

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, June 11, 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 6725**, 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. 23CV00274, Spaletta v. C.Hardy 92, LP

The Court signed counsels' stipulation and order for leave to file a Verified Second Amended Complaint on June 4, 2025. As such, this motion is **MOOT** and hereby dropped from calendar.

2. 23CV01781, Singleton v. Kalia

Defendants Casbar Entrepreneurs, LLC and Akash Kali ("Defendants") move to compel the deposition of Plaintiff Steve Singleton, per Code of Civil Procedure ("C.C.P.") sections 2023.010, 2025.450, and 2033.030.

The unopposed motion is **GRANTED**. In the Court's discretion, sanctions are awarded for the reduced amount of **\$1,855.00**. Plaintiff shall appear for his deposition within 30 days of receiving notice of the entry of the order on this motion.

I. PROCEDURAL HISTORY

Plaintiff brought this action alleging premises liability and negligence against Defendants due to a "slip and fall" accident that occurred on December 21, 2021. (Motion, 3:3-6.) On September 25, 2024, Plaintiff

filed a Substitution of Attorney indicating that he would be representing himself in place of prior counsel. (*Id.* at 3:8-10.) In Plaintiff's Substitution of Attorney, he indicated his address and email address of record. (*Id.* at 3:10-11.) Though Defendants have tried to communicate with Plaintiff at his stated address and email address, Plaintiff has not responded to any correspondence, emails, or discovery requests since filing his Substitution of Attorney. (*Id.* at 3:12-13.)

Defendants served a Notice of Deposition on Plaintiff on December 4, 2024, to take place on January 23, 2025. (Motion, 3:14-16.) The Notice of Deposition was served on Plaintiff via electronic and regular mail to Plaintiff's stated addresses. (*Ibid.*) Plaintiff failed to object to or respond to the Notice, to request a continuance of the Deposition, and to appear at the Deposition. (Motion, 3:14-18; McGuire Declaration, Exhibit A.) Defendants submitted an Affidavit of Failure of Witness to Appear for Deposition prepared by the court reporter who was in attendance to report the Deposition. (Motion, 3:19-21; McGuire Declaration, Exhibit B.)

Due to Plaintiff's failure to appear and to communicate with Defendants, Defendants move to compel Plaintiff's deposition and request sanctions because of Plaintiff's lack of engagement with the discovery process. Plaintiff did not file an opposition, even though Plaintiff was timely and properly served with the moving papers at his stated address and email address. Defendants' counsel's declaration states that they have been unable to meet and confer with Plaintiff regarding this motion to compel because Plaintiff has abandoned the action and not provided current contact information to the Court or defense counsel since he began representing himself. (McGuire Declaration, ¶ 3.)

II. ANALYSIS

Legal Standard

Motion to Compel Deposition

Per C.C.P. section 2025.450(a), if a party to the action or "an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under Section 2025.230," fails to appear for examination without having served a valid objection under Section 2025.410, or fails to proceed with a deposition, or fails to produce for inspection any document or tangible thing described in the deposition notice, then the noticing party may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice.

Meet and Confer Requirement

On non-appearance of a deponent, the moving party shall attempt to meet and confer in good faith regarding the non-appearance and file a declaration with the motion to compel deposition stating that the moving party made an inquiry to the deponent as to the non-appearance. (C.C.P. § 2025.450(b)(2); *Leko v. Cornerstone Building Inspection Service* (2001) 86 Cal.App.4th 1109, 1124.)

Sanctions

If a court grants a motion to compel deposition under C.C.P. section 2025.450(a), the court shall impose a monetary sanction in favor of the party who noticed the deposition and against the deponent or the party with whom the deponent is affiliated, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (C.C.P. § 2025.450(g)(1).)

Defendants' Motion to Compel Plaintiff's Deposition

Plaintiff failed to appear at his properly noticed deposition and otherwise to object to or respond to the Notice of Deposition served on him. Defendants have been unable to contact Plaintiff since September 25, 2024, when he began representing himself and stopped all communication with Defendants. Defendants now move to compel Plaintiff's deposition and request sanctions for a total of \$2,335.00 in fees and costs, broken down as follows:

1. \$1,560.00 in attorney fees for 6.5 hours of work at a rate of \$240.00 per hour, including:
 - a. 2.0 hours preparing for and attending the scheduled deposition;
 - b. 2.5 hours preparing this motion; and
 - c. 2 hours for anticipated fees to reply to any opposition and attend the hearing on the motion.
2. \$775.00 in costs for the court reporter hired to record the deposition.

Plaintiff failed to timely oppose the motion, so Defendants submitted a notice of non-opposition on April 30, 2025.

Application

The Court finds that Defendants' motion is warranted. Plaintiff has refused to communicate with Defendants and to engage in the discovery process for several months. Plaintiff failed to appear at his noticed deposition date and otherwise never objected to or responded to the Notice of Deposition. Plaintiff also failed to file any opposition to justify his non-appearance and lack of communication with Defendants. The Court will award sanctions in the total amount of \$1,855.00. The Court will not award the anticipatory fees requested for replying to the opposition or attending the hearing on this motion as the motion is unopposed.

