

## **TENTATIVE RULINGS: CIVIL LAW & MOTION**

Friday, June 13, 2025 at 8:30 a.m.  
Courtroom 18 – Hon. Kenneth G. English  
**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) 521-6604**, 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=aW1JTWIIL3NBeE9LVHU2NVVpQIVRUT09>

### **TO JOIN ZOOM BY PHONE:**

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

Call: +1 669 900 6833 US (San Jose)

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. - 4. 25CV00052, Foakes v. Chagnon, MD: Defendant’s Motions to Compel Discovery from Plaintiff**

Moving Defendant Aimee Chagnon (“Defendant”) seeks to compel discovery from Plaintiff Christy Foakes (“Plaintiff”) for the following motions: (1) Responses to Special Interrogatories, Set One and Sanctions; (2) Responses to Form Interrogatories, Set One and Sanctions; (3) Requests for Production of Documents, Set One and Sanctions; and (4) Deeming Requests for Admission, Set One, as Admitted and Monetary Sanctions.

All of Defendant Chagnon’s motions are **GRANTED**. Sanctions are **GRANTED** in the reduced amount \$4,110.00. Plaintiff shall serve verified, objection-free responses to Defendant within 10 days of notice of entry of order.

### **Procedural History and Factual Background**

This action arises from Defendant’s alleged medical malpractice causing Plaintiff to suffer serious injury. (See Complaint, filed January 2, 2025.) On January 21, 2025, Defendant Chagnon served

Plaintiff's counsel with Special Interrogatories, Set One, Form Interrogatories, Set One, Requests for Production of Documents, Set One, and Requests for Admission, Set One via electronic transmission. (Goldman Declaration, ¶ 3, Exhibit A.) Plaintiff did not respond so Defendant's counsel followed up via email on February 25, 2025, asking for responses by March 10, 2025. (Goldman Declaration, Exhibit B.) In email exchanges from March 12, 2025, and March 19, 2025, counsel discuss and disagree as to the applicable C.C.P. sections to proper service of discovery. (Goldman Declaration, Exhibit C.) Without receiving any responses to the discovery requests, Defendant filed the instant motions to compel responses and deem admissions as admitted.

### *Electronic Service of Discovery*

The Parties disagree as to proper service of discovery. In opposition, Plaintiff argues that C.C.P. section 1010.6(b) is not applicable to written discovery because it does not require mandatory electronic service and that email service of written discovery without Plaintiff's consent is inconsistent with California Rules of Court ("C.R.C."), rule 2.251. (Opposition, 6:3–22.)

Pursuant to C.R.C., rule 2.251, when a document may be served by mail, express mail, overnight delivery, or fax transmission, the document may be served electronically under C.C.P. section 1010.6. Since discovery responses are documents that may be served by mail, express mail, overnight delivery, or fax transmission, per rule 2.251, they may also be served electronically, including responses to requests for admissions and interrogatories. Nothing in this rule or section 1010.6 states that an electronically served document is not considered an "original." Documents are often filed electronically with electronic signatures with the Court, which are only maintained in electronic form and not in paper form. Section 1010.6(e)(1) states that a document that is filed electronically shall have the same legal effect as an original paper document. Therefore, it can be implied that a document served electronically can also have the same legal effect as an original paper document. There is no indication that the Plaintiff in this instance has explicitly opted out, or declined, to receive electronic service of documents in the past, and pursuant to section 1010.6(b)(2), a person represented by counsel shall accept electronic service of a notice or document that may be served by mail. In fact, as argued by Defendant, Plaintiff's counsel has received, accepted, and electronically served documents in this case without objection. (Supplemental Goldman Declaration, ¶¶ 4, 5, 7.)

However, Plaintiff's counsel admits "[h]ad Defendant [notified Plaintiff's counsel of an intent to serve documents electronically or request what email should be used for service], Plaintiff's counsel would have agreed to accept email service provided the service email was sent to BLG's calendaring clerk and the source from which it would be sent was identified." (Opposition, 6:8–12.) Furthermore, Plaintiff's counsel does not allege that he did not receive the discovery. In fact, Plaintiff's counsel acknowledges that upon Counsel Goldman's email on March 11, 2025, he located the email with the discovery requests in his "spam" folder. (Opposition, 4:1–3; Brenes Declaration ¶ 9, Exhibit B.) Rather than ask for an extension for discovery responses, Plaintiff's counsel challenges whether the discovery requests were served properly and did not serve any substantive objections to the discovery requests themselves. (Brenes Declaration, Exhibit B; Goldman Declaration, Exhibits B–C.) Thus, Plaintiff's counsel was properly served in compliance with C.C.P. section 1010.6 and California Rules of Court.

