

**TENTATIVE RULINGS
LAW & MOTION CALENDAR**

Friday, May 29, 2026, 3:00 p.m.

**Courtroom 16 – Hon. Rene A. Chouteau for Hon. Patrick M. Broderick
3035 Cleveland Avenue, Suite 200, Santa Rosa**

TO JOIN “ZOOM” ONLINE,

Courtroom 16

Meeting ID: 161-460-6380

Passcode: 840359

<https://sonomacourt-org.zoomgov.com/j/1614606380?pwd=NUdpOEZ0RGxnVjBzNnN6dHZ6c0ZQZz09>

TO JOIN “ZOOM” BY PHONE,

By Phone (same meeting ID and password as listed above):

(669) 254-5252 US (San Jose)

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 the Court by telephone at **(707) 521-6725**, and all other opposing parties of your intent to appear by 4:00 p.m. the court day immediately before the day of the hearing.

Parties in motions for claims of exemption are exempt from this requirement.

PLEASE NOTE: The Court WILL NOT provide a court reporter for this calendar. If there are any concerns, please contact the Court at the number provided above.

1. 24CV02695, McNaboe v. General Motors, LLC

APPEARANCES REQUIRED.

2. 24CV02831, Perez v. Ongaro & Sons, Inc.

Defendant Arjuna Transportation LLC (“Arjuna”) moves for summary judgment or, in the alternative, summary adjudication against Plaintiffs Christopher Perez and Melissa Torrez (“Plaintiffs”) on each of the four causes of action alleged against it in the first amended complaint: Violation of Civil Code §1714(d); Violation of Bus. & Prof. Code section 25602.1; Negligence and Negligence Per Se; and Negligent Undertaking.

1. First Amended Complaint

Plaintiffs’ complaint alleges they are the parents of Christopher Perez, Jr. (“Decedent”), who died on August 19, 2023. Plaintiffs allege that on August 19, 2023, Decedent attended a social gathering hosted by defendant Ongaro and Sons, Inc. (“Ongaro”). Ongaro hired a “party bus” operated by Arjuna and transported Decedent, and others, from Santa Rosa to and from an Oakland Athletics baseball game in Oakland. Plaintiffs allege that Decedent, who was under 21, was given alcohol on the party bus and became extremely intoxicated. After departing the party bus, Decedent attempted to cross US-101 on foot and was struck and killed by a car.

- a. Violation of Civil Code section 1714(d); Violation of Bus. & Prof. Code section 25602.1

Plaintiffs' first cause of action for Violation of Civil Code section 1714(d) alleges that defendants, including Arjuna, are responsible for Decedent's death because they furnished alcoholic beverages to Decedent despite him being only 19 years old.

Plaintiffs' second cause of action for violation of Bus. & Prof. Code section 25602.1 alleges that defendants, including Arjuna, were required to be licensed to sell or give away alcoholic beverages, which they were not. Plaintiffs allege that Decedent displayed symptoms that would lead a reasonable person to conclude that he was obviously intoxicated at the time of the selling/giving away of alcohol to him.

In their opposition, Plaintiffs concede that Arjuna is entitled to summary adjudication of these causes of action as Arjuna was not a licensed seller of alcohol and did not furnish alcohol to Decedent.

b. Evidentiary Objections

Arjuna's objection to the Berkstresser declaration is sustained. The objection to the Lemos declaration is overruled.

c. Negligence

The well-known elements of a cause of action for negligence are (a) a legal duty to use due care; (b) a breach of such legal duty; and (c) the breach as the proximate or legal cause of the resulting injury. (*Ladd v. County of San Mateo* (1996) 12 Cal.4th 913, 917.)

i. Duty and Breach

Arjuna argues there is "no evidence of negligence" because Plaintiff fails to identify any legal duty owed by Arjuna to prevent an adult passenger from leaving its bus and walking out onto the freeway. On a motion for summary judgment, the moving party bears the initial burden of production to make a prima facie showing that there are no triable issues of material fact. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal. 4th 826, 850.) While Arjuna's statement of facts lists various facts it claims are not disputed, the section of his memorandum dealing with duty and breach cites no authority or evidence in support of its conclusion that it did not owe or breach a duty of care to Plaintiff. It has not met its burden on this issue.

ii. Causation

Arjuna also argues causation. Arjuna states its actions or inactions did not have any causal relationship with Decedent's death as a matter of law. Arjuna argues Decedent's independent decision to leave the drop-off point, travel a significant distance on foot, and ultimately enter a freeway constituted an unforeseeable, superseding act that severs any causal link between Arjuna's conduct and the tragic outcome. Arjuna cites *Lombardo v. Huysentruyt* (2001) 91 Cal.App.4th 656.

