TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, September 5, 2025 3:00 pm
Courtroom 19 –Hon. Oscar A. Pardo
3055 Cleveland Avenue, Santa Rosa

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) 521-6602**, 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 19 Hearings
MeetingID: 160-421-7577
Password: 410765
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1-2. 24CV01385, Malik v. Paradis, PhD

Plaintiffs Matthew Malik ("Malik") and W John Mullineaux ("Mullineaux", together with Malik "Plaintiffs") filed the complaint in this action (the "Complaint") against defendants Dr. Mark Paradis ("Paradis") and the Estate of Ross Katz ("Katz Estate", together with Paradis, "Defendants"), and Does 1-10. This matter is on calendar for Paradis's two motions to compel answers to form interrogatories ("FIs") and special interrogatories ("SIs") under Code of Civil Procedure ("CCP") § 2030.290, and to compel production of documents ("RPODs") under CCP § 2031.300, against Malik and Mullineaux respectively. Plaintiffs have not filed a timely opposition.

The unopposed Motions to compel is **GRANTED**. Plaintiffs and/or their counsel shall pay $780 (across the two motions) in sanctions to Paradis within thirty (30) days of notice of entry of the order on this Motion.

I. Governing Law

Regarding interrogatories, a party responding to an interrogatory must provide a response that is "as complete and straightforward as the information reasonably available to the responding party permits" and "[i]f an interrogatory cannot be answered completely, it shall be answered to the extent possible." Code Civ. Proc. ("CCP") §2030.220(a)-(b). "If the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party." CCP §2030.220(c). If a party fails to serve a timely response to interrogatories, the court shall impose sanctions unless it finds that the party subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. CCP §2030.290(c). Code of Civil Procedure section 2030.290 provides that if a party to whom interrogatories were directed fails to serve timely responses, the responding party waives all objections, including those based on privilege and work product protection, and the propounding party may move for an order compelling responses. CCP §2030.290(a)-(b); see also, *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404. All that the moving party needs to show in its motion is that a set of interrogatories was properly served, that the time to respond has expired, and that no response has been provided. See, *Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 905-906.

Regarding RPODs, a demand for production may request access to "documents, tangible things, land or other property, and electronically stored information in the possession, custody, or control" of another party. 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. CCP § 2031.210(a). If only part of an item or category demanded is objectionable, the response must contain an agreement to comply with the remainder, or a representation of the inability to comply. CCP § 2031.240(c)(1). If a responding party is not able to comply with a particular request, that party "shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." CCP § 2031.230. "This 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 "[t]he statement shall 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." *Id.* Where no response was served to a RPOD, there is no time requirement in moving to compel, nor any requirement to show good cause for the production requested. *See* CCP § 2031.300; *see also* Cal. Prac. Guide Civ. Pro. Before Trial Ch. 8H-8, Enforcing Demand: §§ 8:1484, 8:1487; contra CCP § 2031.310 (b-c) (a motion to compel further shall set forth good cause for the demand and shall be filed within 45 days of service of the unsatisfactory response). Code of Civil Procedure section 2031.300 provides that if a party fails to serve timely responses to requests for production of documents, the responding party waives all objections, including those based on privilege and work product and "[t]he party making the demand may move for an order compelling [a] response to the demand." CCP §2031.300(a)-(b).

There is no requirement to meet and confer prior to filing a motion to compel where there has been no response to discovery requests. *Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 906; *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148

Cal.App.4th 390, 405. Sanctions are mandatory under the CCP for discovery abuses, absent substantial justification. If a party fails to serve a timely response, the court shall impose sanctions unless it finds that the party subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. CCP §§ 2031.300(c) & 2033.280(c). The purpose of monetary sanctions is to mitigate the effects of the necessity of discovery motions and responses on the prevailing party. There is no requirement that the failure to comply with discovery be willful for the court to impose monetary sanctions. *Ellis v. Toshiba America Information Systems, Inc.* (2013) 218 Cal.App.4th 853, 878. Code of Civil Procedure section 2033.280(a) provides in relevant part that if a party to whom requests for admission are directed "fails to serve a timely response," the party to whom the requests are directed waives any objection. CCP § 2033.280(b) provides that "[t]he requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction." CCP § 2033.280(c) provides that the court "shall make this order" unless it finds that the party to whom the requests have been directed has served a proposed response in substantial compliance with section 2033.220 before the hearing on the motion.

