TENTATIVE RULINGS: CIVIL LAW & MOTION

Wednesday, June 24, 2026 at 3:00 p.m.
Courtroom 18 – Hon. Dana Simonds
Civil and Family Law Courthouse
3055 Cleveland Avenue
Santa Rosa, California 95403

The 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, **YOU MUST NOTIFY** the Judge's Judicial Assistant by telephone at **(707) 521-6724**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via Zoom**, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

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

TO JOIN ZOOM ONLINE:

Department 18:
Meeting ID: **160—739—4368**
Password: **000169**
https://sonomacourtorg.zoomgov.com/j/1607394368?pwd=aW1JTWlIL3NBeE9LVHU2NVVpQlVRUT09

TO JOIN ZOOM BY PHONE:
By Phone (same meeting ID and password as listed for each calendar):
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Unless notification of an appearance has been given as provided above, the tentative ruling shall become the ruling of the Court the day of the hearing at the beginning of the calendar.

1. SCV-271112, Sol Rise Farms v. Bartlett

Defendant Dylan Bartlett's motion to consolidate this case with case number 24CV01464 is **DENIED**. Charlene Schnall and Artisan Realty Group's request for judicial notice is **GRANTED**. This motion is a close call for the Court. But for the unsettled pleadings in 24CV01464 and the upcoming five years statute in SCV-271112, the Court would grant the consolidation.

The appearances of all parties in SCV-271112 are required for trial setting.

Charlene Schnall and Artisan Reality Group's counsel shall submit a written order consistent with this tentative ruling and in compliance with Rule 3.1312.

Summary of the Underlying Actions:

I. *Sole Rise Farms v. Bartlett* (SCV-271112)

On July 1, 2022, Plaintiff Sole Rise Farms, LLC filed a complaint in SCV-271112 against Defendant Dylan Bartlett. It is the operative complaint and it asserts causes of action against Mr. Bartlett for Breach of Fiduciary Duty, Failure to Make Contribution, and Fraud. Plaintiff alleges Mr. Bartlett was a member of Sole Rise Farms and that he:

- Used funds from the company's bank account to pay his personal expenses, make personal investments, and improvements to his real property.
- Failed to make a contribution of $1,200,000.00 consisting of real property, specifically 600 Hiatt Road, Cloverdale, as agreed upon.
- Made promises of material matters without any intention of performing them, specifically that he would make improvements to the property located at 600 Hiatt Road, Cloverdale suitable for cannabis cultivation and that he would apply for an obtain a suitable permits from the County of Sonoma for the commercial cultivation of cannabis at that property.

Mr. Bartlett answered the complaint on August 4, 2022. On July 12, 2023, Mr. Bartlett and Cross-Complainant Sol Rise Farms LLC filed a Cross-Complaint, which was amended on July 20, 2023, against Joshua Miller Brooks, Jeffrey K. Cook and Adam Roberts asserting causes of action for Failure to Make Contribution, Breach of Contract, Breach of Duty of Good Faith and Fair Dealing, Fraudulent Inducement to Contract, Intentional Misrepresentation, Unjust Enrichment, Negligent Interference with Prospective Economic Advantage, Negligence, Breach of Fiduciary Duty, Equitable Indemnity, Slander of Title, and Unfair Business Practices.

The Cross-Complaint alleges that Mr. Bartlett purchased 600 Hiatt Road and 875 Hiatt Road, adjacent parcels in Cloverdale. In 2020, Mr. Bartlett formed Sol Rise Farms LLC with Cross-Defendants Joshua Brooks and Jeffrey Cook, with the aid and influence of Adam Roberts. Mr. Bartlett pledged to contribute the site of the operations – that is, access to and use of his land. Messrs. Brooks and Cook pledged to collectively contribute $800,000 toward the startup costs; however, they contributed only $500,000 total, split up in payments over time.