While *Lombardo* involved a cause of action for legal malpractice, that cause of action is essentially a specific type of negligence and also involves the elements of a duty, a negligent act or omission, causation, and damages. (*Id.*, at p. 665.) In discussing causation, the court separated causation into the aspects of the cause in fact or actual cause: Was the defendant's conduct "a substantial factor in bringing about the injury"; and the aspect of legal or proximate cause. (*Ibid.*)

"Legal cause" exists if the actor's conduct is a "substantial factor" in bringing about the harm and there is no rule of law relieving the actor from liability. (*Id.*, at p. 665-666.) In general, if the risk of injury is reasonably foreseeable, the defendant is liable. (*Id.*, at p. 666.) An independent intervening act is a superseding cause relieving the actor of liability for his negligence only if the intervening act is highly unusual or extraordinary and hence not reasonably foreseeable. (*Ibid.*) "Reasonable foreseeability in this context is a question for the trier of fact." (*Ibid.*) Causation is generally a question of fact for the jury, unless reasonable minds could not dispute the absence of causation. (*Ibid.*)

Arjuna also cites *Mosley v. Arden Farms Co.* (1945) 26 Cal.2d 213 which involved personal injuries when that plaintiff was dislodged from a tractor and fell into some milk crates owned by the

defendant. The matter was tried before the court without a jury. (*Ibid.*) Arjuna cites the concurrence at the end of the opinion.

A moving party seeking to establish the lack of causation, either cause in fact or proximate cause, must cite case authority which shows that the facts of this case are so similar or are less foreseeable such that the lack of liability can be determined as a matter of law. As Arjuna has not done that here, it appears Arjuna seeks to have this court use its own judgment to determine the issue, which would be improper. Arjuna has failed to meet its burden on this issue.

d. Negligence Per Se

Plaintiffs allege that Arjuna breached its duties of care to Decedent and violated applicable ordinances, standards, laws, and regulations, including Cal Civ. Code section 2100 and Cal PUC 5384.1.

“The negligence per se doctrine is codified in Evidence Code section 669, subdivision (a), under which negligence is presumed if the plaintiff establishes four elements: (1) the defendant violated a statute, ordinance, or regulation; (2) the violation proximately caused death or injury to person or property; (3) the death or injury resulted from an occurrence the nature of which the statute, ordinance, or regulation was designed to prevent; and (4) the person suffering the death or the injury to his person or property was one of the class of persons for whose protection the statute, ordinance, or regulation was adopted.” (*Taulbee v. EJ Distribution Corp.* (2019) 35 Cal.App.5th 590, 596. [citing case].)

Generally, the issue of negligence is a question for the jury. (*Parker v. City and County of San Francisco* (1958) 158 Cal.App.2d 597, 604.) Unless reasonable people could not disagree, foreseeability is a question of fact. (*Id.*, at p. 608.)

i. Civil Code section 2100

Civil Code section 2100 states: “A carrier of persons for reward must use the utmost care and diligence for their safe carriage, must provide everything necessary for that purpose, and must exercise to that end a reasonable degree of skill.”

A carrier of persons for reward is subject to a heightened duty. (*Gomez v. Superior Court* (2005) 35 Cal.4th 1125, 1130.) Common carriers are not, however, insurers of their passengers' safety. (*Ibid.*) Rather, the degree of care and diligence which they must exercise is only such as can reasonably be exercised consistent with the character and mode of conveyance adopted and the practical operation of the business of the carrier. (*Ibid.*)

Arjuna argues that his duty to use the utmost care and diligence was discharged when Decedent safely exited the bus. The high degree of care required by Civil Code section 2100 ends when the passenger safely alights from the vehicle. (*Parker v. City and County of San Francisco, supra*, at p. 603.)

The duty of a carrier is in the safe transport and delivery of the person. Here, the facts establish that Arjuna took Decedent along with other co-workers to the A's game as planned and dropped them back off at the designated drop-off location. (Arjuna's Undisputed Material Facts, Numbers 3, 4, 9, 14, 16-19.)

In opposition, Plaintiffs argue “[t]it is abundantly clear that a carrier that permits underage drinking fails to fulfill its statutory obligation under Civil Code section 2100 to provide everything necessary for safe carriage.” (Oppo., 9:12-14.) No authority is cited for this position. Even if Decedent had consumed some alcohol prior to and during his time on the bus, once Decedent was returned without incident to the final destination, which was not a dangerous location, Arjuna's heightened duty of care under section 2100 to transport Decedent to and from his destination was discharged. The facts in this case establish Decedent was dropped off without incident. (UMF Nos. 25-28.) However, because there is another viable theory supporting this cause of action, Arjuna has not met its burden to establish entitlement to summary adjudication of this cause of action.

ii. Cal PUC 5384.1

Cal. Pub. Util. Code section 5384.1 applies to charter-party carriers, which must ask whether alcohol will be served or transported by the chartering party and, if so, whether anyone under the age of 21 will be aboard. If someone under the age of 21 is onboard and alcohol will be served, the charter-party carrier must require a designee who is 25 years of age or older to be present and to take reasonable efforts to ensure compliance with all laws prohibiting the consumption of alcoholic beverages by the under-age person. The statute further creates liability if the underage person does drink alcohol. It requires the carrier to terminate the trip and the designee to take the underage person back home, to a safer location, or to his or her parent or guardian.

