TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, March 13, 2026 3:00 p.m.
Courtroom 17 – Hon. Jane Gaskell
3035 Cleveland Avenue, Santa Rosa

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

CourtCall is not permitted for this calendar.

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

TO JOIN D17 ZOOM ONLINE:
Meeting ID: 161 126 4123
Passcode: 062178
https://sonomacourt-org.zoomgov.com/j/1611264123

TO JOIN ZOOM BY PHONE:
By Phone (same meeting ID and password as listed for each calendar):
+1 669 254 5252

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

1. 24CV04788, Otani v. Northfield

Plaintiff Shelley Otani and Carole Otani's (together as "Plaintiffs") motion for leave to amend the complaint to identify DOES is **GRANTED** pursuant to C.C.P. section 474. Plaintiffs shall file their amended complaint within five (5) days of notice of entry of this order.

I. FACTUAL & PROCEDURAL HISTORY

This arises from alleged medical malpractice against Defendants Providence St. Joseph Health, Norcal Healthconnect, LLC (dba Petaluma Valley Hospital), Dr. Mark Northfield, Dr. Scott Tweten, and Dr. Christopher Walten. On August 14, 2024, Plaintiffs filed their Complaint for negligence and negligent infliction of emotional distress. Plaintiffs seek leave to substitute
defendant DOE 51 with physician, Patrick J. Lally, M.D., defendant DOE 52 with physician assistant Emily A. Wood, PA-C. and defendant DOE 53 with nurse Karina Orlando, R.N.

II. ANALYSIS

A. Legal Standard

When the plaintiff is ignorant of the name of a defendant, he may designate them by a fictious name in the complaint and request leave to amend to insert their true names when discovered. (*Johnson v.*

Goodyear Tire & Rubber Co. (1963) 216 Cal.App.2d 133, 136 citing C.C.P. § 474.) Section 474 includes an implicit requirement that a plaintiff may not unreasonably delay his filing of a Doe amendment after learning a defendant's identity, which also requires defendant to show that he would suffer prejudice from the delay in filing the Doe amendment. (*A.N. v. County of Los Angeles* (2009) 171 Cal.App.4th 1058 citing *Barrows v. American Motors Corp.* (1983) 144 Cal.App.3d 1.) "Prejudice exists where the amendment would require delaying the trial, resulting in loss of critical evidence or added costs of preparation, increased burden of discovery, etc." (Weil & Brown, Cal. Prac. Guide: Civ. Proc. Before Trial (The Rutter Group 2015) ¶ 6:656, p. 6–182.) "The discretionary power to allow amendments to the pleadings ... must be exercised liberally at all stages of the proceeding" and is usually exercised in favor of allowing amendments. (*Edwards v. Superior Court* (2001) 93 Cal.App.4th 172, 180.) Additionally, "[t]he policy favoring amendment is so strong that it is a rare case in which denial of leave to amend can be justified." (*Howard v. County of San Diego* (2010) 184 Cal.App.4th 1422, 1428.)

B. Moving Papers

Plaintiffs seek to identify defendant DOE 51 as physician, Patrick J. Lally, M.D., defendant DOE 52 as physician assistant Emily A. Wood, PA-C. and defendant DOE 53 as nurse Karina Orlando, R.N. Plaintiff argues that these DOES are relevant to the instant case because on June 1, 2023, Defendants mistakenly gave Plaintiff Shelley Otani morphine and oxycodone simultaneously, resulting in a "crash cart" response and resuscitation followed by two doses of Narcan, which removed all of the pain relief causing Shelley to suffer extreme pain. (Motion for Leave to Amend, 3:15–26.) Plaintiff asserts that after speaking to hospital counsel in November 2025, one of the nurses stated that Dr. Patrick Lally ordered the morphine and oxycodone to be given at the same time but that nothing in the hospital chart indicated that Dr. Lally made such order. (*Id.* at 4:10–14.) However, these representations require Dr. Lally to be named in the case. (*Id.* at 4:15.) Plaintiffs contend that the hospital records show that physician assistant Emily A. Wood, PA-C ordered morphine and oxycodone to be given at the same time and nurse Karina Orlando, RN administered morphine and oxycodone simultaneously. (*Id.* at 4:16–18.) Plaintiff insists that inclusion of these three individuals is necessary to determine who is responsible for the errors in Plaintiff Shelley's care. (*Id.* at 4:19–24.) Plaintiffs contend that the involvement of the three individuals were not discovered until December 4, 2025 (after the Complaint was filed) when Petaluma Valley Hospital produced records of treatment covering May 17, 2020 through July 11, 2025. (*Id.* at 6:22–28, 7:13–19.) Plaintiffs contend that the amendment will not delay the trial because trial has not been set and that Defendants are not prejudiced because discovery is just beginning, the basic facts of this case are in the early discovery stage, the DOE Defendants will not be at any disadvantage in obtaining all records and discovery in a timely fashion and there is no delay to trial and will not necessitate any added preparation costs. (*Id.* at 7:13–9:10.) Plaintiffs maintain that it is in the interests of justice to permit them to amend the Complaint. (*Id*. at 7:6–11.)

