

Tentative Rulings for March 11, 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.*

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

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

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Tentative Ruling

Re: ***Rios v. Sequoia Safety Council et al.***
Superior Court Case No. 24CECG00444

Hearing Date: March 11, 2025 (Dept. 503)

Motion: By Plaintiff to Compel Further Response to Plaintiff's Request for Production of Documents Set Six

Tentative Ruling:

To grant in part and compel defendant Sequoia Safety Council to serve further verified response to Request for Production of Documents, Set Six, Request no. 68, with production limited as specified below. The further response and production, along with privilege log regarding any redactions, shall be served within 30 days of service of the order by the clerk.

Explanation:

This is an employment discrimination/harassment action. Plaintiff alleges that during her employment as an EMT with Sequoia Safety Council ("SCC"), she was subjected to discriminatory conduct by her supervisor defendant Andrew Rolin based on her sex/gender/disability/pregnancy, and harassed because of her sex/gender (female). The Complaint asserts causes of action for harassment and discrimination based on sex/gender/pregnancy in violation of Gov. Code 12940 et seq., sexual battery; retaliation and failure to prevent harassment/discrimination, and retaliation.

Plaintiff seeks a further response to request number 68, which seeks production of all reports by George Stalis to the SCC Board of Directors, regardless of content of the report. Plaintiff contends that these reports are relevant to her claim of failure to prevent harassment and discrimination, as the reports would tend to show that SSC had a habit and practice of failing to respond to similar personnel problems or failing to respond timely to personnel issues.

The court finds that the request is overbroad because it seeks all reports made to the board, regardless of whether there was any mention in the report of any complaint relevant to plaintiff's claims. "When discovery requests are grossly overbroad on their face, and hence do not appear reasonably related to a legitimate discovery need, a reasonable inference can be drawn of an intent to harass and improperly burden." (*Obregon v. Superior Court* (1998) 67 Cal.App.4th 424, 431.)

However, "[u]nless otherwise limited by order of the court ... any party may obtain discovery regarding any matter, not privileged, that is *relevant to the subject matter* involved ... if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence" (Code Civ. Proc., § 2017.010, emphasis added.)

(34)

Tentative Ruling

Re: ***Hodges v. City of Clovis***
Superior Court Case No. 22CECG03153

Hearing Date: March 11, 2025 (Dept. 503)

Motion: by Defendant to Compel Plaintiff's Further Responses to
Discovery

Tentative Ruling:

To grant in part defendant City of Clovis' motion to compel further responses from plaintiff to Requests for Production of Documents, Set Three. Plaintiff shall provide further verified responses to Request Nos. 13 and 14, subject to the limitations described below. Further responses shall be served on defendant within 30 days from the date of service of the order by the clerk.

To deny the motion to compel a further response to Request for Production of Documents, Set Three, Request No. 15.

To impose monetary sanctions in favor of defendant City of Clovis and against Plaintiff. (Code Civ. Proc. §§ 2023.010, subd. (d), 2031.310, subd. (h).) Plaintiff is ordered to pay \$2,400 in sanctions to Longyear, Lavra & Cahill, LLP within 30 days of the clerk's service of the minute order.

Explanation:

Timeliness

A notice of motion to compel further response must be served within 45 days after the responses in question, or any supplemental responses, were served (extended under Code Civ. Proc. §§ 1010.6, Subd. (a)(4), 1013 if served by mail, overnight delivery, fax or electronically), unless the parties agree in writing to extend the time. (Code Civ. Proc. § Code Civ. Proc. § 2031.310, subd. (c).) Delaying in filing the motion beyond the 45-day time limit waives the right to compel a further response to the discovery. This time is mandatory and jurisdictional, and thus the court has no authority to grant a late motion. (*Sexton v. Superior Court* (1997) 58 Cal.App.4th 1403, 1409.)

The 45-day deadline runs from the date the response or supplemental response, is served, not from the date originally set for production or inspection. (See, e.g., Code Civ. Proc. § 2031.310, subd. (c); *Standon Co. v. Superior Court* (1990) 225 Cal.App.3d 898, 901.)

