

Tentative Rulings for March 12, 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.

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Tentative Rulings for Department 501

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(03)

Tentative Ruling

Re: **Valdovinos v. Lara**
Case No. 23CECG03089

Hearing Date: March 12, 2025 (Dept. 501)

Motion: by Defendant Empire Ag Management to (1) Compel Further Responses to Request for Production of Documents, Set One, and for Monetary Sanctions against Plaintiff Sergio Joel Fergoso Ramirez and His Counsel, and (2) Compel Further Responses to Request for Admissions, Set One, and for Monetary Sanctions against Plaintiff and His Counsel

Tentative Ruling:

To grant defendant's motion to compel plaintiff Sergio Joel Fergoso Ramirez to serve further responses to the request for production of documents, set one. To grant the motion for monetary sanctions against plaintiff and his counsel Morgan & Morgan Los Angeles, LLP, in the amount of \$1,300. Plaintiff shall serve further verified responses without objections within 10 days of the date of service of this order. Plaintiff and his counsel shall pay sanctions within 30 days of the date of service of this order.

To deny defendant's motion to compel further responses to the request for admissions, and the request for monetary sanctions, as the motion was not brought in a timely manner and defendant did not file a pretrial discovery conference request and seek leave of court before bringing the motion.

If oral argument is timely requested, such argument will be entertained on Thursday, March 13, 2025, at 3:30 p.m. in Department 501.

Explanation:

Motion to Compel Further Responses to Document Requests: Plaintiff has served various boilerplate objections and refused to provide substantive answers to any of the requests for production, despite the requests clearly seeking information that is reasonably calculated to lead to the discovery of admissible evidence. The documents sought are also relevant to the subject matter of the case.

For example, request number 2 seeks all documents that support plaintiff's contention that defendant's actions were negligent and caused the plaintiff's injuries. Plaintiff objected on the grounds of privacy, overbreadth, oppression and burden, vagueness, ambiguity, and attorney work product/attorney-client privilege. However, since this is an auto accident personal injury case, defendant is entitled to seek any documents that might support plaintiff's contention that defendant was negligent and caused plaintiff's injuries. Otherwise, defendant will be unable to prepare for trial or evaluate the merits of plaintiff's case. Plaintiff has not opposed the motion or made any

attempt to show that his objections have merit. Therefore, the court intends to grant the motion to compel as to request number 2.

Plaintiff raised the same objections to all of the other document requests. Yet defendant clearly has a right to discovery the basic facts underlying plaintiff's claims, including the existence and nature of any documents that support plaintiff's allegations of negligence, causation, and damages. Plaintiff's objections appear to be meritless boilerplate attempts to avoid providing basic facts about his claims. Also, plaintiff has not filed opposition or made any attempt to show that the objections have any merit. Therefore, the court intends to compel him to provide a further response as to each of the document requests.

In addition, the court intends to grant monetary sanctions against plaintiff and his attorneys for their failure to provide full and complete responses to the discovery requests. 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 document requests despite months of meet and confer efforts by defense counsel. It appears that plaintiff may be incarcerated, which may be one reason why he has not been communicating with his attorneys and providing substantive discovery responses. However, even if plaintiff is in prison, his attorneys still should have been able to contact him and attempt to have him help them with answering the discovery. It appears that plaintiff's counsel has not made any effort to locate their client and obtain enough information from him to answer the document requests. Therefore, the court will grant the request for monetary sanctions against plaintiff and his counsel.

However, the court will reduce the amount of sanctions to a more reasonable number, as \$3,600 in sanctions for one relatively simple motion to compel is excessive. Defense counsel claims to have spent 10 hours to prepare the present motion, plus another two hours to respond to the opposition and prepare for and attend the hearing, billed at \$250 per hour. (Robinson decl., ¶ 14.) She also states that her paralegal spent another four hours of time billed at \$150 per hour on the motion. (*Ibid.*) She also allegedly spent the same amount of time on the very similar motion to compel further responses to requests for admission discussed below. Spending so much time on a fairly simple set of motions is excessive. The court will grant \$1,300 in sanctions based on four hours of attorney time plus two hours of paralegal time.