Defendants Providence St. Joseph Health and Petaluma Valley Hospital ("moving Defendants") oppose the motion for leave, but only as to the substitution of DOE 53 with nurse Karina Orlando, R.N. (Opposition, 1:27–2:1.) Moving Defendants contend that the amendment to substitute Karina Orlando, R.N. is futile because under the doctrine of respondeat superior, Nurse Orlando's actions were within the scope of her employment and therefore such liability is imputed to her employer. (*Id.* at 3:4–15.) Moving Defendants argue that adding Nurse Orlando unduly prejudices moving Defendants because such addition

introduces avoidable procedural burdens including separate representation issues and additional discovery disputes without providing substantive benefits to any parties. (*Id*. at 3:18–21.) Moving Defendants further contend that that Plaintiffs already have full discovery rights concerning Nurse Orlando's conduct through Petaluma Valley Hospital and that moving Defendants offered to stipulate that Nurse Orlando was acting within the course and scope of her employment and to produce her for deposition and trial without subpoenas so long as she was not a named party but received no response from Plaintiffs. (*Id*. at 3:22–4:3; Schoel Decl., ¶¶ 2–5, Exhibit B.) Lastly, moving Defendants argue that Plaintiffs will not suffer any prejudice if the court denies leave to amend as to Nurse Orlando because Nurse Orlando's exclusion does not limit any potential damages or restrict Plaintiffs' access to evidence as Plaintiffs retain the full ability to conduct discovery and seek recovery against moving Defendants for any alleged acts or omissions by its staff, which includes Nurse Orlando. (Opposition, 4:6–14.)

In Reply, Plaintiffs address moving Defendants' arguments regarding the legal futility of the amendment and respondeat superior and that this argument and the claimed prejudice faced by moving Defendants does not preclude a proposed DOE amendment. (Reply, 1:25–4:3.)

C. Application

While moving Defendants conclusively state that granting the amendment would impose delay, moving Defendants cite to no delay. Discovery is ongoing, trial has not been set, the complaint was filed on August 14, 2024, and Defendant filed the instant motion for leave on December 19, 2025, after Petaluma Valley Health produced health records on December 5, 2025. Therefore, the Court finds that there is no undue or unreasonable delay in seeking amendment. Moving Defendants' cited prejudice includes separate representation issues and additional discovery disputes, but this does not justify going against the liberal allowance of amendments to the pleadings at all stages of the proceeding. (*Higgins v. Del Faro* (1981) 123 Cal.App.3d 558, 564 ["Where no prejudice is shown to the adverse party, the liberal rule of allowance [to amend a pleading in the furtherance of justice] prevails."].)

Regarding moving Defendants' arguments about the futility of the amendment to name Nurse Orlando as a Defendant, the Court does not examine the merits of an amendment in a motion for leave, including whether Nurse Orlando was acting in the scope of her employment at the time of the incident. (*Ruiz v. Santa Barbara Gas & Elec. Co.* (1912) 164 Cal.188, 196 [reasoning that the sufficiency of an amended complaint is to be tested in other ways, not in a motion for leave to amend]; see also *Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048 [the preferable practice is to permit an amendment and to test its sufficiency by demurrer, motion for judgment on the pleadings or other appropriate proceedings].) Therefore, Plaintiffs' motion to substitute Defendant DOE 51 with physician, Patrick J. Lally, M.D., Defendant DOE 52 with physician assistant Emily A. Wood, PA-C. and Defendant DOE 53 with nurse Karina Orlando, R.N. is **GRANTED**.

