

**TENTATIVE RULINGS  
LAW & MOTION CALENDAR  
Wednesday, May 14, 2025 3:00 p.m.  
Courtroom 17 – Hon. Jane Gaskell  
3035 Cleveland Avenue, Santa Rosa**

**PLEASE NOTE:** In accordance with the Order of the Presiding Judge, a party or representative of a party may appear in Department 17 in person or remotely by Zoom, a web conferencing platform.

**CourtCall is not permitted for this calendar.**

**If the tentative ruling is accepted, no appearance is necessary via Zoom unless otherwise indicated.**

**TO JOIN D17 ZOOM ONLINE:**

Meeting ID: 161 126 4123

Passcode: 062178

<https://sonomacourt-org.zoomgov.com/j/1611264123>

**TO JOIN ZOOM BY PHONE:**

By Phone (same meeting ID and password as listed for each calendar):

+1 669 254 5252

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, **YOU MUST NOTIFY** Judge Gaskell's Judicial Assistant by telephone at **(707) 521-6723**, and all other opposing parties of your intent to appear, and **whether that appearance is in person or via Zoom**, by **4:00 p.m. the court day immediately preceding the day of the hearing.**

**1. 24CV02839, Argo v. Beverages & More, Inc.**

Defendant Beverages & More, Inc. ("Bevmo") unopposed petition to compel arbitration of Plaintiff Toni Argo's individual statutory claims to arbitration and dismissing class claims is **GRANTED**.

The petition is based on the Arbitration Agreement & Class Action Waiver ("Agreement") executed by Plaintiff on December 8, 2019, as well as the Federal Arbitration Act ("FAA") and California Code of Civil Procedure ("C.C.P.") section 1281.2. The petition states that Plaintiff's Complaint is a putative wage-and-hour class action and that the action was brought in contravention of the executed Agreement.

Plaintiff filed a response stating that she does not oppose Bevmo's petition to compel arbitration to the extent that it seeks to compel Plaintiff's individual claims to arbitration and dismiss Plaintiff's class claims without prejudice. Plaintiff did not challenge the validity of the Agreement or the legal authority cited in support of the motion. Plaintiff requests that the Court stay the action pending arbitration per C.C.P. 1281.4.

As such, the Court grants the unopposed petition and the action is stayed pending completion of the arbitration. The Court will sign the proposed order lodged with the petition with a modification to include language that the action is stayed pending arbitration of the individual claims per C.C.P. 1281.4 if no oral argument is requested.

## **2. 24CV03304, Orduna Solano v. American Honda Motor Co., Inc.**

**APPEARANCES REQUIRED.** Defendant American Honda Motor Co., Inc. submitted a late opposition disputing sufficiency of notice of the moving papers and arguing that the motion is moot because the settlement terms have already been carried out. The parties are ordered to appear to discuss the issues raised in the opposition. Zoom appearances are authorized.

## **3. 24CV05115, Looney v. The Palate LLC**

Plaintiff Looney moves to compel Defendants The Palate, LLC, (“The Palate”) doing business as the Lime in the Coconut, and Kevin Rhodes, individually and as personal guarantor of The Palate (together “Defendants”) to provide full and complete responses to post-judgment interrogatories and demand for production. Plaintiff’s unopposed motion is **GRANTED**. Sanctions are awarded as to the \$60.00 cost of filing. Defendants shall provide complete, objection-free verified responses to Plaintiff and pay \$60.00 in sanctions within 30 days of service of the notice of entry of order.

### **PROCEDURAL HISTORY**

Plaintiff Looney propounded post-judgment written interrogatories and demands for production on Defendants on December 31, 2024. (Looney Declaration, ¶ 1.) Defendants never responded to the discovery requests, never requested any extensions, and never acknowledged Plaintiff’s efforts to meet and confer regarding the discovery. (*Id.* at ¶¶ 2-4.) Plaintiff notified Defendants of the intent to file this motion to compel. (*Id.* at Exhibit B.) Plaintiff now moves to compel Defendants’ objection-free and complete verified responses and for sanctions. Defendants have not opposed the motion.

### **ANALYSIS**

A judgment creditor may propound interrogatories and requests for documents to a judgment debtor. (C.C.P. § 708.010, et seq.) These may be served on the judgment debtor any time while the judgment is enforceable, except not within 120 days after the judgment creditor examined the judgment debtor, or after the judgment debtor responded to an earlier request for discovery. (C.C.P. §§ 708.010(a), 708.020(b).)

A responding party who fails to serve timely responses to interrogatories waives all objections, including privilege and work-product based objections, and the propounding party may move for an order compelling responses. (C.C.P. § 2030.290(a)-(b); *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404.) Likewise, the failure to serve timely responses to requests for production of documents results in a waiver of all objections and allows for a motion to compel responses. (C.C.P. § 2031.300(a)-(b).) Additionally, the Court “shall” award sanctions for failure to respond. (C.C.P. § 708.020.)