The deadline may be extended by written stipulation of the parties. (Code Civ. Proc. §2031.310, subd. (c).) Here, counsel attests to the written extensions to extend the time to file a motion to compel granted concurrently with the extensions to provide further responses. (Yu Reply Decl., ¶ 2.)

The time for filing was tolled during the time in which the moving party was complying with Local Rule 2.1.17. Here, defendant sought a Pretrial Discovery Conference on December 31, 2024, and the court issued its order allowing it to file its motion on January 14, 2025 and calculated the time to file a motion was tolled 15 days.

The plaintiff's supplemental responses were served by electronic delivery on November 22, 2024. With the tolling counted during the time defendant complied with Local Rule 2.1.17, the written one-week extension, and taking into account the additional five days for service of the court's order by mail and two days for service of the responses by e-mail, defendant was required to file its motion not later than 74 days from November 22, 2024. This means defendant's deadline for filing this motion was February 4, 2025. Defendant filed its motion on January 29, 2025. Thus, this motion is timely.

Motion to Compel Further Responses

"The party to whom a demand for inspection ... has been directed shall respond separately to each item or category of item by any of the following: [¶] (1) A statement that the party will comply with the particular demand for inspection ... and any related activities. [¶] (2) A representation that the party lacks the ability to comply with the demand for inspection ... of a particular item or category of item. [¶] (3) An objection to the particular demand" (§ 2031.210, subd. (a).)

A response stating the party will comply in whole or in part with a demand shall so state and shall include a statement "that all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production." (Code Civ. Proc. § 2031.220.)

A response stating inability to comply with the demand shall include "[a] representation of inability to comply with the particular demand for inspection, copying, testing, or sampling shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." (Code Civ. Proc., § 2031.230.) Such a statement must "also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party." (Code Civ. Proc., § 2031.230.)

In addition, "[o]n receipt of a response to an inspection demand, the party demanding an inspection may move for an order compelling further response to the demand if the demanding party deems that [¶] (1) A statement of compliance with the demand is incomplete [¶] (2) A representation of inability to comply is inadequate, incomplete, or evasive [¶] (3) An objection in the response is without merit or too general. (Code Civ. Proc. § 2031.310, subd. (b)(3).)

Request for Production of Documents Nos. 13 and 14

Defendant's motion seeks to compel documents containing discoverable information of plaintiff's medical treatment providers and amounts paid by her insurance for treatment for injuries alleged to have been caused by the incident that is the subject

of her complaint. Defendant has sufficiently provided good cause for plaintiff's production of the records she has the ability to request from her health insurers. Plaintiff opposes the motion on the basis that the scope of the requests is overbroad and violates plaintiff's right to privacy. Neither objection was raised in her responses to the requests at issue. The objections as to relevance and collateral source payments raised in the responses are overruled. Defendant appears to be willing to voluntarily limit the scope of records to a timeframe of 5 years and the specified body parts alleged to have been injured as a result of the incident.

Defendant presented plaintiff with the option to sign an authorization for the records at issue that would allow defendant to request them directly from the respective custodian of records. The court is without authority to compel plaintiff to sign an authorization for defendant to request the records from her insurers. The court is likewise without authority to order compliance of third parties with subpoenas outside the 60-day time to do so set forth in Code of Civil Procedure section 2025.480.

The court finds it reasonable to limit the response to a time period of five years before the date of the incident to present and to limit the subject of the records to those body parts allegedly injured as specified in plaintiff's Response to Form Interrogatory No. 6.2. Plaintiff is ordered to provide a further response to Request for Production Nos. 13 and 14, subject to the above limitation, and to produce documents within her control, including those she can request directly from her insurers.

Request for Production of Document No. 15

Defendant's motion challenges the completeness of the records provided in response to request No. 15. This is not a proper basis for a motion to compel a further response. (Code Civ. Proc. § 2031.310, subd. (a).) Plaintiff's response complies with the requirements of Code of Civil Procedure section 2031.220. No further response is ordered.

Sanctions

The court intends to grant monetary sanctions against plaintiff the failure to provide full and complete responses to the requests for production. Under Code of Civil Procedure section 2031.310, subdivision (h), "the court shall impose a monetary sanction... against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response to a demand, 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."