III. CONCLUSION

Plaintiffs' motion to substitute Defendant DOE 51 with physician, Patrick J. Lally, M.D., Defendant DOE 52 with physician assistant Emily A. Wood, PA-C. and Defendant DOE 53 with nurse

Karina Orlando, R.N. is **GRANTED**. Plaintiffs shall file their amended complaint within five (5) days of notice of entry of this order.

Plaintiffs shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

2. 24CV05486, Haas v. State of California

Defendant and Cross-Complainant State of California's (or the "State") unopposed motion for leave to file a Cross-Complaint against Chrisp Company and Schotka Construction is **GRANTED with instructions** as explained below pursuant to C.C.P. section 428.50(c).

I. FACTUAL & PROCEDURAL HISTORY

This action arises from a motor vehicle accident on February 1, 2024, at the intersection of Pine View Way and Lakeville Highway/116 in Petaluma, California, that killed Beverly Kleven. On September 17, 2024, Plaintiffs individually and as successors of interest to Beverly Kleven, Kathleen Haas, Cynthia Kizanis, Jeffery Kleven, and Eileen Steadman (together as "Plaintiffs") brought their complaint against the State of California (acting by and through the Department of Transportation), County of Sonoma, the City of Petaluma and DOES 1 through 75, inclusive alleging causes of action for dangerous condition of public property, failure to meet mandatory duty imposed by enactment, and wrongful death. On October 24, 2024, the State of California filed its Answer to the Complaint. Plaintiffs dismissed the County of Sonoma as a Defendant on April 7, 2025, and dismissed the City of Petaluma on June 9, 2025. On June 8, 2025, Defendant State of California filed a Cross-Complaint against Ghilotti Brothers Inc. for apportionment of fault, indemnification, and declaratory relief. On September 2, 2025, Defendant State of California filed a Cross-Complaint against Samir Bhumbla for apportionment of fault, indemnification, and declaratory relief. Defendant State of California now seeks leave to file a Cross-Complaint against Chrisp Company and Schotka Construction.

II. ANALYSIS

A. Legal Standard

C.C.P. section 428.10 allows a defendant against whom a cause of action has been asserted in a complaint to file a cross-complaint setting forth a cause of action against the plaintiff or other related third parties. A cross-complainant must obtain leave of court before filing a cross-complaint unless it is filed at the same time as their answer to the complaint or before the court sets a date for trial depending on who is named as cross-defendants. (C.C.P. § 428.50(a)–(c).) Leave may be granted for a permissive cross-complaint in the interest of justice at any time during the course of the action. (C.C.P. § 428.50(c).) If a defendant's cause of action is related to the subject matter of the complaint, it is compulsory and must be raised by cross-complaint as the failure to plead it will bar the defendant from asserting that cause of action in any later lawsuit. (C.C.P. §§ 426.30, 426.50.) A defendant's cause of action is related if it "arises out of the same transaction, occurrence, or series of transactions or occurrences as the cause of action…in [the] complaint." (C.C.P. § 426.10(c).) California courts have generally approved a broad and liberal

interpretation of sections 426.50 and 428.10 to permit a cross-complaint to allow the resolution of related disputes in a single action. (C.C.P. § 426.50; *Santa Barbara Channelkeeper v. City of San Buenaventura* (2018) 19 Cal.App.5th 1176, 1187.)

B. Moving Papers

The State of California contends that prior to the accident, it contracted with Cross-Complainant Ghilotti Brothers to perform work at the intersection where the accident occurred involving lane striping and signage which Plaintiffs allege caused or contributed to Beverly Kleven's death. (Motion for Leave, 2:15–16.) The State learned through investigation of Plaintiffs' claims that on or around July 20, 2023, Ghilotti Brothers utilized subcontractors to complete this work: Schotka Construction to provide signage in the intersection and Chrisp Company to provide lane striping and pavement markers. (*Id.* at 2:15–20.) Schotka Construction and Chrisp Company had an agreement with Ghilotti Brothers where they agreed to defend, indemnify, and hold harmless Ghilotti Brothers and the State of California for any and all claims related to their signage and lane striping work in the intersection but refuse to honor such agreement, requiring the instant motion. (*Id.* at 2:21–25.) The State believes that Schotka Construction and Chrisp Company's actions and omissions in connection with their lane striping and signage work in and around the intersection caused or contributed to Beverly Kleven's death. (*Id*. at 2:26–28.) Thus, the State seeks to assert claims against Schotka Construction and Chrisp Company for express indemnity, equitable indemnity, contribution and apportionment, and declaratory relief. (*Id*. at 2:28–3:3.) The State contends that the Cross-Complaint is necessary and proper for it to plead and prove its claims against Cross-Defendants and ensure that all responsible parties are held liable for their roles in creating and maintaining any unsafe condition in or around the intersection. (*Id.* at 4:1–4.) The State argues that granting leave will not delay the proceedings or affect trial currently set for October 9, 2026. (*Id.* at 4:13–5:27.)