As alleged, on July 13, 2022, in connection with their litigation, Messrs. Brooks and Cook recorded lis pendens on both parcels of the Properties, effectively making it impossible for Mr. Bartlett to refinance the loans on the Properties or sell any portion of them for nearly a year. Mr. Bartlett filed a motion to expunge the lis pendens, which was heard and granted on May 24, 2023. As further alleged, since the lis pendens were recorded, the value of the Properties sharply dropped due to market fluctuations.

II. *Bartlett v. Gross* (24CV01464)

On February 28, 2024, Dylan Bartlett filed a complaint against George E. Gross, Charlene Schnall, and Sotheby's International Realty, Inc., asserting several causes of action arising out of his engagement of their services for the listing and sale of 600 Hiatt Road. Mr. Bartlett alleges that upon entering into the Residential Listing Agreement, he informed the defendants that it was imperative for him to sell the property in April 2022 because a loan was due. Pursuant to the terms of the Agreement, the Property was to be publicly listed on the Multiple Listing Service ("MLS"). Mr. Bartlett also expressed to Defendants Gross and Schnall that he wished for the listing to be published to third-party sites, including Zillow. The listing price for the Property pursuant to the Agreement was $1.495 million.

Mr. Bartlett searched for the listing online and was unable to find it. Eventually, Mr. Bartlett learned that the listing had never been publicly listed on the MLS or published to Zillow. By the time the property was listed, Mr. Bartlett alleges that interest rates had risen substantially and the market had slowed. The loan on the Property then came due, in addition to Mr. Bartlett's other financial obligations, and he was forced to take the Property off the market before it sold.

In June 2022, Mr. Bartlett and Defendants Gross and Schnall discussed relisting the Property and prepared a draft listing agreement. Defendants proposed a listing price of $1.625 million. In July 2022, the initiation of litigation and recordation of lis pendens on the Property prevented Mr. Bartlett from relisting the Property. The lis pendens on the Property was expunged in late June 2023. Mr. Bartlett relisted the Property in July 2023. In October 2023, he was forced to sell both lots for only $1.6 million to repay the debts that had accumulated on them.

Analysis:

CCP § 1048 states that "[w]hen actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay." (CCP § 1048(a).) The purpose of consolidation is to enhance trial court efficiency, including avoiding unnecessary duplication of evidence and procedures and avoiding the substantial danger of inconsistent adjudications. (See *Todd-Stenberg v. Dalkon Sheild Claimants Trust* (1996) 48 Cal.App.4th 976.) The decision is within the "sound discretion" of the trial court. (*Fellner v. Steinbaum* (1955) 132 Cal.App.2d 509, 511.)

The moving party must demonstrate that the cases to be consolidated involve the same common issues of law or fact and that consolidation will avoid "unnecessary costs and delays" to the court and parties. (See, *Jud Whitehead Heater Co. v. Obler* (1952) 111 Cal.App.2d 861, 867.) Factors to be considered by the Court when ruling on a motion to consolidate are: (1) Timeliness of the motions (whether granting the motion will delay the trial of any of the cases or whether discovery was proceeded in one or more cases without all parties present); (2) Complexity (whether joining the actions would make the trial too confusing or complex for the jury); and (3) Prejudice (to the rights of any party). (Weil & Brown, *Cal. Prac. Guide: Civil Procedure Before Trial* (2026) § 12:362.)

Here, Mr. Bartlett seeks to consolidate the two cases based on purported common questions of law and fact with overlapping damages. As argued, the damages in these cases are intertwined because had the realtors properly listed and publicized Mr. Bartlett's larger parcel in October 2021, the property more likely than not would have sold quickly under favorable market conditions before March 2022, potentially averting the Sol Rise litigation entirely. Conversely, had the Sol Rise partners not improperly recorded lis pendens on the Properties in July 2022, Mr. Bartlett could have sold the property that summer despite the realtors' earlier failures. Mr. Bartlett argues that the "cascading financial consequences flowing from both groups' conduct ultimately forced Mr. Bartlett to sell both Properties at a substantial loss."