Arjuna argues Plaintiffs' reliance on this code section fails because Decedent did not consume alcohol on the bus. This argument does not properly address the lengthy statute. In addition, evidence exists suggesting Plaintiff took at least one sip of alcohol on the bus. (UMF No. 24.)

Arjuna argues there was a designated adult and that nothing in the statute imposes a duty on the carrier to monitor the underage person outside of the carrier's vehicle. This again fails to address the full breadth of the statute, which requires a carrier to take certain actions to determine if someone under the legal drinking age is aboard the vehicle and what the carrier must do in all scenarios.

Arjuna also concludes that the presence or absence of a designee on the bus along with the Decedent has no causal connection with his death.

The portion of Arjuna's memorandum discussing this issue cites no authority except section 5384.1. It does not even cite any of the language of that statute. Nor does it cite any supporting evidence supplied in the separate statement. Arjuna's conclusions do not meet its burden of persuasion and to present evidence in support of this issue.

e. Negligent Undertaking

Plaintiffs allege that Arjuna voluntarily rendered services to Decedent such that once Decedent became intoxicated and unable to safely care for himself, it took Decedent into their care and custody and agreed to get him safely home as Decedent was unable to safely care for himself. Plaintiffs allege these services were a kind that Arjuna should have recognized required them to protect Decedent.

A negligent undertaking claim of liability to third parties requires evidence that: (1) the actor undertook, gratuitously or for consideration, to render services to another; (2) the services rendered were of a kind the actor should have recognized as necessary for the protection of third persons; (3) the actor failed to exercise reasonable care in the performance of the undertaking; (4) the actor's failure to exercise reasonable care resulted in physical harm to the third persons; and (5) *either* (a) the actor's carelessness increased the risk of such harm, or (b) the actor undertook to perform a duty that the other owed to the third persons, or (c) the harm was suffered because either the other or the third persons relied on the actor's undertaking. (*Paz v. State of California* (2000) 22 Cal.4th 550, 559.)

Arjuna argues that it did not assume a "special duty" beyond delivering passengers to and from their requested destination. Arjuna cites no authority that a common carrier's transportation services cannot constitute an undertaking. Therefore, it has failed to meet its burden on this issue.

f. Conclusion and Order

The motion as to Plaintiffs' first cause of action for Violation of Civil Code section 1714(d) and second cause of action for Violation of Bus. & Prof. Code section 25602.1 is GRANTED. The motion as to the remaining issues is DENIED.

Arjuna's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

3. **25CV00993, Rhoades v. Girl of the Year, LLC.**

Plaintiffs Johnnie Rhoades and Milesa Silva-Rhoades (“Plaintiffs”) move for an order pursuant to Code of Civil Procedure section 2030.300 et seq. to compel Defendants D2760 Santa S, LLC and D3145 Santa N, LLC (“Defendants”) to provide further responses to Plaintiffs’ first sets of special interrogatories, form interrogatories, and requests for admission.

If a timely motion to compel has been filed, the burden is on the responding party to justify any objection or failure fully to answer the interrogatories and requests for admissions. (*Coy v. Sup.Ct. (Wolcher)* (1962) 58 Cal. 2d 210, 220-221.)

On July 7, 2025, Plaintiffs served Defendants with special interrogatories, form interrogatories, and requests for admissions. (Fagan decl., ¶2.) Responses were provided except for responses to Plaintiff’s requests for admissions for defendant D3145 Santa N, LLC. (*Ibid.*)

In opposition, Defendants concede there is no defense to Plaintiffs’ motion. However, they request a continuance of this matter to allow them to provide supplemental responses. A continuance is not necessary. As Defendants have not justified their responses, the court will GRANT Plaintiffs’ motion.

Defendants D2760 Santa S, LLC and D3145 Santa N, LLC are directed to provide further responses to Plaintiffs’ first sets of special interrogatories, form interrogatories, and requests for admission within 30 days of the service of this order.

Plaintiffs’ counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

4. **25CV04007, Pawlik v. Dupre**

I. Motion to Compel Further Responses to Request for Production of Documents

Plaintiff Christopher Pawlik (“Plaintiff”) moves for an order pursuant to Code of Civil Procedure section 2031.310 to compel Defendant Ernesto Ongaro & Sons, Inc. (“Defendant”) to serve further responses to Plaintiff’s Requests for Production, Set One. Plaintiff requests sanctions against Defendant and its counsel of record, Christina N. Muñoz, in the amount of \$2,260.00.

1. CCP section 2031.310

A motion under section 2031.310 requires the moving party set forth specific facts showing good cause justifying the discovery sought by the demand. (Code Civ. Proc., § 2031.310.)