Given that the discovery requests were served properly in this case on January 21, 2025, as discussed above, and Plaintiff has not served any responses to date, the Court **GRANTS** all four of

Defendants motions pursuant to C.C.P. sections 2031.210, 2030.290, and 2033.280. Plaintiff has thus waived objections and must serve code-compliant, objection-free responses within 10 days of notice of entry of order.

After a lack of response, the requesting party can move for an order “that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted.” (C.C.P. § 2033.280(b).) However, if the Court finds that the lack of response was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining the party’s action or defense on the merits, then the Court may permit leave to withdraw or amend an admission after notice to all parties. (C.C.P. § 2033.300(a)–(b).)

Defendant is entitled to sanctions pursuant to C.C.P. sections 2023.010, 2023.030, 2030.290, 2031.300, and 2033.280.

Defendant requests \$1,491.00 in costs and fees for each of the motions, totaling \$5,964.00 (5.3 hours of work at \$270 per hour plus \$60 filing fee per motion). Given that the motions and replies are repetitive and contain several sections that are copied and pasted from one another, the Court **GRANTS** sanctions in a reduced amount for 15 hours of work at \$270 per hour plus the \$60 filing fees, totaling **\$4,110.00**.

Defendant’s motions are **GRANTED** and sanctions awarded to Defendant in the reduced amount of \$4,110.00. Plaintiff shall serve verified, objection-free responses to Defendant within 10 days of notice of entry of order.

Defendant 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).

##### **5. MCV-252307, Calvary SPV I, LLC v. LOGAN: Defendant’s Claim of Exemption**

Defendant Kimba Logan’s (“Defendant”) Claim of Exemption is **GRANTED in part** and **DENIED in part**. Pursuant to C.C.P. section 703.580(c) and (d), the Court orders that 5% of Defendant’s wages are **not** exempt from garnishment, while the remaining 95% **are** exempt. The Sheriff’s Department shall garnish 5% of Defendant’s wages until the judgment is satisfied in full. The Court will sign the proposed order lodged with the Notice of Hearing on Claim of Exemption.

The Court first heard this motion on May 9, 2025, and continued the hearing to June 13, 2025, to allow Defendant to submit a supplemental brief with evidence supporting her requested exemption. (See Minute Order, dated May 9, 2025.)

While Defendant seeks an exemption, she does not state what kind of exemption she is entitled to. Defendant represents in her financial statement that her gross monthly income is \$6,784.00. Defendant lists one child as her dependent. Defendant’s payroll deductions amount to \$2,388.44, which includes the following deductions: \$351.92 401K; \$90.62 medical; and \$133.24 union dues. Defendant listed her monthly take home income as \$4,395.56. Based upon this, Defendant states she is willing to have \$0 withheld per paycheck.

Pursuant to C.C.P. section 703.115,

“In determining an exemption based upon the needs of the judgment debtor and the spouse and dependents of the judgment debtor or an exemption based upon the needs of the judgment debtor and the family of the judgment debtor, the court shall take into account all property of the judgment debtor and, to the extent the judgment debtor has a spouse and dependents or family, all property of such spouse and dependents or family, including community property and separate property of the spouse, whether or not such property is subject to enforcement of the money judgment.”

The Court has considered that \$1,812.66 of Defendant's payroll deductions are involuntary (Federal and State withholdings, FICA, and SDI). Defendant has a \$2,920.00 monthly housing payment and supports one child. Defendant listed a \$381.16 car payment under item 5 and described her transportation and auto expenses (insurance, gas, repairs) under item 4.i. as \$1,100 per month. Defendant submitted evidence of her bills and credit card statements, which explains the inconsistency. Defendant further argues that her identity was stolen and that is what created this debt owed to Cavalry but does not provide any evidence to support this claim, such as a report filed with the Federal Trade Commission reporting identity theft. Defendant has also listed \$200 per month for entertainment, which is not a necessary expense. Defendant has listed an additional debt for credit which she is paying \$265.00 monthly. Overall, Defendant's expenses total \$7,830.00 while her total monthly income totals \$4,395.56 and explains that she uses credit cards to offset this deficit, which is supported by the amounts owed listed on the statements Defendant provided to the Court.

Plaintiff states in opposition to Defendant's claim of exemption that Plaintiff is willing to accept no less than \$100.00 biweekly garnishment of Defendant's wages. Based on the Court's review of Defendant's overall property, dependent, and needs, the Court has determined that a 95% exemption is sufficient for Defendant's needs. Five percent shall be non-exempt.

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