Defendants in *Bartlett v. Gross* oppose the motion and argue that the motion is untimely and consolidation would prejudice them and lead to further complexity, confusion and delay. Each of

Defendants' arguments are addressed below. The Court agrees with them that consolidation is improper.

Timeliness of Motion

Bartlett v. Gross was filed in February of 2024, two years prior to Mr. Bartlett filing this motion. *Sol Rise Farms v. Bartlett* has been pending for nearly 4 years. Trial was continued in *Sol Rise Farms v. Bartlett* numerous times and ultimately dropped due to the filing of this motion. However, discovery in *Sol Rise Farms v. Barlett* is complete. On the other hand, the pleadings are not yet settled in *Bartlett v. Gross*. Mr. Bartlett has not provided a compelling reason for why this motion was not filed until nearly two years after he filed his action in *Bartlett v. Gross*. The Court notes that Mr. Bartlett filed a motion to consolidate on October 2, 2025 that was withdrawn. Even considering the timing of that filing, there is no compelling explanation for the 20 month delay. The similarities in the issues of damages would have been apparent from the outset.

Complexity

The two cases involve substantially different parties with the only similar party being Mr. Bartlett. They also involve substantially different causes of action and series of events. The only similarity that can be drawn is on the issue of damages. Joining these two cases would undoubtedly make this matter complex and confusing for the jury.

Prejudice

Trial in *Sole Rise Farms v. Bartlett* has already been delayed numerous times and ultimately dropped due to this motion. The matter has been pending for nearly 4 years and discovery is complete. The matter is ready for trial. Consolidation would certainly prejudice the plaintiffs in that matter who would have to wait at least another year to bring their matter to trial and would have to conduct even further discovery regarding the *Bartlett v. Gross* case.

Consolidation would also prejudice the *Bartlett v. Gross* defendants. The two cases involve substantially different facts and different witnesses, which risks confusing the jury. Moreover, the costs of litigation would be increased for them due to the increased discovery necessary.

Mr. Bartlett makes an alternative request to consolidate the matters only for trial. However, doing so would not alleviate the issues outlined above. He has also not explained the practicality of doing so.

Conclusion

The Court recognizes that the two matters may overlap on the issue of damages, but that is the only factor on which they overlap. The existence of such overlap is outweighed by the untimeliness of this motion, the risk of confusion, and the prejudice to the parties. Mr. Bartlett's moving papers do not sufficiently establish that judicial resources would be substantially preserved by consolidation, nor that it would avoid unnecessary costs and delays to the parties.

2. 25CV07600, Draper v. George

Plaintiffs' motion to appoint partition referee is **DENIED**.

The Court's minute order shall constitute the order of the Court.

As an initial matter the Court notes that Defendant's opposition to this motion contains several misstatements of law. For example, Defendant states, "Under Code of Civil Procedure section 874.311(b), the court shall apply the PRPA if the property is determined to be 'heirs property' as defined in section 874.312(c)." CCP § 874.311(b) states, "(b) This act applies to real property held in tenancy in common where there is no agreement in a record binding all the cotenants which governs the partition of the property." It contains no mention of "heirs property." Neither does CCP § 874.312(c), which states, "(c) 'Partition in kind' means the division of property into physically distinct and separately titled parcels."

Defendant also states, "section 874.315(e), the nonpetitioning [sic] cotenants possess a mandatory 45-day statutory window to execute a co-owner buyout pursuant to Code of Civil Procedure section 874.316." CCP § 874.315 does not contain any subsections and does not contain such language.

Moreover, Defendant has cited *Dorfman v. Carter* (2021) 62 Cal.App.5th 1010, which is an unpublished case. Doing so is a violation of the Rules of Court. "[A]n opinion of a California Court of Appeal or superior court appellate division that is not certified for publication or ordered published must not be cited or relied on by a court or a party in any other action." (Cal. Rules of Court, Rule 8.1115.) The Court has not considered this unpublished case.