CCP § 2030.290(c) (relating to interrogatories), and CCP § 2031.300(c) (relating to requests for production of documents) provide that a monetary sanction "shall" be imposed against the party losing a motion to compel further responses unless the court finds "substantial justification" for that party's position or other circumstances making sanctions "unjust." There is no requirement that the failure to comply with discovery be willful for the court to impose monetary sanctions. *Ellis v. Toshiba America Information Systems, Inc.* (2013) 218 Cal.App.4th 853, 878. For the court to order sanctions against an attorney, the Court must find that the attorney advised their client to engage in discovery misconduct. *Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 81. Additionally, the motion must advise the attorney that joint and several liability against the attorney is sought for the sanctions. *Blumenthal v. Superior Court* (1980) 103 Cal.App.3d 317, 319.

II. Analysis

Paradis served their FIs set one, RPODs set one, and SIs set one on May 5, 2025, to each Plaintiff. See Rickett Declaration with each motion ¶ 2. Plaintiffs have provided no responses, nor have they communicated with Paradis regarding the status of discovery. *Id.* at ¶ 5-6.

The Discovery Facilitator, Sarah Baxter Kaplan, contacted the parties, and although a meet and confer did not occur in substance, she received confirmation from Plaintiffs that they do not oppose the substance of the motion, and discovery responses without objections would be forthcoming. The Court thanks the Facilitator for her efforts.

There being no responses, the result is mandatory. Paradis's motion to compel responses to FIs, SIs set one and RPODs set one is GRANTED. Malik shall provide code-compliant, objection free responses to interrogatories and RPODs within 30 days' notice of this ruling. Mullineaux shall provide code-compliant, objection free responses to interrogatories and RPODs within 30 days' notice of this ruling.

III. Sanctions

Sanctions are mandatory under the CCP for discovery abuse, absent substantial justification or other circumstances that would make sanctions unjust for interrogatories and RPODs. Absent substantial justification, the Court must grant compensatory monetary sanctions which represent reasonable and actual costs to Paradis. Plaintiffs' counsel has failed to engage with Paradis at all after service of the discovery, and as such the necessity of the motion appears to fall in part from counsel's action. Joint liability is proper.

Plaintiff requests sanctions of $1,440 jointly and severally against Defendant and her counsel across the three motions. See, Notice of Motion to Compel Malik ($720); Notice of Motion to Compel from Mullineaux ($720).

Paradis requests a billing rate of $165 per hour for two hours per motion, plus two hours per motion for appearing at the hearing. Paradis also requests $60 per motion in filing fees. The time on the motions is reasonable and actual. The time for the hearing is speculative, as no opposition was filed, the hearing has not yet occurred and will not require the total requested four hours. The request for prospective time is improper, as discovery monetary sanctions are required to be reasonable **and actual**, and there is no opposition upon which to reply, or hearing at which to appear. *See Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 74; *Argaman v. Ratan* (1999) 73 Cal.App.4th 1173, 1181. Paradis is only entitled to $165 per hour for 4 hours across the two motions. Court approves sanctions for attorney's fees of $1,332.50. Filing fees of $60 per motion is appropriate. The Court **GRANTS** Paradis's request for monetary sanctions in the amount of $390 as to each plaintiff. Malik and/or counsel shall pay $390 to Paradis within 30 days' notice of this order. Mullineaux and/or counsel shall pay $390 to Paradis within 30 days' notice of this order.

IV. Conclusion

The unopposed Motions to compel are **GRANTED**.

