

SUPERIOR COURT OF CALIFORNIA - COUNTY OF FRESNO Civil Department - Non-Limited		Entered by:
TITLE OF CASE: City of Fresno vs. Art Terzian		
LAW AND MOTION MINUTE ORDER		Case Number: 24CECG02985

Hearing Date: **February 24, 2026** Hearing Type: **General Motion- Petition for Writ of Assistance**
 Department: **502** Judge/Temp. Judge: **Culver Kapetan, Kristi**
 Court Clerk: **Whipple, Layla** Reporter/Tape: **Not Reported**

Appearing Parties:	
Plaintiff:	Defendant:
Counsel:	Counsel:

☐ Off Calendar

☐ Continued to ☐ Set for ___ at ___ Dept. ___ for ___

☐ Submitted on points and authorities with/without argument. ☐ Matter is argued and submitted.

☐ Upon filing of points and authorities.

☐ Motion is granted ☐ in part and denied in part. ☐ Motion is denied ☐ with/without prejudice.

☐ Taken under advisement

☒ **No Oral Argument requested as required per Local Rule 2.2.5 & CRC 3.1308(a)(1).**

☒ **Tentative ruling becomes the order of the court. No further order is necessary.**

☒ **Pursuant to CRC 3.1312(a) and CCP section 1019.5(a), no further order is necessary. The minute order adopting the tentative ruling serves as the order of the court.**

☒ **Service by the clerk will constitute notice of the order.**

☒ **See attached copy of the Tentative Ruling.**

☐ Judgment debtor ___ sworn and examined.

☐ Judgment debtor ___ failed to appear.
 Bench warrant issued in the amount of \$ ___

JUDGMENT:

☐ Money damages ☐ Default ☐ Other ___ entered in the amount of:
 Principal \$___ Interest \$___ Costs \$___ Attorney fees \$___ Total \$___
☐ Claim of exemption ☐ granted ☐ denied. Court orders withholdings modified to \$___ per ___

FURTHER, COURT ORDERS:

☐ Monies held by levying officer to be ☐ released to judgment creditor. ☐ returned to judgment debtor.
☐ \$___ to be released to judgment creditor and balance returned to judgment debtor.
☐ Levying Officer, County of ___, notified. ☐ Writ to issue
☐ Notice to be filed within 15 days. ☐ Restitution of Premises
☐ Other: ___

(46)

Tentative Ruling

Re: **City of Fresno v. Art Terzian**
Superior Court Case No. 24CECG02985

Hearing Date: February 24, 2026 (Dept. 502)

Motion: Application by Plaintiff City of Fresno for Writ of Assistance

Tentative Ruling:

To deny the application, without prejudice.

To issue an Order to Show Cause as to counsel for plaintiff City of Fresno, Aleshire & Wynder, LLP, as to why the court should not impose sanctions in an amount up to \$10,000.00 for violation of Code of Civil Procedure section 128.7, subdivision (b). (Code Civ. Proc., § 128.7, subd. (c)(2).) To set the hearing for Tuesday, April 14, 2026, 3:30 p.m. in Department 502.

Explanation:

On March 25, 2025, this court granted plaintiff City of Fresno's ("plaintiff" or "City") motion for an order for pre-judgment possession of property owned by defendant Art Terzian ("defendant"). On September 10, 2025, this court denied plaintiff's motion for modification of the order seeking to move defendant's business inventory on the subject property into storage.

Application for Writ of Assistance

The City now applies for a writ of assistance. Defendant argues that this application is, in essence, a motion for reconsideration of the court's order denying modification of the order for pre-judgment possession. This argument appears to have some validity as plaintiff submits this writ is "necessary to authorize the City to move the business inventory and other personal property at its own expense, and to provide clarity for possible law enforcement Assistance[.]" which is the exact language used in the motion for modification. (Memo. P&A, 2:11-13.) In addition, plaintiff in the present application not only seeks the authority to move and store property and for offsets against future claims, but also for authorization for the Sheriff of Fresno County to enter and secure the property, supervise the removal of personal property and business inventory, use peace officers as reasonably necessary, and file returns as appropriate, until complete removal and storage of the personal property and business inventory. (See Proposed Order generally.)

However, the City has not presented satisfactory legal ground for its request. Pursuant to Code of Civil Procedure section 128, the court has the inherent power to compel obedience to its judgments, orders, and process. (Code Civ. Proc., § 128, subd. (a)(4).) But, as discussed below, none of the authorities provided in plaintiff's Memorandum of Points and Authorities support issuance of a Writ of Assistance in the

instance of pre-judgment possession under Code of Civil Procedure sections 1255.410-1255.450 (i.e. in conjunction with eminent domain laws). Accordingly, the court intends to deny the application, without prejudice.

As a note, defendant again relies on *Baldwin Park Redevelopment Agency v. Irving* (1984) 156 Cal.App.3d 428, now to say that the City is attempting a taking of the defendant's inventory without compensation. The court previously addressed the lack of authority (including that of *Baldwin Park*) to make a determination as to the defendant's arguments regarding compensation for defendant's business inventory. (See Minute Order dated September 10, 2025.) As defendant's arguments in his opposition on this point remain largely the same as presented in the motion for modification, the issue will not be reevaluated now by way of opposition to this application.

Frivolous Contentions

Under Code of Civil Procedure section 128.7, the court may, on its own motion, enter an order describing conduct that violates any of the criteria of subdivision (b) of the same. (Code Civ. Proc., § 128.7, subd. (c)(2).) Every pleading shall be signed by at least one attorney of record. (*Id.*, § 128.7, subd. (a).) By presenting to the court a pleading, an attorney is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that all of the following conditions are met: (1) it is not being presented primarily for an improper purpose; (2) the claims, defenses, and other legal contentions therein are warranted by existing law; (3) the allegations and other factual contentions have evidentiary support; and (4) the denials of factual contentions are warranted on the evidence. (*Id.*, § 128.7, subd. (b).)