Mistaking the law and citing to unpublished authority is highly improper and can subject a party to sanctions. While Defendant is representing himself in propria persona, he must abide by the Code of Civil Procedure, which includes CCP § 128.7(b) that affirms to the court that by presenting any paper to the court, all claims, defenses and legal contentions in such papers are warranted by existing law.

Defendant is cautioned against submitting any further briefing that contains misstated law, unpublished decisions, or law that does not exist. Any further conduct will result in the Court evaluating sanctions against Defendant.

Analysis:

On October 27, 2025, Plaintiffs Jeffrey Draper and Barbara Jason filed this partition action against Defendant Darren George. As alleged in the Complaint, the parties to this case are siblings who each own a one-third interest in the property. Defendant Darren George is currently in possession of the property. As alleged, there was an agreement between the parties that when Defendant's daughter left the property to attend college the property would be sold. Plaintiffs allege that the condition has occurred, but the property has not been sold. Plaintiffs seek partition by sale.

Plaintiffs move for the appointment of a partition referee under CCP § 873.010 which provides, "(a) The court shall appoint a referee to divide or sell the property *as ordered by the court*." (Italics added.) No such order for division or sale of the property has yet been sought by Plaintiffs nor issued by the Court. CCP § 872.710 provides that the Court shall determine whether the plaintiff

has the right to partition "at the trial." Otherwise, pursuant to CCP § 872.720, the plaintiff may obtain an interlocutory judgment of partition. Plaintiffs have not done so. Plaintiffs also have not herein established their right to partition.

Plaintiffs make several factual representations in their memorandum regarding the ownership interests in the property. However, these factual representations have not been supported by evidentiary foundation.

Moreover, Plaintiffs have failed to show that partition by sale is necessary, rather than partition in kind. Plaintiffs make factual representations in their memorandum regarding why partition in kind is impractical. However, those factual representations have not been supported by evidentiary foundation.
In the absence of an agreement, a party seeking a sale of the property rather than division of it must show that, under the circumstances, a sale and division of the proceeds would be more equitable than division of the property. "As a rule, the law favors partition in kind, since this does not disturb the existing form of inheritance or compel a person to sell his property against his will. Forced sales are strongly disfavored." (*Richmond v. Dofflemyer* (1980) 105 Cal App 3d 745, 757, see also *Butte Creek Island Ranch v. Crim* (1982) 136 Cal.App.3d 360, 365.) The burden of proof is on the party seeking to force a sale. (*Richmond,* at 757; *Butte*, at 366.) This burden can be met by showing that the property cannot be divided equally or fairly or that division would substantially reduce the value of the property. (*Butte*, *supra*, at 366.)

By failing to provide any evidentiary foundation for the representations made in their motion, Plaintiffs have failed to meet this burden of proof. Their motion is premature since they have not obtained an order of the Court that they are entitled to partition. They have also failed to herein establish that right.

As a final matter, the Court will strongly encourage the parties to meet and confer in good faith to try to reach a settlement of this matter. Defendant has shown that he has been amenable to sale of the property and has expressed as much to Plaintiffs' counsel numerous times since before this action was filed and continuing through after this motion was filed—even proposing discussions about a buyout Plaintiffs' ownership interests. If all parties are agreeable to a sale, settlement should be within reach.

3. <u>24CV03730, Barco v. Lifewest Northern CA</u>

Plaintiff's <u>unopposed</u> motion for final approval of class action settlement is **GRANTED**.

If no hearing is requested, the Court will sign the proposed order lodged with the moving papers.

<u>Analysis:</u>

Plaintiff, on behalf of herself and members of a class of other current or former employees of Defendants, alleges several Labor Code violations against Defendants. The parties engaged in discovery, investigations, and negotiation. On January 20, 2025, the parties participated in mediation and ultimately reached a settlement. On January 28, 2026, this Court issued an order granting Plaintiff's motion for preliminary approval of the class action settlement. Plaintiff now

seeks final approval.

