

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, August 28, 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) 521-6725**, 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. 25CV08287, Riisgaard v. Benchmark Builders LLC

The Court **GRANTS** Plaintiff Soren Riisgaard's ("Plaintiff") unopposed discovery motions against Defendant Nicholas R. Kimber as follows:

1. Plaintiff's Motion to Compel Responses to Form Interrogatories, Set No. One, and Special Interrogatories, Set No. One ("MTC FROGs & SPROGs") is **GRANTED**, except sanctions which are addressed below.
2. Motion to Compel Responses to Special Interrogatories, Set No. Two, and Request for Production of Documents, Set No. One ("MTC SPROGS & RFPDs") is **GRANTED**, except sanctions which are addressed below.
3. Motion for Order Deeming Admitted Truth of Facts and Genuineness of Documents ("Deem Admitted") is **GRANTED**, except sanctions which are addressed below.
4. Sanctions are, in the Court's discretion, awarded for the amount of \$2,330.00 against Kimber in total for all three motions as no opposition was filed and no reply or appearance was required.

Kimber shall serve objection-free responses to the outstanding interrogatories and demand for production as well as produce any responsive documents within 20 days of notice of this Court's order.

I. PROCEDURAL HISTORY

This matter involves a general contractor, Benchmark Builders LLC, that allegedly overcharged and defrauded Plaintiff resulting in claimed damages of over a million dollars for a construction loan, legal fees, hiring a new general contractor, and other costs. (MTC FROGs & SPROGs, 2:8-12.) Defendant entities in this matter are in default and Defendant Kimber is self-represented. (*Id.* at 2:13-15.)

Plaintiff served Kimber with Set One of Form Interrogatories and Special Interrogatories on February 19, 2026, to which thus far Kimber has failed to provide any responses despite Plaintiff extending the time to respond by an additional 8 days. (MTC FROGs & SPROGs, 2:16-21.) Plaintiff also served Set Two of Special Interrogatories, Set One of Request for Production of Documents, and Set Two of Requests for Admissions on April 23, 2026, but Kimber never responded to these either. (MTC SPROGS & RFPDs, 2:16-21; Deem Admitted, 2:12-17.)

Plaintiff now moves to compel responses to the outstanding interrogatories and demand for production and to deem the requests for admissions as admitted against Kimber. Plaintiff served the moving papers by mail to Kimber, who did not file any opposition.

II. ANALYSIS

Two Motions to Compel

A party who fails to serve a timely response to interrogatories absent evidence showing mistake, inadvertence, or excusable neglect, waives any right to object to the interrogatory, including objections based on privilege or work product, and the court shall impose monetary sanctions upon the party who unsuccessfully opposes a motion to compel initial the responses. (C.C.P. § 2030.290.) Also, a party to whom a document demand is directed must respond to each item in the demand with an agreement to comply, a representation of inability to comply, or an objection. (C.C.P. §2031.210(a).) If a responding party is not able to comply with a particular request, or part thereof, that party “shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand.” (C.C.P. § 2031.230.) The statement shall also specify “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,” and shall also set forth “the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.” (*Ibid.*) Otherwise, if a responding party is objecting to a demand only, then the responding party must identify the demanded document, tangible thing, land, or electronically stored information to which an objection is being made, set forth the grounds for objection, and if privileged, provide a privilege log for the demanded items that are privileged. (C.C.P. § 2031.240.) If the responding party fails to timely respond, the demanding party may move for an order compelling a response. (C.C.P. § 2031.300(b).)

As Kimber never responded to Plaintiff's interrogatories or requests for production and also failed to oppose the motion to offer any justification for the lack of response, the Court will **GRANT** the motion except as to the sanctions which are addressed below.

Motion to Deem As Admitted

Where there is a lack of any response to a request for admission, 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).) A party who "fails to serve a timely response" to requests for admissions waives any objection to those requests. (C.C.P. § 2033.280(a).) However, the court may relieve a party from this waiver if the court determines that: (1) the party has subsequently served a response that is in substantial compliance with C.C.P. sections 2033.210, 2033.220, and 2033.230; and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect. (C.C.P. § 2033.280(a)(1)-(2); *Katayama v. Cont'l Inv. Grp.* (2024) 105 Cal. App. 5th 898, 906–07, reh'g denied (Oct. 30, 2024), review denied (Jan. 15, 2025).)

Here, there was no response at all and there was no opposition filed to explain the lack of response to Plaintiff's request for admissions. As such, the Court will **GRANT** the motion, except as to sanctions which are addressed below.

Sanctions

Plaintiff requests identical sanctions for the motions to compel and motion to deem as admitted in the amount of \$2,000.00, which includes \$1,890.00 for preparation and anticipated appearance for 4.2 hours at a rate of \$450.00 and also filing fees of \$110.00. As no opposition was filed, no reply or appearance was needed for any of the motions. The Court will in its discretion award fees of \$2,000.00 in total for all three motions as well as filing costs of \$330.00 for a total of \$2,330.00.

III. CONCLUSION

Based on the above, the Court rules as follows:

1. Plaintiff's motions to compel are **GRANTED**, except as to sanctions addressed separately.
2. Plaintiff's motion to deem as admitted is **GRANTED**, except as to sanctions addressed separately.
3. Sanctions are awarded in the Court's discretion for the total amount of **\$2,330.00** for all three motions.

Kimber shall serve objection-free responses to the outstanding interrogatories and demand for production as well as produce any responsive documents within 20 days of notice of this Court's order. Plaintiff shall submit a written order on its motions to the Court consistent with this tentative ruling and in compliance with California Rules of Court, Rules 3.1312(a) and (b).