Plaintiff properly served the discovery requests to Defendants who failed to respond or request any extensions. Defendants have not been examined by Plaintiff or the judgment creditor, or responded to any other discovery, within 120 days before this motion was filed. (Looney Declaration, ¶ 5.) Accordingly, the Court will grant the motion.

### **CONCLUSION**

Based on the foregoing, Plaintiff's motion is **GRANTED** and sanctions are awarded in the amount of \$60.00 for filing costs. Defendants shall serve complete, objection-free verified responses to Plaintiff and pay \$60.00 in sanctions within 30 days of service of the notice of entry of order. Plaintiff shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

### **4-5. 25CV00501, Ortiz v. Oakmont Management Group, LLC**

The hearings on Defendant Oakmont Management Group, LLC's special motion to strike ("Anti-SLAPP") and demurrer against Plaintiff Ortiz's Complaint are **CONTINUED** to August 13, 2025, at 3:00 P.M. in Department 17.

Per the proofs of service attached to both motions, the moving papers were served on February 27, 2025. However, the demurrer and its supporting papers were filed with the Court on March 6, 2025, after the supposed service date. The Anti-SLAPP motion as well was processed and assigned a hearing date on February 27, 2025, the same day the proof of service states the moving papers were served. Oakmont failed to file any updated proof of service afterwards showing Plaintiff timely and properly served notice of the hearing date for either motion.

Based on the above, the Court has determined that Oakmont failed to properly serve the moving papers or timely notice of the hearing date on either motion to Plaintiff. Before the next hearing date, Oakmont must file a proof of service for both motions showing that Plaintiff was properly served with both the moving papers and timely notice of the hearing date. If Oakmont fails to do so, the Court will deny the motions as procedurally deficient.

### **6-7. SCV-270261, Arikat v. Grocery Outlet, Inc.**

Defendant Basin Street Properties, Inc.'s ("Basin") unopposed motion to deem as admitted set one of requests for admissions propounded on Plaintiff Michael Arikat ("Plaintiff") is **DENIED**.

Basin's unopposed motion to compel discovery responses from Plaintiff is **GRANTED**. Sanctions are awarded in the amount of **\$500.00**. Plaintiff shall serve objection-free responses to Set One of Form Interrogatories, Special Interrogatories, and Request for Production of Documents and provide any responsive documents within 30 days of receipt of the notice of entry of this Court's order on these motions.

### **PROCEDURAL HISTORY**

Plaintiff and the other successors-in-interest and heirs of Decedent Farida Arikat brought this action against Basin and other named defendants alleging causes of action for wrongful death and negligence. (Motion to Deem Admitted, 3:4-10; Motion to Compel, 3:4-10.)

On June 25, 2022, Basin electronically served Set One of Form interrogatories, Special Interrogatories, and Request for Production of Documents on Plaintiff via his counsel. (Motion to Compel, 3:13-23.) Plaintiff served unverified responses on September 9, 2022. (*Id.* at 3:23-24.) Basin's counsel sent several emails to Plaintiff's counsel to meet and confer and request verifications, but never received them. (*Id.* at 3:27-28, 4:1-3.)

On April 3, 2024, Basin later served Set One of Request for Admissions on Plaintiff via his counsel which consisted of 14 individual requests for Plaintiff to admit or deny. (Motion to Deem Admitted, 3:11-13.) Plaintiff served unverified responses on May 13, 2024. (*Id.* at 3:14-16.) Basin again requested Plaintiff's verification from Plaintiff's counsel, but Plaintiff's counsel never responded and no verification has been provided. (*Id.* at 3:18-22.)

Basin now moves to compel Plaintiff's objection-free responses to the discovery requests propounded and seeks the Court to deem as admitted the 14 requests for admissions served on Plaintiff. (Motion to Deem Admitted, 3:22-23; Motion to Compel, 4:4-6.) Plaintiff failed to oppose either motion.

## **ANALYSIS**

### **Legal Standard**

#### *I. Request for Admission*

A party who “fails to serve a timely response” to requests for admissions waives any objection to those requests. (C.C.P. § 2033.280(a).) However, the court may relieve a party from this waiver if the court determines that: (1) the party has subsequently served a response that is in substantial compliance with C.C.P. sections 2033.210, 2033.220, and 2033.230; and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect. (C.C.P. § 2033.280(a)(1)-(2); *Katayama v. Cont'l Inv. Grp.* (2024) 105 Cal.App.5th 898, 906–07.) To substantially comply, each response to a request for admission shall be complete, straightforward as the information reasonably available to the responding party permits, and shall also: “(1) admit so much of the matter involved in the request as is true... (2) deny so much of the matter involved in the request as is untrue (3) specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge.” (C.C.P. § 2033.220(a)-(b).) Where a responding party gives lack of information or knowledge as a reason for a failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable inquiry concerning that matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter. (C.C.P. § 2033.220(c).)