2. Discovery Requests

On July 17, 2025, Plaintiff served his first set requests for production on Defendant. (Kayne decl., ¶5.) The request seeks 21 categories of document production. (*Id.*, Exhibit A.) This motion deals with Request Numbers 1, 3, 5, 11, 12, 13, 15, 16, 17, 20, and 21.

a. Request for Production, Numbers 1, 3

Plaintiff’s Request Number 1 seeks: “Any and all film and/or video footage in YOUR possession, custody, or control (or in the possession, custody, or control of YOUR agents) of Plaintiff Christopher Pawlik at any time.”

Request Number 3 seeks: “Any and all photographs in YOUR possession, custody, or control (or in the possession, custody, or control of YOUR agents) of Plaintiff Christopher Pawlik at any time.”

Subject to various objections, Defendant responded it would produce all non-privileged films and/or video responsive to the request. Defendant identified surveillance footage as privileged

based upon the work product doctrine. In opposition, Defendant argues that materials responsive to Plaintiff's Requests for Production of Documents 1-3 were obtained by Defendant's agent, a private investigator, to evaluate and investigate Plaintiff's claims and are privileged. Defendant argues the surveillance video was obtained at the direction of counsel and reflect counsel's thoughts, impressions, and strategy of defense.

It is not clear how surveillance video would contain counsel's thoughts, impressions, and defense strategy. This is the exact scenario discussed in *Suezaki v. Superior Court of Santa Clara County* (1962) 58 Cal.2d 166, in which the appellate court determined the attorney's private investigator's surveillance video was not privileged. (*Id.*, at pp. 177-178.) While *Suezaki* was decided prior to the current iteration of the statute outlying the work product privilege, the *Suezaki* court determined work product representing an attorney or the attorney's agent's impressions was not represented by surveillance video: "The films are not a graphic representation of the defendants, their activities, their mental impressions, anything within their knowledge, or of anything owned by them. The films are representations of the plaintiff, not of the defendants." (*Suezaki, supra*, at p. 177.)

Rodriguez v. McDonnell Douglas Corp. (1978) 87 Cal.App.3d 626 does not require a different outcome. In that case, the attorney's agent's notes consisted of the agent's own comments about a witness's statement, which is protected from disclosure by the attorney's work-product privilege as a "writing that reflects an attorney's [or attorney's agent's] impressions, conclusions, opinions, or legal research or theories." (*Id.*, at p. 648.)

Here, the surveillance video and photos are not privileged. However, any notes of the attorney or the attorney's agent's impressions of what is seen on the video or photos are privileged.

In addition, there is a need for the surveillance video and photographs both in order to protect against surprise, and in order to prepare for examination of the person who took the pictures. (*Suezaki v. Superior Court of Santa Clara County, supra*, 58 Cal.2d at p. 172.) Defendant's intended use of the material to impeach Plaintiff does not strip the evidence of its discoverability.

These requests are relevant and reasonably calculated to lead to the discovery of admissible evidence. The material is not privileged. Therefore, the motion as to these requests is granted.

b. Request for Production, Number 5

Request Number 5 seeks: "All DOCUMENTS which refer or relate to any and all repair, maintenance, or service of YOUR vehicle."

In response to this request, Defendant stated it made a diligent search and identified certain bates stamped evidence. Plaintiff argues a further response is required because a statement of *inability* to comply requires further explanation. However, Defendant did not state in its responses that it was unable to comply. The motion as to this request is denied.

c. Request for Production, Numbers 11, 12, 13

Request Number 11 seeks: "Any and all photographs or digital and/or video recordings of the SUBJECT VEHICLE."

Request Number 12 seeks: "Any and all photographs or digital and/or video recordings of the scene of the INCIDENT."

Request Number 13 seeks: "Any and all photographs or digital and/or video recordings of the Tesla Plaintiff was driving at the time of the INCIDENT."

In response to these objections, Defendant indicated it would comply and produce responsive documents. It also noted it was otherwise not able to comply as it was not aware of the existence of additional responsive documents.

The responses are vague as it is unclear 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 as required by CCP § 2031.230. The motion as to these requests is granted.

d. Request for Production, Numbers 15, 16, 17

Request Number 15 seeks: “Any and all DOCUMENTS that evidence any act on the part of Plaintiff Christopher Pawlik that YOU allege caused the INCIDENT or contributed to any injuries sustained by Plaintiff Christopher Pawlik arising from the INCIDENT.”

Request Number 16 seeks: “Any and all DOCUMENTS that evidence an omission on the part of Plaintiff Christopher Pawlik that YOU allege caused the INCIDENT or contributed to any injuries arising from the INCIDENT.”

Request Number 17 seeks: “Any and all DOCUMENTS that evidence any defect in any vehicle which YOU allege caused and/or contributed to the happening of this INCIDENT.”

