

PROPOSED TENTATIVE

The court is aware that there are seven (7) discovery motions on calendar for November 4, 2025. The court will examine those motions orally with the parties at the hearing, and therefore they will not be discussed in this tentative order.

The topic of this order involves plaintiff's "Motion to Establish [a] Five-Year Deadline[.]" Specifically, plaintiff acknowledges that the original complaint was filed on April 1, 2021, and thus pursuant to Code of Civil Procedure section 583.310, the matter has to be brought to trial within five years after the action is commenced. Plaintiff, however, asks the court to exclude from this five -year calculation 524 days, which is the time pending seven (7) discovery motions have been pending, claiming (pursuant to Code of Civil Procedure section 583.340, subdivision (c)) that plaintiff acted with the "utmost diligence," while defendants (by contrast) "have refused to provide substantive, code compliant responses" According to plaintiff, it would have been "impossible, impracticable, or futile" to bring the matter to trial during the pendency of the discovery motions, , and thus the five- year period should be tolled by 524 days, meaning plaintiff has until September 7, 2027 to bring the mater to trial. Defendant filed opposition October 22, 2025. A reply was filed on October 28, 2025. All briefing has been examined.

Even a cursory review of the relevant minute orders that outline the trajectory of the seven (7) discovery motions counters plaintiff's contention that the five-year trial rule should be tolled by 524 days. The relevant minute orders are from May 21, 2024, May 28, 2024, July 16, 2024, October 29, 2024, December 6, 2024, March 3, 2025, July 18, 2025, and October 6, 2025. The discovery motions were continued in the early stages in order to allow the parties to engage in an "Informal Discovery Conference" (May 21, May 28, and July 2, 2024), which is the court's custom and practice. No problems were identified to the court at any time. On October 29, 2024, the court ordered that both parties' "first chair lawyers" appear on December 6, 2024, at which time another "Informal Discovery Conference" was scheduled. The December 6, 2024, the minute order reads in relevant part as follows: "*Plaintiff's counsel* advises the Court that the parties have met and conferred over the discovery motions *and have come to an agreement on most if not all discovery issues. Plaintiff requests more time to work out the issues.* [¶] The Court advises the parties that there will be no ruling on the pending motions until the Court meets with the 1st chair trial attorneys." (Emphasis added.) On March 3, 2025, the parties again updated the court on the pending discovery issues, and there was no mention of any problems at that time. It also appears first chair trial attorneys were not present at the hearing, and a discussion was held about a further "in-person discovery conference." A chambers conference was held on July 18, 2025, and again the court conducted a chambers conference to discuss the discovery motions; again, there was no indication of any problem and nothing to disabuse the court of the admonitions provided by plaintiff's counsel on December 6, 2024, highlighted above. Finally, the October 6, 2025, the minute order reads as follows: "Counsel gives the Court an update as to the issues in the cases and requests a continuance." Again, there was no mention of any discovery problems, and nary a mention of plaintiff's inability to comply with the five-year rule contemplated by Code of Civil Procedure section 583.310. Based on this record, the tolling request (for 524 days) is not justified. The court will therefore deny plaintiff's motion.

The court directs the parties to appear at the hearing either by Zoom or in person and be prepared to discuss a trial date within the five-year rule contemplated by Code of Civil Procedure 583.310. The court in the future will not preclude a future motion for a trial continuance, based on good cause. That being said, the court will only consider a continuance on a limited, incremental basis. The court directs that first trial attorneys for both parties be present at the November 4, 2025 hearing.