After a lack of response, the requesting party can move for an order “that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted.” (C.C.P. § 2033.280(b).) However, if the Court finds that the lack of response was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially

prejudiced in maintaining the party's action or defense on the merits, then the Court may permit leave to withdraw or amend an admission after notice to all parties. (C.C.P. § 2033.300(a)-(b).)

## *II. Interrogatories*

A party who fails to serve a timely response to interrogatories absent evidence showing mistake, inadvertence, or excusable neglect, waives any right to object to the interrogatory, including objections based on privilege or work product, and the court shall impose monetary sanctions upon the party who unsuccessfully opposes a motion to compel responses. (C.C.P. § 2030.290.)

## *III. Demand for Production of Documents*

A party to whom a document demand is directed must respond to each item in the demand with an agreement to comply, a representation of inability to comply, or an objection. (C.C.P. §2031.210(a).) If a responding party is not able to comply with a particular request, or part thereof, that party "shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." (C.C.P. § 2031.230.) The statement shall also specify "whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party," and shall also set forth "the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item." (*Ibid.*) Otherwise, if a responding party is objecting to a demand only, then the responding party must identify the demanded document, tangible thing, land, or electronically stored information to which an objection is being made, set forth the grounds for objection, and if privileged, provide a privilege log for the demanded items that are privileged. (C.C.P. § 2031.240.)

## *IV. Sanctions*

The court may impose sanctions after notice to any affected party, person, or attorney, and after an opportunity for hearing, against anyone engaging in conduct that is a misuse of the discovery process. (C.C.P. § 2023.030.) Sanctions may include reasonable expenses, including attorney fees. (C.C.P. § 2023.030(a).) A request for sanctions under the discovery act shall, in the notice of motion, identify every person, party, and attorney against whom the sanction is sought, and specify the type of sanction sought. (C.C.P. § 2023.040.) The notice of motion for a request for sanctions shall be supported by a memorandum of points and authorities and accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought. (C.C.P. § 2023.040.)

## Basin's Motions to Compel and Deem as Admitted

Basin requests the Court to treat Plaintiff's unverified responses to Set One of Form Interrogatories, Special Interrogatories, Request for Production of Documents, and Request for Admissions as non-responses per *Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, in which case the Court of Appeal held that an unverified response is the equivalent to no response at all. (Motion to Deem Admitted, 4:3-12; Motion to Compel, 4:10-28.) Basin requests the Court to order that objection-free responses be served, that the requests for admissions are deemed admitted, and that sanctions are

awarded for the amount of \$500.00 per C.C.P. section 2033.280(c) for each motion. (Motion to Deem Admitted, 4:15-22; Motion to Compel, 5:1-28.)

### Application

Basin explained that it was not discovered that Plaintiff's responses were unverified until Basin was working on discovery motions related to other parties. Plaintiff failed to oppose the motion to explain why no verifications were ever served on Basin. Per *Appleton*, the Court will treat Plaintiff's unverified discovery responses to Set One of Form Interrogatories, Special Interrogatories, and Requests for Production of Documents served on June 25, 2022, as non-responses and will order Plaintiff to provide objection-free responses within 30 days of receiving notice of entry of this Court's order. The Court also awards sanctions of \$500.00 for this motion.

However, even though Plaintiff's responses to Set One of Requests for Admissions were unverified, the Court finds that they either contained a clear denial or an objection-only response stating that Plaintiff lacked information or knowledge as a reason Plaintiff was unable to deny or admit the matter. While Plaintiff did not file an opposition to explain why no verifications were ever provided, the Court finds that Plaintiff's unverified responses were timely served and were generally in substantial compliance with C.C.P. sections 2033.210, 2033.220, and 2033.230. As such, the Court will deny Basin's motion to deem these requests as admitted against Plaintiff.

### CONCLUSION

Based on the foregoing, Basin's motion to deem as admitted is **DENIED**. Basin's motion to compel is **GRANTED**. Plaintiff shall serve objection-free responses to Set One of Form Interrogatories, Special Interrogatories, and Request for Production of Documents within 30 days of receipt of the notice of entry of this Court's order on these motions. Basin shall submit a written order to the Court as to each motion consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

### 8. SCV-271485, Sturm v. Zetzer

**APPEARANCES REQUIRED.** Zoom appearances are authorized.