Motion to Compel Requests for Admissions: The court intends to deny the motion to compel further responses to the requests for admissions, as the motion is untimely and defendant did not file a request for pretrial discovery conference. A motion to compel further responses to requests for admission must be brought within 45 days of service of the responses, or such later date as the parties agree to in writing, or the right to compel responses is waived. (Code Civ. Proc., § 2033.290, subd. (c).) Here, plaintiff served his responses on October 23, 2024, so defendant had to file its motion to compel further responses by December 9, 2024. Defendant did not actually file its motion until January

8, 2025. Defendant has not pointed to any written agreement to extend the date for filing the motion to compel. The parties did discuss an extension of time to bring a motion to compel, but that discussion occurred on December 20, 2024, after the 45-day deadline had expired. (Exhibit C to Robinson decl.) Since the deadline had already expired, the agreement to extend it was ineffective. Therefore, the motion is untimely.

In addition, defense counsel did not request a pretrial discovery conference or obtain the court's permission to file a motion to compel further responses regarding the disputed requests for admission, so defendant also did not comply with Local Rule 2.1.17. Therefore, the motion to compel further responses is not properly before the court.

To the extent that defendant contends that plaintiff's responses are tantamount to no responses at all because the responses were not verified, if the requests were equivalent to no response at all, then defendant should have brought a motion to deem the requests admitted rather than a motion to compel further responses. (See Code Civ. Proc., § 2033.280.) However, defendant never brought a motion to deem the requests admitted. As a result, the court intends to deny the motion to compel further responses to the requests for admission, as well as the request for sanctions.

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

(20)

Tentative Ruling

Re: **Andrade v. City of Fresno**
Superior Court Case No. 24CECG03668

Hearing Date: March 12, 2025 (Dept. 501)

Motion: by Petitioner for Reconsideration

Tentative Ruling:

To deny.

If oral argument is timely requested, such argument will be entertained on Thursday, March 13, 2025, at 3:30 p.m. in Department 501.

Explanation:

The Government Claims Act provides that a timely written claim must first be presented to a public entity prior to any lawsuit for money damages against it. (Gov. Code, § 810 et seq.; *N.G. v. County of San Diego* (2020) 59 Cal.App.5th 63, 72.) Government Code section 911.2, subdivision (a), provides that such a claim is to be presented no later than six months after the accrual of the cause of action. (Gov. Code, § 911.2; *Munoz v. State of California* (1995) 33 Cal.App.4th 1767, 1776.) The policy behind the requirement to file a timely claim is threefold, as it 1) gives the entity an opportunity to promptly remedy the condition, 2) allows the entity to investigate while evidence is still available and witnesses' memories are fresh, and 3) gives the entity time to plan its budget accordingly. (*Munoz, supra.*)

Where a claim is not timely presented, a written application can be made to the public entity for leave to present the claim. (Gov. Code, § 911.4, subd. (a); *Munoz, supra*, 33 Cal.App.4th at p. 1777.) Where the public entity denies the application to present a late claim, the claimant must petition the trial court for relief from the claim filing requirements. (Gov. Code, § 946.6; *Munoz, supra.*)

On 11/14/2024, the court denied petitioner's application for leave to file an action against a government entity against whom an untimely claim was filed.

The petition was denied, in part, because petitioner's counsel did not file a proof of service showing service of the petition on the City of Fresno. "A copy of the petition and a written notice of the time and place of hearing shall be served before the hearing as prescribed by subdivision (b) of Section 1005 of the Code of Civil Procedure on (1) the clerk or secretary or board of the local public entity, if the respondent is a local public entity, or (2) the Attorney General, if the respondent is the state." (Gov. Code, § 946.6, subd. (d).) Thus, the petition or motion must be served "at least 16 court days before the hearing." (Code Civ. Proc., § 1005, subd. (b).)