After various objections, Defendant responded: “Responding Party is a lay witness and will defer to defense experts and the trier-of-fact to opine on causation.”

This discovery request seeks documents that support Defendant’s contentions regarding whether Plaintiff caused or contributed to the incident—information that is directly relevant to the subject matter of this action. Responding to Plaintiff’s requests does not require expert opinion. Plaintiff is merely seeking the evidence Defendant plans to rely upon to defend against Plaintiff’s case

In opposition, Defendant maintains that as a lay witness, it does not have the legal training nor sophistication to make legal conclusions as required by the Requests for Production that correspond with Plaintiff’s contention interrogatories. However, in a good-faith effort to narrow down the scope of issues presented before this Court, Defendant states its intention to serve a second set of further amended responses clarifying Defendant’s position in response to Plaintiff’s contention interrogatories and to produce any corresponding documents in support of thereof.

In reply, Plaintiff indicates no further responses have yet been served.

The motion as to these requests is granted.

e. Request for Production, Number 20

Request Number 20 seeks: “Any and all downloads and/or printouts reflecting data from the Event Data Recorder (“EDR”) and/or the black box present in any vehicle involved in the INCIDENT.”

Defendant responded identifying a document and stating it would produce that document. However, in opposition, Defendant states its counsel indicated to Plaintiff’s counsel that it would not produce the data because it was equally available to Plaintiff. (Munoz decl., ¶13.) In an email sent by Defendant’s counsel on October 22, 2025, Plaintiff’s counsel wrote: “Request for Production Nos. 20, 21- EDR data. We agreed to table this issue. I will review our files and get back to you as to whether we still require a response.” (Munoz decl., ¶14, Exhibit D.) Defendant argues this issue is moot.

In reply, Plaintiff’s counsel provides an email dated November 20, 2025, recapping counsel’s discussion. With respect to request for production number 20, it states: “You agreed to produce data downloaded on Defendant’s behalf from the vehicles in this case.” (Kayne reply decl., Exhibit I.)

The motion as to this request is granted.

f. Request for Production, Number 21

This request seeks: “Any and all component parts of vehicle involved in the INCIDENT.”

Defendant responded it had shipped responsive components to Plaintiff’s attorney’s office.

Plaintiff’s motion indicates that one component was removed from the vehicle which was not turned over. In opposition, Defendant states that after meet and confer efforts that took place in October, the component was turned over in November. The motion as to this request is denied.

g. Privilege Log

In reply, Plaintiff states that the amended privilege log served by Defendant on December 9, 2025, is deficient as it fails to state the author and recipient of the document or material, or the date of the material's creation.

If the response and any privilege log fail to provide sufficient information to allow the trial court to rule on the merits, the court may order the responding party to provide a further response by serving a privilege log or, if one already has been served, a supplemental privilege log that adequately identifies each document the responding party claims is privileged and the factual basis for the privilege claim. (*Catalina Island Yacht Club v. Superior Court* (2015) 242 Cal.App.4th 1116, 1127.)

Defendant's privilege log only lists the surveillance video and photos. (Plaintiff's Exhibit O.) As determined above, these must be produced.

3. Sanctions

"[T]he court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response to a demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." (CCP § 2031.310(h).)

In addition, the court may impose sanctions against anyone "engaging in conduct that is a misuse of the discovery process." (CCP § 2023.030.) "Misuses of the discovery process include, but are not limited to...(e) Making, without substantial justification, an unmeritorious objection to discovery...(f) Making an evasive response to discovery...(h) Making or opposing, unsuccessfully and without substantial justification, a motion to compel or to limit discovery." (CCP § 2023.010.)

Plaintiff seeks sanctions against Defendant and its counsel of record, Christina N. Muñoz, in the amount of \$2,260. Plaintiff's counsel states he spent 3.5 hours in pursuit of this matter: "research for this motion, and drafting of this motion, including the notice and memorandum of points and authorities, supporting declaration, separate statement and proposed order, and identification and compilation of exhibits for the motion." (Kayne decl., ¶16.) He has been practicing law for 10 years and states his hourly rate is \$400. (*Ibid.*) He anticipated spending an additional 2 hours drafting the reply. (*Ibid.*) While the reply declaration does not state two hours were spent, two hours is a reasonable amount of time for the reply that was filed.

Sanctions are granted against Defendant and its counsel of record, Christina N. Muñoz in the amount of \$2,260.

4. Conclusion and Order

Plaintiff's motion is GRANTED as follows. Defendant is directed to provide further responses to Plaintiff's Request for Production of Documents, Numbers 1, 3, 11, 12, 13, 15, 16, 17, and 20, and to pay sanctions in the amount of \$2,260, as against Defendant and its counsel of record Christina N. Muñoz, within 30 days of the service of this order. Plaintiff has not met his burden to show further responses are required for Request for Production numbers 5 and 21.