III. CONCLUSION

Based on the foregoing, Defendants' motion to compel Plaintiff's deposition is **GRANTED**. Sanctions are awarded for **\$1,855.00**. Plaintiff shall appear for a deposition within 30 days of receiving notice of this Court's hearing on this motion. Defendants 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).

3. 24CV04528, Swami v. Harris

Counsel Jeffrey Needelman's unopposed motion to be relieved as counsel for Plaintiffs Swami Brahma and Brahma Brewery, Inc. is **CONTINUED** to **Friday, July 9, 2025, at 3:00 P.M.** in Department 17. Counsel's proof of service indicates all parties were served on the same day that the papers were filed. However, as the motion was not yet processed by the Clerk's Office and a hearing date was not yet assigned until later, it is unclear to the Court whether the parties had notice of the hearing date. Counsel shall file an updated proof of service showing timely and proper service to all parties of the moving papers and hearing date before the next hearing, otherwise the Court will deny the motion.

4. **24CV05974, Looney v. Public Square LA, Inc**

Plaintiff Looney moves to compel Defendants Public Square LA, Inc. (“Public Square”) doing business as the RDEN Bar & Restaurant, and Gaspar Petrosyan, individually and as personal guarantor of Public Square (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.

I. **PROCEDURAL HISTORY**

Plaintiff Looney propounded post-judgment written interrogatories and demands for production on Defendants on January 16, 2025. (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 intent to file this motion to compel on February 24, 2025. (*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.

II. **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 set of such 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, failure to serve timely responses to requests for production of documents results in 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 ever 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.

III. **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).

5. **24CV06344, Mitchell v. Sheean**

Defendant Daniel P. Sheean, self-represented, (“Defendant” or “Mr. Sheean”) moves to set aside the default and default judgment entered against him per Code of Civil Procedure (“C.C.P.”) section 473(b). The motion is **GRANTED**, and Mr. Sheean shall serve his proposed Answer attached with this motion within 10 days of this Court’s order.

I. FACTS & PROCEDURE

On October 24, 2024, Plaintiff Frederick Mitchell as Trustee of the Special Needs Trust for Daniel P. Sheean dated July 1, 2010, and Dan Sheean Special Needs Trust (the “Special Needs Trusts”) filed a verified Complaint. Trustee alleged a cause of action for Fraudulent Inducement against Mr. Sheean. (Complaint, ¶¶ 25-35.) Trustee claims that Mr. Sheean made a false representation that harmed and induced Trustee to believe that he had not committed real estate fraud crimes and misdemeanors in El Dorado County. (*Ibid.*)

Mr. Sheean failed to timely answer the Complaint, so Plaintiff requested a default to be entered against him, which the Court entered on December 2, 2024. Mr. Sheean now seeks to set aside the default and any default judgment entered against him.

Trustee filed an Opposition on March 13, 2025, which contained the wrong case number, so the Clerk’s Office vacated the filing. On March 14, 2025, Trustee filed another Opposition to the motion, which the Court now considers with the motion.

II. ANALYSIS

A court may relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect, but an application for this relief shall be accompanied by “a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken.” (C.C.P. § 473(b).) The affidavit does not need to disclose the reasons for the mistake, inadvertence, surprise, or neglect. (*Martin Potts & Assocs., Inc. v. Corsair, LLC* (2016) 244 Cal.App.4th 432, 435–36.) The moving party has the burden of showing that the mistake, inadvertence, surprise, or neglect was one that “a reasonably prudent person under the same or similar circumstances might have made.” (*Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 258.)

Mr. Sheean moves to set aside the default per Code of Civil Procedure (“C.C.P.”) section 473(b), stating that he had a medical condition that caused his failure to timely respond to the Complaint. (Motion, 4:8-10.) Mr. Sheean claims that he suffered a severe brain infection for which he was hospitalized and that it caused him severe short term memory loss. (Sheean Declaration, ¶ 5.) He also attached a copy of the proposed Answer to be filed should the Court grant his motion. (*Id.* at Exhibit 1.)

Trustee’s opposition argues that the motion should be denied because Mr. Sheean failed to provide any proof of excusable neglect based on his memory loss and medical infection. (Opposition, 2:13-24.) The Court will note that, for Mr. Sheean’s Order to Show Cause Hearing that took place on April 2, 2024, Mr. Sheean filed his medical records under seal as evidence for his claimed medical condition. The Court ordered that these be served on the other parties within 48 hours.

The Court finds sufficient cause to grant the motion given Mr. Sheean’s medical condition, proof of which he submitted to the Court as his confidential medical records.

III. CONCLUSION

The motion is **GRANTED**. Unless oral argument is requested, the Court will sign the proposed order lodged with the Court with this motion. Mr. Sheean shall file and serve the proposed answer submitted with the motion within 10 days of this Court's order.

6. 24CV07595, Cruz v. Greenwald

Plaintiff Cruz's motion to compel Defendants Christopher and Ciara Greenwald (the "Greenwalds") to appear for their depositions and produce documents responsive to the requests in the deposition notice is **GRANTED**. Defendants shall appear for their depositions within 30 days of receiving notice of this Court's order on Plaintiff's motion. Sanctions are awarded for the reduced amount of **\$2,860.00**.