C. Application

Given that Plaintiffs have alleged that the signage and lane striping in and around the intersection either caused or contributed to Beverly Kleven's death, the State's indemnification and apportionment claims against Schotka Construction and Chrisp Company are necessarily related to the subject matter of the Complaint. The Court does not find that there is any delay in seeking amendment or any prejudice to Plaintiffs, especially since Plaintiffs have not opposed the instant motion. It is in the interest of the parties and the Court to allow the resolution of all the claims arising out of the accident to be executed in a single action. Thus, the State's motion for leave is **GRANTED but with instructions**.

Plaintiffs and the State are attending mediation for this matter on March 27, 2026, and the State seeks to include all relevant parties, including Chrisp Company and Schotka Construction, which requires them to be named as Cross-Defendants. However, the motion is for leave to file a Cross-Complaint when the State has already filed two Cross-Complaints in this action for the same causes of action (indemnity and contribution) against two other parties. While both 2025 Cross-Complaints were timely filed pursuant to C.C.P. section 428.50(b) and thus did not require leave of the Court, the Court finds that three separate Cross-Complaints alleging indemnity in the same matter arising from the same accident frustrates judicial efficiency. (See Case Management Conference Minute Orders, dated December 11, 2025 [setting trial on

October 9, 2026].) Therefore, the Court **ORDERS** the State to consolidate its claims against all Cross-Defendants into one single Cross-Complaint rather than three separate pleadings. The State shall file such consolidated Cross-Complaint within ten (10) days of notice of entry of this order.

III. CONCLUSION

The State's unopposed motion for leave to file a Cross-Complaint against Chrisp Company and Schotka Construction is **GRANTED with instructions**. The Court **ORDERS** the State to consolidate its claims against all Cross-Defendants into one single Cross-Complaint and file such consolidated Cross-Complaint within ten (10) days of notice of entry of this order.

The State's counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

3. 24CV05942, C.L. Marshall Company, Inc. v. Upcycle Builders, Inc.

Plaintiff C.L. Marshall Company, Inc.'s ("Plaintiff") motion for terminating sanctions is **DENIED** pursuant to C.C.P. section 2023.030(d).

I. FACTUAL & PROCEDURAL HISTORY

On October 8, 2024, Plaintiff filed its Complaint against Upcycle Builders, Inc. and DOES 1–20 for open book accounting, account stated, and breach of contract. Defendant Upcycle Builders, Inc. ("Defendant") filed its answer on November 19, 2024, with a general denial of all allegations. Plaintiff propounded discovery on Defendant on December 3, 2024, to which Defendant did not respond. (Motion for Terminating Sanctions, 1:20–23.) On May 5, 2025, Plaintiff filed several motions to compel responses to the discovery requests (interrogatories and requests for production of documents) and a motion to deem requests for admissions admitted which the Court subsequently granted. (See Minute Orders, dated August 27, 2025; Order Granted re Motion to Compel, filed September 4, 2025.) The Court's September 4, 2025 Order required Defendant to provide objection-free responses to the discovery requests within 30 days of service of notice of the Order and to pay $780.00 in sanctions to Plaintiff. (See Order Granted re Motion to Compel, filed September 4, 2025.) Plaintiff contends that Defendant has failed to comply with the Court's September 4th Order. (Jeffrey Decl., ¶ 4.) Plaintiff requests that this Court grant terminating sanctions pursuant to C.C.P. section 2030.030(d) for Defendant's misuse of the discovery process.

