

Tentative Rulings for June 18, 2024
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*

23CECG03448 *Singh v. Fernandez*

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

23CECG02688 *Stacie Szatmari v. City of Fresno* is continued to Tuesday, August 20, 2024, at 3:30 p.m. in Department 501

23CECG04138 *Blia Vang v. Alixa RX, LLC* is continued to Wednesday, June 26, 2024, at 3:30 p.m. in Department 501

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Tentative Ruling

Re: **Laura Palacios v. Fast N Esy 28 Corporation**
Superior Court Case No. 23CECG01907

Hearing Date: June 18, 2024 (Dept. 501)

Motion: by Defendant Fast N Esy 28 Corporation for Terminating Sanctions

Tentative Ruling:

To grant defendant's motion for terminating sanctions against plaintiff Laura Palacios owing to plaintiff's willfully refused to comply with this court's order compelling discovery. To dismiss the action against defendant Fast N Esy 28 Corporation. The court intends to sign the proposed judgment which is consistent with this order.

Explanation:

Code of Civil Procedure section 2023.010, subdivision (g), makes "[d]isobeying a court order to provide discovery" a "misuse of the discovery process," but sanctions are only authorized to the extent permitted by each discovery procedure. Once a motion to compel answers is granted, continued failure to respond or inadequate answers may result in more severe sanctions, including evidence, issue or terminating sanctions, or further monetary sanctions. (Code Civ. Proc. §§ 2030.290, subd. (c); 2031.300, subd. (c).) Sanctions for failure to comply with a court order are allowed only where the failure was willful. (*Biles v. Exxon Mobil Corp.* (2004) 124 Cal.App.4th 1315, 1327.) If there has been a willful failure to comply with a discovery order, the court may strike out the offending party's pleadings or parts thereof, stay further proceedings by that party until the order is obeyed, dismiss that party's action, or render default judgment against that party. (Code Civ. Proc. § 2023.030, subd. (d).)

On February 14, 2024, the court ordered plaintiff to serve verified responses to certain discovery requests within 20 days of the court's order. The court's order was served by mail on plaintiff on February 14, 2024. Plaintiff never served verified responses to any of the discovery requests despite the passage of more than 20 days since the order was served on her. Therefore, it appears that plaintiff is willfully refusing to comply with the court's order compelling her to answer the discovery requests. It does not appear likely that any lesser sanctions would be effective to obtain plaintiff's compliance here, as it seems she has no interest in responding to defendant's discovery or otherwise participating in the action she filed.

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 6/14/2024.
(Judge's initials) (Date)

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Tentative Ruling

Re: ***In Re: Yazleemar Leenor-Franco***
Superior Court Case No. 24CECG02197

Hearing Date: June 18, 2024 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To deny without prejudice. Petitioner must file an amended petition, with appropriate supporting papers and proposed orders.

Explanation:

The medical records from the emergency department instruct claimant to follow up with her primary care provider. Though the Petition states that claimant has fully recovered from her injuries, the court found no prognosis from claimant's primary care provider in its file. Moreover, the report from the chiropractic/wellness center indicates that claimant needed further treatment. Last, the fee agreement provided as an exhibit to the Petition is in Spanish. "Exhibits written in a foreign language must be accompanied by an English translation, certified under oath by a qualified interpreter." (Cal. Rules of Court, rule 3.1110(g).) Here, no translation has been provided. 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 6/14/2024.
(Judge's initials) (Date)