Here, plaintiff has served meritless objections and failed to provide any substantive responses to the requests despite meet and confer efforts and multiple extensions of time to respond by defense counsel. Therefore, the court will grant the request for monetary sanctions against plaintiff.

Defendant requests a total of \$2,400 in sanctions in connection with the motion to compel plaintiff's further responses. Counsel attests to a total of eight hours to prepare the moving papers at a reasonable hourly rate of \$300. The court finds it reasonable to award sanctions in the amount of \$2,400.

(34)

Tentative Ruling

Re: **Regions Bank v. M & D Brothers Logistics, Inc., et al**
Superior Court Case No. 23CECG03430

Hearing Date: March 11, 2025 (Dept. 503)

Motion: by Plaintiff for an Order Compelling Defendant's Responses to Request for Production of Documents

Tentative Ruling:

To find moot Plaintiff Regions Bank's motion to compel Defendant M & D Brothers Logistics, Inc. to provide initial verified responses to Request for Production of Documents, Set Two. (Code Civ. Proc. § 2031.300, subd. (b).)

To impose monetary sanctions in favor of Plaintiff and against Defendant M & D Brothers Logistics, Inc. (Code Civ. Proc. §§ 2023.010, subd. (d), 2031.300, subd. (c).) Defendant is ordered to pay \$852 in sanctions to Frandzel Robins Bloom & Csato, L.C. 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. §§ 2031.300, subd. (a).) The propounding party may move for an order compelling a party to respond to the discovery request. (Code Civ. Proc. § 2031.300, subd. (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.*)

The discovery at issue was served on defendant M & D Brothers Logistics, Inc. on November 18, 2024. (Alper Decl., ¶ 3, Exh. 1.) Despite plaintiff's efforts to address the lack of responses informally, defendant has failed to serve any responses. (*Id.* at ¶¶ 4-5, Exh. 2.) Defendant's late-filed opposition¹ indicates responses were served on January 28, 2025. (Castro Decl., ¶ 5.) Accordingly, there does not appear to be a response to compel.

Plaintiff requests the court compel a further response, or evidentiary sanctions in the alternative, based on counsel's attestations that the responses served are deficient. (Alper Reply Decl., ¶¶ 4-6.) Any deficiencies would be the subject of a motion to compel a further response and subject to Local Rule 2.1.17.

¹ The court will exercise its discretion and consider the late-filed opposition. (Cal. Rules of Court, rule 3.1300, subd. (d).)

Sanctions

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

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 explains the delay in responding is due to the need to coordinate with third parties for responsive documents and the responses being due during the holiday season. (Castro Decl., ¶¶ 7, 9.) Neither explanation justifies counsel's failure to request an extension of time to respond before the December 20, 2024 due date.

Plaintiff's request for sanctions in connection with the motion at bench is granted. The court finds it reasonable to award sanctions for two hours of attorney time preparing the motion to compel and reply, in addition to the filing fee of \$60. Attorney Alpers attests to an hourly rate of \$396 for himself and his associate but in the same paragraph attests to his hourly rate as \$427 discounted from \$570. (Alpers Decl., ¶ 6.) The court will award sanctions based on the rate of \$396. Defendant is ordered to pay \$852 in sanctions to Frandzel Robins Bloom & Csato, L.C. within 30 days of the clerk's service of the 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: **JS** **on** **3/7/2025**
 (Judge's initials) (Date)

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Tentative Ruling

Re: ***In re Ivan Sandoval***
Superior Court Case No. 25CECG00734

Hearing Date: March 11, 2025 (Dept. 503)

Motion: Petition to Compromise the Claim of Minor Ivan Sandoval

Tentative Ruling:

To grant the petition. Orders Signed. No appearances necessary. The court sets a status conference for Tuesday, July 15, 2025, at 3:30 p.m., in Department 503, for confirmation of deposit of the minors' funds into the blocked accounts. If Petitioner files the Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) at least five court days before the hearing, the status conference will come off calendar.

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** 3/7/2025.
(Judge's initials) (Date)