The court has carefully reviewed plaintiff's application and found the following issues with the authorities provided:

1. "Courts possess inherent authority to enforce their orders and to issue all writs necessary to give effect to judgments. (*Witkin v. Superior Court* (2002) 99 Cal.App.4th 346, 352.)" — Case does not exist either at the citation or by its case name.
2. "Courts possess inherent authority to enforce their orders and to issue all writs necessary to give effect to judgments. ([...] *Gonzales v. Superior Court* (1935) 3 Cal.2d 260, 263.)" — Legitimate citation; case does not state or discuss the premise asserted.
3. "A writ of assistance is a recognized and appropriate mechanism to place a party in possession of property where another refuses to comply with a lawful order. (*Imperial Water Co. v. Imperial Irr. Dist.* (1923) 62 Cal.App. 286, 291.)" — Legitimate citation; case does not state or discuss the premise asserted.
4. "Where an occupant refuses to yield possession, the court may order removal of persons and property interfering with enforcement. (*Schubert v. Bates* (1947) 30 Cal.2d 785, 789.)" — Legitimate citation; case does not state or discuss the premise asserted; on a different point refers to unlawful detainer actions.
5. "Where an occupant refuses to yield possession, the court may order removal of persons and property interfering with enforcement. ([...] *McCauley v. Weller* (1859)

12 Cal. 500, 520.)" — Legitimate citation; unclear association between case and premise asserted, perhaps inaccurate pincite.

6. "Courts routinely issue writs to enforce possession after a party refuses to comply voluntarily. (*People v. Davis* (1956) 147 Cal.App.2d 535, 538.)" — Case does not exist either at the citation or by its case name.
7. "Even outside eminent domain, CCP §712.010 authorizes writs to enforce a right to possession of real property." (Code Civ. Proc., § 712.010.) — This statute applies to post-judgment possession.
8. "CCP §713.010 provides that the writ may direct the levying officer to deliver possession and take necessary actions to execute the Court's order." (Code Civ. Proc., § 713.010.) — Statute does not exist.
9. "Courts have made clear that condemnees may not use delay tactics to interfere with access to property or to increase leverage in an eminent domain proceeding. (*Redevelopment Agency v. Gilmore* (1974) 38 Cal.App.3d 560, 566.)" — Case does not exist at the citation. A case by the same name was located as *Redevelopment Agency v. Gilmore* (1985) 38 Cal.3d 790; due to differing page numbers, it is unclear to which portion of this case plaintiff intended to cite, if any.)
10. "A writ authorizing Sheriff oversight throughout the duration is appropriate and supported by the record and should be at the discretion of the Sheriff and his/her designee. A sheriff may execute court orders through deputies or assisting peace officers acting under the sheriff's authority. (*People v. Bolton* (1943) 23 Cal.2d 138, 144.)" — Case does not exist either at the citation or by its case name.
11. "A writ authorizing Sheriff oversight throughout the duration is appropriate and supported by the record and should be at the discretion of the Sheriff and his/her designee. A sheriff may execute court orders through deputies or assisting peace officers acting under the sheriff's authority. ([...] *Pennington v. Smith* (1924) 68 Cal.App. 401, 406.)" — Case does not exist either at the citation or by its case name.

Based on these observations, the court determines that legal contentions made by counsel for plaintiff were not warranted by existing law as represented through counsel's signature and filing of the application. The court further determines that the above demonstrates legal contentions not formed after an inquiry reasonable under the circumstances.

Let an order to show cause issue against counsel of record for plaintiff, Aleshire & Wynder, LLP, as to why it has not violated subdivision (b) of Code of Civil Procedure section 128.7 and be subject to sanctions in an amount up to \$10,000.00, set for April 14, 2026, 3:30 p.m. in Department 502. Independent of whether the tentative ruling is adopted as to the application for writ of assistance, it is so ordered.

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:

YS Kapst
(Judge's initials)

on

2/24/26
(Date)

SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO Civil Unlimited Department, Central Division 1130 "O" Street Fresno, California 93724-0002 (559) 457-1900	FOR COURT USE ONLY
TITLE OF CASE: City of Fresno vs. Art Terzian	
CLERK'S CERTIFICATE OF MAILING/ELECTRONIC SERVICE	CASE NUMBER: 24CECG02985

I certify that I am not a party to this cause. A true copy of the Minute Order has been processed and:

- ☒ I certify that, pursuant to California Rules of Court, rule 2.251, and Code of Civil Procedure section 1010.6, the following document(s) have been electronically served by the Superior Court of California, County of Fresno. The list of electronically served recipients are listed below.
- ☐ Placed in a sealed envelope and:
- ☐ Deposited with the United States Postal Service, mailed first class, postage fully prepaid and addressed as shown below.
 - ☐ Placed for collection and mailing on the date and at the place shown below following our ordinary business practices. I am readily familiar with this court's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service with postage fully prepaid.

Place of mailing/e-mailing: **Fresno, California 93724** on:

Date: 2/24/26 Clerk, by Layla Whipple, Deputy
 Layla Whipple

Michael R. Linden
 Aleshire & Wynder, LLP
 mlinden@awattorneys.com

David M. Gilmore
 GM Legal
 dgilmore@gmlegal.net

Benjamin C. Tagert
 Desmond Nolan Livaich & Cunningham
 btagert@dnlc.net