This time, petitioner's counsel did file a proof of service, but the service was not timely. Petitioner's counsel filed a proof of service showing mail service on the City on 3/4/2025. With the hearing set for 3/12, the motion had to be served by 2/18. The motion for reconsideration was only served six court days before the hearing. The motion is denied because petitioner's counsel failed to give sufficient notice.

The motion is also denied on the merits. Pursuant to Code of Civil Procedure section 1008, a party may bring a motion to reconsider, and a different order may be entered, if, subject to the following conditions, the motion is:

1. brought before the same judge that made the order;
2. made within 10 days after service upon the party of notice of the entry of the order;
3. based on new or different facts, circumstances, or law; and
4. made and decided before entry of judgment.

Petitioner's counsel has not shown that the court should grant the motion pursuant to section 1008. "[F]acts of which the party seeking reconsideration was aware at the time of the original ruling are not 'new or different.'" (*In re Marriage of Herr* (2009) 174 Cal.App.4th 1463, 1468.) The burden under section 1008 "is comparable to that of a party seeking a new trial on the ground of newly discovered evidence: the information must be such that the moving party could not, with reasonable diligence, have discovered or produced it at the trial." (*New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212–213.)

Here, the "new or different facts, circumstances, or law" presented are merely reformulated arguments of counsel. The "new facts" are the CHP's issuance of the Traffic Collision Report ("TCR") on 11/16/2023, though it was requested on 3/14/2023. This is not a new fact. This was all disclosed and discussed in the petition. (See Petition 5:24-6:1, Exh. E.) At the time the petition was denied, the court was aware of counsels' contention that they were not aware that they should file the claim against the City because of the timing of the TCR release. The court did not find this persuasive because the claim filed with the State on 7/10/2023 identified "Fresno Police Department (2323 Mariposa St, Fresno, CA 93721)" as the entity against whom the claim was being presented. The claim explains that the chase was "initiated by the **Fresno Police**," and contends that "[t]he **City's** profound responsibility for **the Officers'** negligence during the pursuit is indisputable, as they violated pursuit protocols, endangering public safety. Negligence is further evident in **the City's failure** to adequately train officers in proper safety procedures for vehicular pursuits. This led to a high-Speed, perilous Chase resulting in the claimant's untimely demise. **The City's vicarious liability** cannot be understated, as their failure to prioritize public safety and provide adequate training caused irreparable harm and loss of life." (Petition Exh. A, emphasis added.) This does not evidence any jurisdictional ambiguity. And the assertion that there were "jurisdictional complexities" was part of the initial petition. (See Petition 8:25-27.) Repeating the same argument in different words does not constitute "new or different facts, circumstances, or law."

Government Code section 946.6, subdivision (c)(1), provides relief where the failure to present the claim timely was due to mistake, inadvertence, surprise, or excusable neglect, unless the public entity can establish that it would be prejudiced in

the defense of its claim if the trial court grants relief. (*Munoz v. State of California, supra*, 33 Cal.App.4th 1767, 1782.) Aside from failing to present new or different facts, circumstances or law, petitioner's counsels' arguments are no more persuasive than when they were first advanced. There is no showing of mistake, inadvertence, surprise or excusable neglect. The court intends to deny the motion for reconsideration.

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

(27)

Tentative Ruling

Re: ***In re Ryden Maroot***
Superior Court Case No. 25CECG00717

Hearing Date: March 12, 2025 (Dept. 501)

Motion: Petition to Compromise the Claim of Minor Ryden Maroot

Tentative Ruling:

To grant the petition. Orders Signed. No appearances necessary. The court sets a status conference for Thursday, July 3, 2025, at 3:30 p.m., in Department 501, 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.

If oral argument is timely requested, such argument will be entertained on Thursday, March 13, 2025, at 3:30 p.m. in Department 501.

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 3/10/2025 .
(Judge's initials) (Date)