Possession (Claim and Delivery) must be used. (Code Civ. Proc., § 516.020.) Since plaintiff has not filed the requisite forms, the request is denied without prejudice.

Temporary Restraining Order

Although plaintiff's application indicates that it is moving for a temporary restraining order under Code of Civil Procedure sections 526 and 527, the memorandum of points and authorities does not provide any argument for why an injunction should issue.

Nonetheless, generally, an injunction will not issue to prevent breach of a contract, or where the plaintiff can be adequately compensated through money damages. (Code Civ. Proc. § 526; *West Coast Construction Co. v. Oceano Sanitary Dist.* (1971) 17 Cal.App.3d 693, 700.) Plaintiffs must show that they would suffer irreparable harm if the injunction is not issued, and that money damages would not adequately compensate them for their injuries. "The concept of 'irreparable injury' which authorizes the interposition of a court of equity by way of injunction does not concern itself entirely with injury beyond the possibility of repair or beyond possible compensation in damages. Rather, by definition, an injunction properly issues in any case where 'it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief.' (Civ. Code, § 3422.)" (*Wind v. Herbert* (1960) 186 Cal.App.2d 276, 285, citation omitted.) Also, a party is not entitled to injunction in case where he has a plain, speedy, and adequate remedy at law. (*Richards v. Kirkpatrick* (1879) 53 Cal 433.) Where

