

Tentative Rulings for January 30, 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)

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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.*

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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 Rulings begin at the next page)

# **Tentative Rulings for Department 503**

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(36)

**Tentative Ruling**

Re: **A.G., et al. v. Anglican Diocese of San Joaquin, et al.**  
Superior Court Case No. 21CECG01100

Hearing Date: January 30, 2025 (Dept. 503)

Motion: by Defendant Anglican Diocese of San Joaquin for Terminating Sanctions against Plaintiff M.S. and for Monetary Sanctions

**Tentative Ruling:**

To grant defendant Anglican Diocese of San Joaquin's motion for terminating sanctions against plaintiff M.S., as plaintiff M.S. has willfully refused to comply with this court's orders compelling her to respond to discovery. (Code Civ. Proc., § 2023.030, subd. (d)(3).) To dismiss plaintiff M.S.'s complaint as to defendant Anglican Diocese of San Joaquin, without prejudice. To grant and to award defendant Anglican Diocese of San Joaquin's request for monetary sanctions against plaintiff M.S. in the amount of \$780, payable within 20 days of the date of this order, with the time to run from the service of this minute order by the clerk.

Defendant Anglican Diocese of San Joaquin is directed to submit a proposed judgment consistent with the court's order within 7 days.

**Explanation:**

***Terminating Sanctions***

Code of Civil Procedure section 2023.010 defines "misuses of the discovery process" as including, "failing to respond or submit to an authorized method of discovery" and "disobeying a court order to provide discovery." (Code Civ. Proc., § 2023.010, subds. (d) & (g).) Code of Civil Procedure section 2023.030 states, in relevant part:

To the extent authorized by the chapter governing any particular discovery method or any other provision of this title, the court, after notice to any affected party, person, or attorney, and after opportunity for hearing, may impose the following sanctions against anyone engaging in conduct that is a misuse of the discovery process:

[¶] . . . [¶]

(d) The court may impose a terminating sanction by one of the following orders:

[¶] . . . [¶]

- (1) An order striking out the pleadings or parts of the pleadings of any party engaging in the misuse of the discovery process.

[¶] . . . [¶]

- (4) An order rendering a judgment by default against that party.

Noncompliance with compelled discovery justifies terminating sanctions, and, in addition, monetary sanctions. (See Code Civ. Proc., §§ 2030.290, subd. (c), 2031.310, subd. (i).) This court is also guided by the principle that “[t]he 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.)

This court granted defendant Anglican Diocese of San Joaquin's motions to compel plaintiff M.S.'s responses to form interrogatories, special interrogatories, and request for production of documents on December 11, 2024. Additionally, the court ordered plaintiff M.S. to pay monetary sanctions in the amount of \$780. Despite these orders, responsive documents have not been served. (Berry Decl., 2:3-4.) There is no evidence indicating plaintiff M.S. has made any attempt to communicate with defense counsel regarding the discovery requests since the order was made. Moreover, plaintiff M.S. has not filed an opposition, thus tacitly affirming the merits of defendant's motion. (*Cravens v. State Bd. of Education* (1997) 52 Cal.App.4th 253, 257.)

Therefore, it appears that plaintiff M.S. is willfully refusing to comply with the court's order compelling her to respond to the discovery requests. Lesser sanctions would likely be ineffective to obtain plaintiff's compliance here, as it appears she has no interest in responding to defendant Anglican Diocese of San Joaquin's discovery. Thus, the motion for terminating sanctions is granted.

### **Monetary Sanctions**

“The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct.” (Code Civ. Proc., § 2023.030, subd. (a).) “The court may also impose this sanction on one unsuccessfully asserting that another has engaged in the misuse of the discovery process, or on any attorney who advised that assertion, or on both. If a monetary sanction is authorized by any provision of this title, the court shall impose that sanction unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.” (*Ibid.*)

As previously discussed, there is evidence that plaintiff M.S. has engaged in a misuse of the discovery process. Since no opposition was filed, no facts were presented to warrant finding sanctions unjust. The court finds it reasonable to allow \$780 for the preparation and cost of filing the motion.