The parties' settlement is for a total amount of $200,000. The net settlement amount will be calculated by deducting the following from the settlement sum: (1) $66,666.67 as the Class Counsel Fees Payment; (2) $24,555.01 as the Class Counsel Litigation Expenses Payment; (3) $15,000 as the total Class Representative Service Payments; (4) $11,450 as the Administration Expenses Payment; and (5) $10,000 as the PAGA Penalties.

After preliminary approval of a settlement, the court must determine the settlement is fair, adequate, and reasonable. (C.R.C., Rule 3.769(g); *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) A presumption of fairness exists where: 1) the settlement is reached through arm's length bargaining; 2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; 3) counsel is experienced in similar litigation; and 4) the percentage of objectors is small. (*Dunk v. Ford Motor Co., supra,* at 1802.) The test is not for the maximum amount plaintiff might have obtained at trial on the complaint but, rather, whether the settlement is reasonable under all of the circumstances. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 250.) In making this determination, the court considers all relevant factors including "the strength of [the] plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement." (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128.)

Plaintiff has shown the existence of each element required for the presumption of fairness to apply. The settlement was reached through arms-length negotiation, the parties engaged in sufficient investigation and discovery to inform their mediation negotiations, class counsel is experienced in similar litigation, and there are no objectors. The Court also finds that the settlement is fair considering the remaining relevant factors listed in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801; i.e. strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement. Finally, the Court finds the amounts requested for attorney's fees and costs, for the class representative service payment, and for the settlement administrator fees to be reasonable and sufficient.

4. 25CV07284, Heffelfinger v. Town of Windsor

Plaintiff's motion to set aside dismissal is **DENIED**.

Defendant's counsel shall submit a written order consistent with this tentative ruling and in compliance with Rule 3.1312.

Analysis:

Plaintiff Branden Heffelfinger alleges that Defendant Braden Eggert, who was employed by Defendant Town of Windsor ("Defendant") ("Town"), improperly accessed CLETS or other restricted information to obtain Plaintiff's personal address and then used that information to stalk, threaten, harass, and cause Plaintiff emotional distress. Plaintiff alleges the incident occurred in November 2024.

However, Plaintiff failed to timely file a claim as required by Government Code § 945.4. Plaintiff instead submitted a late claim and an application for leave to present a late claim to the Town on September 10, 2025. In the late-claim application, Plaintiff's counsel stated that he wanted to gather as much evidence as possible before submitting the claim, and that "our time has extended past the 6 month deadline." Plaintiff's Counsel admitted that he was unaware that the demand was allegedly untimely under § 946.6. The Town returned the late claim and denied the application for leave to present a late claim on September 23, 2025.

Plaintiff then filed a complaint in this action, admittedly being unaware that Government Code § 946.6 required Court approval for relief from § 945.4 before filing suit. After realizing this, Plaintiff requested dismissal of the action without prejudice, which was granted January 14, 2026. Plaintiff now seeks for the Court to vacate the voluntary dismissal and to grant relief to permit the claims to proceed on their merits under Government Code § 946.6.

Plaintiff admits that the dismissal was the result of him being "unaware" that Court approval was required under Gov. Code § 946.6 prior to filing suit. He asks the Court to exercise its discretion under CCP § 473(b) to vacate the dismissal, submitting that it was entered as a result of "good faith mistake regarding procedural requirements." Plaintiff has been represented by counsel since the inception of this matter.

Plaintiff has failed to present a compelling reason for this Court to exercise its discretion under the statute. In circumstances where a party seeks relief under the discretionary provisions of CCP § 473(b) based on mistake or ignorance of law,"[i]n determining whether a person is entitled to relief the controlling factor is the reasonableness of the misconception of the law under the circumstances in each particular case." (*Tammen v. San Diego County* (1967) 66 Cal.3d 468, 479.) "[I]t has been held that 'Ignorance of the law, at least where coupled with negligence in failing to look it up, will not justify a trial court in granting relief [citations] and such facts will certainly sustain a finding denying relief.'" (Id. at 476.)

