Tentative Rulings for December 11, 2024 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

Begin at the next page

	Tentative Ruling
Re:	City of Reedley v. Tellez Case No. 22CECG02492
Hearing Date:	December 11, 2024 (Dept. 503)
Motion:	Receiver's Motion to Approve Rehabilitation Plan, to Approve Sale of Property, and for Instructions on Receiver's Payment of the City of Reedley's Interim Cost Demand

Tentative Ruling:

(03)

To grant the receiver's motion to approve his rehabilitation plan for the property, to approve the sale of the property to Jesus Vasquez or his assignee free of liens and encumbrances, and for instructions to pay the City of Reedley's interim cost demand, in the amount of \$22,728.04.

Explanation:

Under Health and Safety Code section 17980.7, subdivision (c)(4),

Any receiver appointed pursuant to this section shall have all of the following powers and duties in the order of priority listed in this paragraph, unless the court otherwise permits:

- (A) To take full and complete control of the substandard property.
- (B) To manage the substandard building and pay expenses of the operation of the substandard building and real property upon which the building is located, including taxes, insurance, utilities, general maintenance, and debt secured by an interest in the real property.
- (C) To secure a cost estimate and construction plan from a licensed contractor for the repairs necessary to correct the conditions cited in the notice of violation.

(D) To enter into contracts and employ a licensed contractor as necessary to correct the conditions cited in the notice of violation.

Also, "The prevailing party in an action pursuant to this section shall be entitled to reasonable attorney's fees and court costs as may be fixed by the court." (Health & Saf. Code, § 17980.7, subd. (c)(11).)

Here, the court has already granted an order which provides that the receiver has the power "[t]o prepare a plan for rehabilitation of the Subject Property to remedy the conditions giving rise to the appointment of the Receiver, and any other conditions which require remediation as may be discovered by the Receiver during inspections of the Property ('Rehabilitation Plan and Cost Estimate') and to seek this Court's approval of said plan. Following Court approval of the Rehabilitation Plan and the Cost Estimate, to rehabilitate the Subject Property consistent with said plan submitted to the Court, to put

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the Property into compliance with all applicable state and local codes, including the Reedley Municipal Code, and to otherwise render the Property inhabitable as decent, safe and sanitary housing." (Appointment Order, \P 3 c, d.)

In addition, under Code of Civil Procedure section 568.5, "[a] receiver may, pursuant to an order of the court, sell real or personal property in the receiver's possession upon the notice and in the manner prescribed by Article 6 (commencing with Section 701.510) of Chapter 3 of Division 2 of Title 9. The sale is not final until confirmed by the court." (Code Civ. Proc., § 568.5.) "It is beyond dispute that a court overseeing a health and safety receivership has the authority to sell receivership property." (County of Sonoma v. Quail (2020) 56 Cal.App.5th 657, 683–684, citations omitted.)

Here, the receiver has prepared a plan to rehabilitate the property, including removing trash, inoperable vehicles, and other debris from the property, terminating the electrical service, and listing the property for sale. The receiver engaged a real estate agent to list the property, and he received three offers as a result. He was able to negotiate an agreement to sell the property for \$85,000, which was \$2,000 over the asking price. Selling the property appears to be the best outcome here, as the structure on the property is in very poor condition to the point where it is a health and safety hazard, and it is not capable of being repaired. At this point, it appears that the structure needs to be either demolished and removed or sold in an "as-is" condition. The new buyer is willing to purchase the property without any conditions or contingencies, which seems likely to be the best result under the circumstances. Therefore, the court intends to approve the receiver's plan for sale of the property to Jesus Vargas or his assignee for the price of \$85,000.

The court also has the equitable authority to strip any liens and encumbrances off the property as part of the sale of the property. (*City of Riverside v. Horspool* (2014) 223 Cal.App.4th 670, 684.) Here, the court intends to approve the removal of the existing liens from the property so that it can be sold to Jesus Vargas.

Furthermore, the court intends to order the receiver to pay the City of Reedley's attorney's fees and costs from the sales proceeds. As discussed above, Health and Safety Code section 17980.7 provides for an award of attorney's fees and costs to the prevailing party in a receivership action. (Health & Saf. Code, § 17980.7, subd. (c)(11).) The court has already ordered that the City is the prevailing party in the action, and thus it is entitled to an award of its attorney's fees and costs. Therefore, the court will order the receiver to pay the City's attorney's fees and costs out of the sales proceeds. Also, the City has now stated that its fees and costs have increased to \$22,728.04, so the court will order this amount to be paid to the City out of the proceeds.

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:	jyh	on	12/9/24	
	(Judge's initials)		(Date)	

(36)	Tentative Ruling
Re:	A.G., et al. v. Anglican Diocese of San Joaquin, et al. Superior Court Case No. 21CECG01100
Hearing Date:	December 11, 2024 (Dept. 503)
Motions (x3):	by Defendant Anglican Diocese of San Joaquin for an Order Compelling Plaintiff M.S.'s Responses to 1) Form Interrogatories, Set Two; 2) Special Interrogatories, Set Two; 3) Request for Production of Documents, Set Two; and for Monetary Sanctions

Tentative Ruling:

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To grant and to award monetary sanctions in the total amount of \$780 against plaintiff M.S., 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.

Plaintiff M.S. shall serve verified responses without objections, to defendant Anglican Diocese of San Joaquin's Form Interrogatories, Set Two, Special Interrogatories, Set Two, and Request for Production of Documents, Set Two, no later than 10 court days from the date of this order, with the time to run from the service of this minute order by the clerk.

Explanation:

This is a continuation from the November 14, 2024 hearing on defendant Anglican Diocese of San Joaquin's motions to compel plaintiff M.S.'s responses to discovery propounded on June 13, 2024. The moving party has filed a supplemental declaration indicating that the moving papers were properly served by mail to plaintiff M.S.

Interrogatories and Document Production

Plaintiff M.S. has had ample time to respond to the discovery propounded by defendant Anglican Diocese of San Joaquin, and she has not done so. Failing to respond to discovery within the 30-day time limit waives objections to the discovery, including claims of privilege and work product protection. (Code Civ. Proc., §§ 2030.290, subd. (a), 2031.300, subd. (a); see Leach v. Sup.Ct. (Markum) (1980) 111 Cal.App.3d 902, 905-906.)

Monetary Sanctions

Sanctions are mandatory unless the court finds that the party acted "with substantial justification" or other circumstances that would render sanctions "unjust." (Code Civ. Proc., §§ 2030.290, subd. (c) [interrogatories], 2031.300, subd. (c) [document demands].) No opposition was filed, so no facts were presented to warrant finding sanctions unjust. The court finds it reasonable to allow only \$600 for the preparation of the

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discovery motions and \$180 for the cost of filing the motions. Therefore, the total amount of sanctions awarded is \$780.

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.

Issued By: _	jyh	on	12/9/24	•
	(Judge's initials)		(Date)	

()	Tentative Ruling		
Re:	Panoche Creek Packing, Inc. v. Valley Commodities & Ingredients LLC dba California Bird Food Company Superior Court Case No. 24CECG02731		
Hearing Date:	December 11, 2024 (Dept. 503)		
Motion:	By Plaintiff for Default Judgment		

Tentative Ruling:

(35)

To grant and sign the proposed judgment. No appearances necessary.

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:	iyh	on	12/10/24	
-	(Judge's initials)		(Date)	