Plaintiff's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

II. Motion to Compel Further Responses to Form and Special Interrogatories

Plaintiff Christopher Pawlik ("Plaintiff") moves pursuant to CCP section 2030.290 and 2030.300 et seq. for an order compelling Defendant Ernest Ongaro and Sons, Inc. to provide further responses to Plaintiff's form interrogatories, set one, and special interrogatories. Plaintiff requests

sanctions in the amount of \$4,060.00 against Defendant and Defendant's counsel, Christina N. Muñoz.

If a timely motion to compel has been filed, the burden is on the responding party to justify any objection or failure fully to answer the interrogatories. (*Coy v. Sup.Ct. (Wolcher)* (1962) 58 Cal. 2d 210, 220-221.)

On July 17, 2025, Plaintiff served Form Interrogatories, Set One, and Special Interrogatories, Set One, on Defendant Ernest Ongaro and Sons, Inc. (Kayne Decl., ¶ 5, Exhibits A, B) This motion was filed on November 20, 2025. Counsel continued to meet and confer regarding Plaintiff's discovery requests. Subsequent to filing this motion, Defendant provided amended responses. From the responses provided, it appears that Defendant fully responded to Form Interrogatory numbers 13.1, 13.2. In reply, Plaintiff states that Defendant has still not provided code-compliant responses to Form Interrogatory 14.1 and Special Interrogatories 2 through 17 and 36 through 39.

a. Form Interrogatory Number 14.1

In opposition, Defendant argues it fully responded but states it will provide an amended response.

b. Special Interrogatories 2-17, 36-39

Defendant maintains that as a lay witness, it does not have the legal training nor sophistication to make legal conclusions as required by Special Interrogatories 2 through 17 and 36 through 39. Despite this, it states in a good faith effort to narrow down the scope of issues presented, Defendant intends to serve a second set of further amended responses, clarifying its position as it relates to Special Interrogatories 2 through 17 and 36 through 39.

c. Sanctions

Defendant has not justified the objections. Therefore, sanctions are appropriate.

Plaintiff seeks \$4,060.00 against Defendant and its counsel of record, Christina N. Muñoz. Plaintiff's counsel states he has expended approximately 6 hours in pursuit of this matter, including research for and preparation of the meet and confer letter, the meet-and-confer call with defense counsel, follow-up emails to defense counsel, research for this motion, and drafting of this motion, including the notice and memorandum of points and authorities, supporting declaration, separate statement and proposed order, and identification and compilation of exhibits for the motion. (Kayne decl., ¶15.) He anticipates another 4 hours for the reply. (*Ibid.*) Based upon Defendant's concessions in opposition, and significant overlap with Plaintiff's counsel's meet and confer efforts and the reply for the motion to compel requests for production, this court finds sanctions in the amount of \$2,860 are reasonable against Defendant and its counsel of record.

d. Conclusion and Order

The motion is GRANTED as follows. Defendant is directed to provide further responses to Plaintiff's form interrogatory, number 14.1, and special interrogatories, numbers 2 through 17 and 36 through 39, and to pay sanctions as against Defendant and Christina N. Muñoz in the amount of \$2,860 within 30 days of the service of this order.

Plaintiff's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

5. **25CV07912, Jussila v. AAA Insurance Company**

Defendant American Automobile Association, Northern California, Nevada & Utah ("AAA") moves for an order quashing the purported service of summons and complaint by Plaintiffs John Jussila and Linda Jussila ("Plaintiffs").

On December 1, 2025, Plaintiffs filed proof of service of summons on “House Agent AAA NCNU.” (RJN, Exhibi A.) It indicates Plaintiff served CT Corporation System, Registered Agent” at 330 N. Brand Blvd., Ste 700, Glendale, CA 91203. (*Ibid.*)

This motion is based upon evidence presented in and attached to the declaration of Kimberlei Evans. That declaration has not been filed. Instead, it appears AAA inadvertently twice filed the declaration of Kristin Choi. Accordingly, **the motion is CONTINUED to June 10, 2026, at 3:00 p.m., in Department 16, to allow AAA to file the Evans declaration.**

6. SCV-267534, Garcia v. Rustic Bakery, Inc.

This matter was inadvertently set twice for a final compliance hearing. When the parties appeared on March 18, 2026, the final compliance hearing was continued to July 29, 2026, at 3:00 p.m., in Department 16. Therefore, this hearing is taken off calendar and the final compliance hearing will be on July 29.

7. SCV-273553, Insurance Company of the West, a California Corporation v. Blakeslee

Defendant Christopher Terrell Blakeslee (“Defendant”) moves pursuant to Code of Civil Procedure sections 2023.030(a) and 2023.010(d) for an order compelling Plaintiff Ephraim Giron Goltiao (“Plaintiff”) to respond to and answer Dr. McIntire’s questions regarding Plaintiff’s medical history at the time of the IME with Dr. McIntire. Defendant requests sanctions in the amount of \$4,440.