Here, as in *Tammen*, *supra*, "the mistakes through which [Plaintiff] claims relief are those which could have been avoided through the exercise of reasonable diligence." (*Id*. at 479.) "[A] mistake of law may be excusable when made by a layman but not when made by an attorney." (*Ibid*.) Such is the case here. Plaintiff has been represented by counsel since the inception. Counsel's ignorance of the law could have been avoided through the exercise of reasonable diligence. Plaintiff has not raised a compelling reason for this Court to exercise its discretion under CCP §473(b).

5-7. <u>25CV01337, Bushman v. Volkswagon Group of America, Inc.</u>

This is a joint ruling on Defendant Hansel Volkswagen of Santa Rosa's motions to compel initial responses to Form Interrogatories, Set One, Special Interrogatories, Set One, Requests for

Production of Documents, Set Two, and related requests for monetary sanctions.

Defendant's motion to compel verified, objection-free responses to its From Interrogatories, Set One, is **GRANTED**. This motion is unopposed, as explained below.

Defendant's motion to compel verified, objection-free responses to its Special Interrogatories, Set One, is **GRANTED**.

Defendant's motion to compel verified, objection-free responses to its Request for Production of Documents, **Set Two**, ("RPDs") is **GRANTED** in part and **DENIED** in part. As explained below, the objections to these requests have not been waived. Accordingly, Plaintiff shall provide verified responses to the RPDs, but they need not be objection-free.

Defendant's requests for monetary sanctions are **GRANTED** in the total amount of $5,433.50. Sanctions shall be imposed jointly against Plaintiff and Plaintiff's counsel.

Plaintiff shall provide the verified substantive responses to Defendants' discovery requests within 30 days of notice of entry of an order on this motion. The ordered sanctions shall be paid within 30 days of notice of entry of an order on this motion. The responses to the Form Interrogatories, Set One, and Special Interrogatories, Set One shall be objection-free.

Defendant's counsel shall submit a written order consistent with this tentative ruling and in compliance with Rule 3.1312.

The Court notes that no opposition has been filed to Defendant's motion regarding the Form Interrogatories, Set One. On June 10, 2025, Plaintiff submitted oppositions to the motion regarding the Special Interrogatories, Set One, the motion regarding RPDs, **set one**, and the motion regarding RPDs **set two**. The motion regarding RPDs, **set one**, is not calendared for today's hearing. It is scheduled for July 22, 2025. No opposition has been submitted regarding the Form Interrogatories, Set One.

Analysis:

Defendant Santa Rosa Volkswagen served its Special Interrogatories, Set One and Form Interrogatories, Set One on Plaintiff on May 28, 2025. Plaintiff's deadline to serve responses was June 30, 2025. On July 2, 2025, Plaintiff served unverified responses that stated that verifications would follow.

Defendant served its Request for Production of Documents, Set Two on Plaintiff on February 5, 2026. Plaintiff's deadline to serve responses to was March 10, 2026. Plaintiff served timely responses, but they were unverified and stated that verifications would follow. Plaintiff has still not provided verifications.

Defendant attempted to meet and confer to no avail. Defendant now seeks to compel initial responses to these discovery requests without objections and seeks monetary sanctions. Plaintiff opposes the motions by arguing that they are moot because Plaintiff's initial responses contained substantive answers. However, those responses were unverified and stated that verifications were to follow. Plaintiff has not represented that verifications have been provided.

Unverified responses are tantamount to no responses at all. (*Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, 636; see also *Melendrez v. Superior Court* (2013) 215 Cal.App.4th 1343.) However, "There is absolutely no reason to require a party to verify an objection." (*Food 4 Less Super-markets, Inc. v. Superior Court* (1995) 40 Cal.App.4th 651, 657.)