II. ANALYSIS

A. Legal Standard

C.C.P. section 2023.010 details conduct subject to sanctions for misuse of the discovery process, which includes disobeying a court order to provide discovery. Misuse of the discovery process has various consequences, including monetary sanctions [section 2023.030(a)], issue sanctions [section 2023.030(b)], evidence sanctions [section 2023.030(c)], terminating sanctions [section 2023.030(d)], or contempt sanctions [section 2023.030(e)]. However, such sanctions are discretionary and when exercising

its discretion to determine which form of sanction is most appropriate, a court should consider many factors, including "the importance of the materials that were not produced—from the perspective of the offended party's ability to litigate the case—and what prejudice, if any, the offended party suffered." (*Victor Valley Union High School Dist. v. Superior Court* (2023) 91 Cal.App.5th 1121, 1158 [citations omitted].)

The purpose of discovery sanctions is not to punish an offending party for discovery abuses, but rather to undo the harm imposed by misuse of discovery. (*McGinty v. Superior Court* (1994) 26 Cal.App.4th 204, 210.) Terminating sanctions for discovery abuses are to be used sparingly because of the drastic effect of their application and are generally the last resort. (*Lopez v. Watchtower Bible & Tract Soc'y of New York, Inc.* (2016) 246 Cal.App.4th 566, 604 [internal citations omitted].) The discovery statutes outline an incremental approach to sanctions that starts with monetary sanctions and ends with the ultimate sanction of termination. (*Ibid.*) A terminating sanction should not generally be imposed until the court has "attempted less severe alternatives and found them to be unsuccessful and/or the record clearly shows lesser sanctions would be ineffective." (*Ibid.*) A trial court "must be cautious when imposing a terminating sanction because the sanction eliminates a party's fundamental right to a trial, thus implicating due process rights." (*Ibid.*)

B. Moving Papers

Plaintiff argues that terminating sanctions are warranted in this case because the Court already imposed an issue sanction by deeming requests for admissions admitted in its September 4th Order, leaving the only effective sanctions to be terminating sanctions under section 2023.030(d). (Motion for Terminating Sanctions, 2:25–3:19.)

C. Application

The misuse of the discovery process in this case does not justify the "ultimate sanction of termination" by striking Defendant's Answer and entering Defendant's default. Defendant was represented by counsel up until January 20, 2026, when the Court granted Defendant's counsel's motion to be relieved as counsel. (See Notice of Entry of Order, filed February 4, 2026.) Thus, Defendant was still represented by counsel when the Court compelled Defendant's compliance with Plaintiff's discovery requests on September 4, 2025. Failure to initially comply with one set of discovery requests with relatively minimal monetary sanctions imposed ($780.00) and granting requests for admissions admitted does not clearly show that lesser sanctions would be ineffective in this case nor does it warrant terminating sanctions as the next step in the incremental approach to sanctions outlined in the Discovery Act. (*Lopez, supra,* 246 Cal.App.4th at 604.) In its three-page MPA and counsel's two-page Declaration, Plaintiff fails to articulate any prejudice it faces or any advantage to Defendant in Defendant's failure to answer these discovery requests. Plaintiff concedes that "the [September 4th] Discovery Order established that the matters set forth in the Requests for Admission were admitted, effectively precluding any defense to allegations of the complaint." (Motion for Terminating Sanctions, 2:18–20.) Notably, Plaintiff did not move for summary judgment/adjudication having the requests for admissions admitted against Defendant but instead moved for terminating sanctions.

Furthermore, as a corporation, Defendant must be represented by licensed counsel in proceedings before the Court. (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141, 1145.) The Court finds that a span of only one month for Defendant to obtain new counsel after prior counsel was relieved by this Court on February 4, 2026, is not sufficient time and does not support the Court issuing terminating sanctions. Given that trial in this matter is less than one month away on April 8, 2026, the Court finds that imposing terminating sanctions by striking Defendant's Answer and entering Defendant's default eliminates its fundamental right to a trial. Based on the facts above, as Plaintiff fails to articulate the harm imposed upon it, applying terminating sanctions would not have the effect of undoing any harm imposed by Defendant's misuse of the discovery process. Instead, it would punish Defendant for discovery abuses. (*McGinty, supra,* 26 Cal.App.4th at 210.) Therefore, Plaintiff's motion for terminating sanctions is **DENIED**.

III. CONCLUSION

Plaintiff's motion for terminating sanctions by striking Defendant's Answer and entering Defendant's default is **DENIED** pursuant to C.C.P. section 2023.030(d).

Plaintiff's counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).