1. Independent Medical Examination (“IME”)

In response to Defendant’s noticing an IME for Plaintiff, Plaintiff provided a response and objections. (McGruder decl., Exhibit B.) Plaintiff objected, in part: “Defendants’ demand for the physical examination of Plaintiff improperly seeks to subject Plaintiff to an oral examination of his history. The Civil Discovery Act does not expressly authorize a medical examiner to conduct an oral examination of a party’s ‘history’. Accordingly, Defendants are not entitled to take a history of Plaintiff.”

Defendant argues not allowing the medical examiner to obtain an oral history related to Plaintiff’s injuries would be prejudicial as it would significantly limit the utility of the IME. Plaintiff alleges he sustained neck and back injuries as well as a traumatic brain injury as a result of the subject accident, reporting ongoing symptoms including dizziness and vertigo, severe headache episodes, constant ringing in his ears, tingling and numbness in his right arm, and intermittent right knee pain. In taking an oral history related to the accident, Dr. McIntire, a board-certified neurologist physician, will seek to understand the exact nature of each of these symptoms, how they evolved since the accident, and whether the symptoms/conditions make sense neurologically or can be reasonably attributed to the accident in question.

Defendant cites *Britt v. Superior Court* (1978) 20 Cal.3d 844 for the proposition that the scope of permitted inquiry depends upon the nature of the injuries which the patient litigant himself has brought before the court. As relevant here, *Britt* discussed the defendant’s challenge to the trial court’s discovery order compelling them to disclose their entire lifetime medical histories.

“Plaintiffs stress, in this regard, that while they are completely willing to provide defendant with medical information which relates in any way to the physical or emotional injuries for which they seek recovery in the underlying action—and, indeed, that they have already done so—they object to the trial court's unlimited order which requires them to comply with defendant's request for

information related to *all* past medical conditions, without regard to whether such conditions have any bearing on the present litigation. The port district argues, in response, that the broad discovery order properly affords it the opportunity to determine for itself whether the injuries, which plaintiffs assert were caused by airport operations, actually arose from other medical conditions.” (*Id.*, at p. 862.)

In reviewing the relevant statutory provisions, the *Britt* court determined that a patient’s privilege to refuse to disclose any “confidential communication” between himself and a treating physician or psychotherapist extends to a significant portion of the medical histories sought to be discovered in that case by that defendant. By instituting a claim for physical or mental injury a patient does not automatically waive his statutory privilege as to *all* protected communications. (*Ibid.*) There is only a limited waiver: “while they may not withhold information which relates to any physical or mental condition which they have put in issue by bringing this lawsuit, they are entitled to retain the confidentiality of all unrelated medical or psychotherapeutic treatment they may have undergone in the past.” (*Id.* at p. 864; see also *Golfland Entertainment Centers, Inc. v. Superior Court* (2003) 108 Cal.App.4th 739, 744–745 [Any party may obtain discovery by means of a physical or mental examination of a party to the action in any action in which the mental or physical condition that party is in controversy in the action.])

During an IME, the doctor should be free to ask such questions as may be necessary to enable him or her to formulate an intelligent opinion regarding the nature and extent of the plaintiff’s injuries, but he or she should not be allowed to make inquiries into matters not reasonably related to the legitimate scope of the examination. (*Sharff v. Superior Court of City and County of San Francisco* (1955) 44 Cal.2d 508, 510.)

Defendant has provided the declaration of Dr. McIntire. Dr. McIntire states he was hired to conduct a standard, non-invasive neurological examination, which includes an assessment of gait, cranial nerve function, motor function, sensory function, reflexes, cerebellar function, mental status, and related neurological findings. (McIntire decl., ¶3.) He states a focused medical history is a customary and necessary component of a neurological examination. (*Id.*, at ¶ 4.) In order to evaluate a patient’s neurological complaints, the examiner must obtain information concerning the nature of the symptoms, the onset and evolution of the symptoms, the frequency and severity of the symptoms, what affects the symptoms, treatment history, functional complaints, and related medical history. (*Ibid.*) He states that the focused medical history he needs to obtain from Plaintiff is directed to the symptoms, injuries, treatment, and conditions relevant to the neurological issues presented for examination and is not intended to be an open-ended inquiry into unrelated medical issues. (*Id.*, at ¶ ¶ 5-14.)

At the original IME, Dr. McIntire attempted to audio record the exam. He states he requested the audio recording because he wants to maintain a complete and accurate record of what was said during the examination, including the history provided and the communications during the examination. (*Id.*, at ¶ 18.) Dr. McIntire has audio recorded his IMEs for years and requires his own recording if another party is audio recording the exam. (*Id.*, at ¶ ¶ 22-28.) If no audio recording is allowed, Dr. McIntire does not object to the use of a court reporter. (*Id.*, at ¶ 47.)