> What then is the appropriate procedure if a party tenders a hybrid response containing objections and fact-specific responses? Given our analysis, there is no need to verify that portion of the response containing the objections. Thus, if the response is served within the statutory time period, that portion of the response must be considered timely notwithstanding the lack of verification. The omission of the verification in the portion of the response containing fact-specific responses merely renders that portion of the *658 response untimely and therefore only creates a right to move for orders and sanctions under subdivision (k) of section 2031 as to those responses but does not result in a waiver of the objections made.

(*Id*. at 657-658.)

With regard to the RPDs, Plaintiff served timely responses that contained objections. Since the responses were timely, and since objections need not be verified, Plaintiff's objections to the RPDs have not been waived. However, Plaintiff's substantive responses have not been verified; therefore, they amount to no response at all. Plaintiff shall provide verifications for such substantive responses.

With regard to the Special Interrogatories and Form Interrogatories, Plaintiff's July 2nd responses were untimely. Plaintiff's responses were due June 30th. Therefore, Plaintiff's objections had already been waived. Accordingly, though objections need not be verified to be preserved, they are waived due to their untimeliness.

> The trial court may relieve the party of its waiver, but that party must first demonstrate that (a) it subsequently served a response to the demand; (b) its response "is in substantial compliance" with the statutory provisions governing the form and content of the response; and (c) "[t]he party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect." (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404; CCP § 2030.290(a).)

Plaintiff has not presented compelling grounds for relief from waiver considering that verifications have still not been provided.

Sanctions are warranted pursuant to CCP §§ 2030.290(c) and 2031.300(c). Defendant requests $1,837.50 for the motion regarding Special Interrogatories, Set One. This is based on an hourly rate of $395 for 4.5 hours of work and a $60 filing fee. Defendant requests $1,956.00 for the motion regarding the RPDs based on the same hourly rate and filing fee and 4.8 hours of work. Finally, Defendant requests $1,640.00 for the motion regarding the form interrogatories based on the same hourly rate and filing fee and 4 hours spent on the motion. The total amount of sanctions requested for the three motions is $5,433.50. The Court finds this to be reasonable.

The Court finds it warranted to impose these sanctions against Plaintiff and Plaintiff's counsel jointly pursuant to CCP § 2023.030 because Plaintiff's counsel failed to respond to Defendant's meet and confer efforts and has failed to provide any explanation for why verifications have still not been provided a year after they were due and several months after Defendant's meet and confer efforts.

8. 24CV01161, ACPRODUCTS Inc. Weitz Supply Chain, LLC

Counsel Richard M. Harris's motion to be relieved as counsel for Defendant Kendal at Sonoma is **GRANTED**.

If no hearing is requested, the Court will sign the proposed order lodged with the moving papers.

Analysis:

Counsel Harris seeks to withdraw as counsel for Kendal at Sonoma due to a breakdown in communication and due to nonpayment of fees. Counsel represents that legal fees for Kendal at Sonoma were required by contract to be paid by a third party, but the third party has stopped paying, which constitutes a breach of the contract. Counsel also represents that there has been a breakdown in communication with the client.

Kendal at Sonoma opposes this motion. Kendal at Sonoma is also represented by Kimberly Arouh and Emily M. Serleth of Buchanan Ingersoll & Rooney LLP, who filed the opposition on Kendal's behalf. Kendal represents that it is willing to pay the legal fees directly and that there has been no breakdown in communication. Kendal also represents that it has been jointly represented since the inception of this case.

In reply, Counsel Harris explains that the contract requires payment by the third party and rebuts Kendal's representations regarding the breakdown in communication. Counsel Harris also argues that the withdrawal as counsel would not prejudice Kendal because this matter is stayed pending arbitration; therefore, new counsel would have sufficient time to become acquainted with the case.

The Court finds that relieving Counsel Harris as counsel for Kendal at Sonoma would not prejudice Kendal at Sonoma. Kendal is also represented by other counsel and there is plenty of time for new counsel to get up to speed on this matter considering the matter is stayed. Accordingly, Counsel's motion is granted.

*****This is the end of the Tentative Rulings*****