I. PROCEDURAL HISTORY

This is a wrongful termination action in which Plaintiff alleges eighteen causes of action relating to Labor Code and FEHA violations. (Motion, 1:20-28, 2:1-8.) To investigate her claims, Plaintiff noticed the Greenwalds' depositions on February 17, 2025, to occur on April 1 and 17, 2025, at 10:00 a.m. (*Id.* at 2:11-13.) On the deposition notices, the Greenwalds were requested to produce documents at their respective depositions. (*Ibid.*) The Greenwalds' counsel requested that the depositions be conducted in-person all in one week, including Plaintiff's deposition which has not yet been noticed. (*Id.* at 2:17-22.) Plaintiff only received one objection to Christopher Greenwald's deposition, but not to Ciara Greenwald's deposition. (Motion, 2:23-25, 3:9-15.) To date, neither of the Greenwalds has appeared for their noticed deposition and they have refused to provide any alternative dates for their depositions to take place. (*Id.* at 3:22-27.)

Plaintiff now moves to compel the Greenwalds' depositions and requests sanctions. The Greenwalds oppose the motion arguing that they must be in-person depositions.

II. ANALYSIS

Legal Standard

Motion to Compel Deposition

Per C.C.P. section 2025.450(a), if a party to the action or "an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under Section 2025.230," fails to appear for examination without having served a valid objection under Section 2025.410, or fails to proceed with a deposition, or fails to produce for inspection any document or tangible thing described in the deposition notice, then the noticing party may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice. Section 2025.250(a) allows the deposition to be taken "at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the deponent's residence, or within the county where the action is pending and within 150 miles of deponent's residence."

Meet and Confer Requirement

On non-appearance of a deponent, the moving party shall attempt to meet and confer in good faith regarding the non-appearance and file a declaration with the motion to compel deposition stating that the moving party made an inquiry to the deponent as to the non-appearance. (C.C.P. § 2025.450(b)(2); *Leko v. Cornerstone Building Inspection Service* (2001) 86 Cal.App.4th 1109, 1124.)

Sanctions

If a court grants a motion to compel deposition under C.C.P. section 2025.450(a), the court shall impose a monetary sanction in favor of the party who noticed the deposition and against the deponent or the party with whom the deponent is affiliated, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (C.C.P. § 2025.450(g)(1).)

Plaintiff's Motion to Compel Depositions

Plaintiff moves to compel the Greenwalds' deposition per C.C.P. section 2025.250(a) to be conducted remotely. (Chau Declaration, ¶ 2, Exhibit 1.) Plaintiff argues that refusing to produce the Greenwalds for their depositions, unless the depositions are noticed in-person and in the manner in which the Greenwalds request, constitutes an abuse of the discovery process. (Motion, 4:22-28, 5:10-12.) Plaintiff notes that the parties do not dispute that the Greenwalds' testimony is relevant to the claims in this action. (*Id.* at 5:20-26.) Plaintiff requests sanctions in the total amount of \$4,610.00, which includes \$60.00 in filing costs, attorney fees for 4 hours of work at a rate of \$650.00 per hour, and an anticipatory fees for 3 hours of reviewing any opposition, preparing a reply, and attending the hearing. (Chau Declaration, ¶¶ 11-13.)

The Greenwalds' Opposition

The Greenwalds mainly object to the deposition taking place by remote means and argue that the notices of deposition do not comport to the law because no address was stated of where the deposition would take place, but rather it just states that the depositions will be held remotely. (Opposition, 2:28, 3:1-17.) Furthermore, they find issue that Plaintiff did not attempt to get a protective order from the Court and make arrangements for other parties to participate in the deposition in an equitable manner. (*Id.* at 3:19-28, 4:1-11.)

Plaintiff's Reply

In the Reply Brief, Plaintiff argues that the notices were compliant with California law and were properly noticed in advance as to the time, location, and manner of the deposition. (Reply, 1:9-13.) Plaintiff notes that California Rules of Court, Rule 3.1010, allows any party to take an oral deposition by remote means, and that any party may remotely appear and participate in an oral deposition. (*Id.* at 2:7-9.) Plaintiff also points out that Ciara Greenwald failed to timely object to the deposition notice and that the Opposition is silent regarding her non-appearance. (*Id.* at 3:10-19.)

Application

The Court finds that the motion was warranted for the Greenwalds' refusal to appear for the depositions unless it occurred in the manner they requested, although the Discovery Act and California Rules of Court allow the noticing party to elect the manner in which the deposition will be taken, which includes by remote means. The Court will grant the motion and award sanctions for the total amount of **\$2,860.00**. This amount includes filing costs of \$60.00 and attorneys' fees at a reduced rate of \$400.00 per hour for 7 hours, which more accurately reflects the typical cost of legal services in Sonoma County.

III. CONCLUSION

Based on the above, the motion is **GRANTED**. The Greenwalds shall appear for their depositions within 30 days of receiving notice of this Court's order on the motion. Sanctions are awarded for the total

amount of **\$2,860.00**. 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).