2. Opposition

Plaintiff has two main points in opposition. First, he argues the motion is procedurally defective because it was filed in anticipation of the discovery dispute and the Notice of Motion does not cite the correct statutes. Second, he argues the issue is moot because the parties have agreed to limit the oral history to the issues related to Plaintiff’s allegations in this action.

a. Procedural Defects

Plaintiff argues Defendant's motion is defective because the Notice of Motion states that it is brought pursuant to CCP sections 2023.030 and 2023.010, which do not offer the requested relief. These code sections pertain to sanctions.

However, the Notice of Motion also states that it is based upon the memorandum of points and authorities, the supporting separate statement, and the supporting declarations. All documents in support of this motion were filed within the statutory period required by CCP section 1005(b).

Plaintiff argues Defendant's motion is essentially premature or invalid because it was filed prior to when the IME actually occurred. No authority is cited that this motion cannot or should not be heard because the dispute was anticipated and occurred after the motion was filed.

Plaintiff also argues that Defendant has limited his motion to what is reasonably needed for the IME but that the original request was overbroad.

The original Notice of IME for November 20, 2025, the Amended Notice of IME for January 22, 2026, lists what will be included in the IME. It states Dr. McIntire's neurological evaluation will include:

- Gait exam: Assessment of how an individual ambulates or maneuvers
- Cranial nerve exam: Evaluation of visual, facial, vestibular functions and facial motor and sensory modalities
- Motor exam: Determination of muscle tone, bulk, strength, and dexterity
- Sensory exam: Assessment of the ability to sense different modalities
- Reflexes: Evaluation of tendon and other reflexes with a reflex hammer
- Cerebellar function: Assessment of coordination of movements
- Mental status: Evaluation of the ability of an individual to process information and communicate
- Inspection, manipulation and palpation: Movement of limbs/joints to determine changes in muscle tone, sensation, spasticity etc.
- A history-taking: Understanding the nature and evolution of symptoms, and how different factors have led to the symptoms or affect the symptoms.

It specifies it will not include any diagnostic test or procedure that is painful, protracted, or intrusive, absent written stipulation or court order and will be limited to a standard non-invasive neurological examination. (McGruder decl., Exhibits A, D.)

Based upon the Notices provided, it appears neither Defendant nor Dr. McIntire intended to ask about any medical history unrelated the injuries that are the subject of this action.

b. Mootness

Plaintiff argues this motion is moot because he has already agreed to comply with the examination with the limitation that the oral history is confined to the issues subject to dispute in this case. However, there are other issues in dispute including whether Dr. McIntire may audio record the examination and Plaintiff's objection that he reserves the right to disrupt the examination.

3. Requested Order

Defendant requests an order requiring Plaintiff to appear for the IME on a mutually agreeable date; that Plaintiff be required to answer Dr. McIntire's focused medical-history questions; that Plaintiff, Plaintiff's counsel, and others attending in support of Plaintiff be prohibited from interfering with, disrupting, coaching, obstructing, answering for plaintiff, or terminating the examination based on unilateral conditions not ordered by the Court; and for clarification on the recording or reporting parameters for the exam.

Defendant's request is reasonable. Plaintiff has not shown otherwise. However, as to the request seeking to limit interruptions, Defendant has not addressed this issue except with respect to

the issue of audio recording. Defendant has therefore not shown that an expanded order covering any and all disruptions is necessary.

With respect to whether Dr. McIntire may audio-record the IME, at Plaintiff's option, he must allow either Dr. McIntire to audio-record the IME or have a court reporter transcribe it.

4. Sanctions

Defendant requests sanctions for a "misuse of the discovery process" for "failing to respond to, or to submit to an authorized method of discovery" pursuant to CCP section 2023.010 and 2023.030, and under CCP section 2032.250, which authorizes sanctions on a motion to compel compliance with an IME. Pursuant to CCP section 2032.250, a sanction must be imposed unless this court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

The evidence establishes that Plaintiff did submit to an IME. (McIntire decl., ¶15.) The IME failed to fully proceed due to Plaintiff's objection to having Dr. McIntire audio-record the IME. (*Id.*, ¶¶16-39.) Defendant has not provided authority that an audio-recorded IME is an authorized method of discovery or that it is not a legitimate objection. Therefore, sanctions are denied.

5. Conclusion and Order

Defendant's motion is GRANTED as follows. Plaintiff is directed to appear for and complete the neurological independent medical examination with Dr. McIntire on a date mutually agreed upon by the parties and Dr. McIntire. Plaintiff is further directed to answer Dr. McIntire's focused medical-history questions reasonably related to the current problems at issue and relevant time periods, including plaintiff's claimed symptoms, treatment, and any related conditions reasonably necessary to evaluate the neurological injuries alleged in this case. With respect to the issue of audio-recording, at Plaintiff's option, he must allow either Dr. McIntire to audio-record the IME or have a court reporter transcribe it.

Defendant's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.