Sanctions are GRANTED. Malik and/or counsel shall pay $390 in sanctions to Paradis within thirty (30) days of notice of entry of the order on this Motion. Mullineaux and/or counsel shall pay $390 in sanctions to Paradis within thirty (30) days of notice of entry of the order on this Motion.

Paradis 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. 24CV06762, Looney v. El Chilito Restaurant Group

Plaintiff Gary E. Looney dba Collectronics of California ("Plaintiff"), assignee of Young's Market Company, obtained a default judgment against defendants Lia Bernice Jones, and Colin Porus Dias (together, "Defendants"). This matter is on calendar for Plaintiff's motion to appoint a receiver, namely Landon McPherson ("Receiver"), to seize and sell liquor license number 615425 to satisfy the Judgment. The motion is GRANTED.

I. Governing Law

Appointment of a receiver is generally controlled by CCP §§ 564*, et seq*. A judgment debtor's interest in an alcoholic beverage license is not subject to execution (Cal. Civ. Proc. Code ("CCP") § 699.720(a)(1)), and therefore may be applied to the satisfaction of a money judgment only by appointment of a receiver under CCP § 708.630. CCP § 708.630(b) provides that the Court may appoint a receiver to transfer the debtor's interest in the license, unless the debtor establishes that the amount of delinquent taxes and claims of prior creditors exceed the probable sale price of the license. Generally speaking, a receiver may be appointed to enforce a judgment where the judgment creditor shows that, considering the interests of both the creditor and the judgment debtor, the appointment of a receiver is a reasonable method to obtain the fair and orderly satisfaction of the judgment. CCP § 709.620. The legislative committee notes confirm that it is no longer a prerequisite for the judgment creditor to show that the judgment debtor "refuses to apply property in satisfaction of the judgment," but the committee notes also state that "a receiver may be appointed where a writ of execution would not reach certain property *and other remedies appear inadequate*." (Emphasis added). The availability of other remedies "does not, in and of itself, preclude the use of a receivership. [citation] Rather, a trial court must consider the availability and efficacy of other remedies in determining whether to employ the extraordinary remedy of a receivership." *City & Cty. of San Francisco v. Daley* (1993) 16 Cal.App.4th 734, 745. In making this decision, the court must depend upon competent and admissible evidence submitted by the parties, and not conclusions and hearsay. *McCaslin v. Kenney* (1950) 100 Cal.App.2d 87, 94.

An order to show cause is a citation to a party to appear at a stated time and place to show why the requested relief should not be granted. *Green v. Gordon* (1952) 39 Cal.2d 230, 231. An order to show cause hearing does not shift the burden away from a party moving for appointment of a receiver. *Moore v. Oberg* (1943) 61 Cal.App.2d 216, 221. An order to show cause why a receiver should not be appointed is appropriate where the court has granted appointment of the receiver ex parte, as the court must have a hearing as to why the receiver who has been appointed by ex parte should not be confirmed. Cal. Rule of Court 3.1176.

II. Analysis

The supporting Looney Declaration states that there has been no response to post-judgment letters or interrogatories. Looney Decl. ¶ 8-10. Plaintiff has filed a motion to compel, which the Court granted via order on April 16, 2025. Court's 4/16/2025 Order on Plaintiff's Motion to Compel. Plaintiff claims to have "investigated the Defendants [sic] finances" but claims to have not received any useful information for collecting on the Judgment. Looney Decl. ¶ 6. And similarly, the brief argues that all other assets are essentially valueless, that its sole remaining asset is the liquor license and that as a result, the Judgment may never be satisfied absent the appointment of a receiver Looney Decl. ¶¶ 11-12. Plaintiff states that he has been unable to locate any financial assets, although the business is open. Looney Decl. ¶¶ 4, 7, & 12. Plaintiff requests the Court appoint Receiver to take possession of and sell Defendants' liquor license, license number 615425, in order to satisfy the Judgment of $2,713.52.

Plaintiff has obtained a Court order compelling responses to post-judgment discovery. Plaintiff's declaration avers that the order was served on April 23, 2025, which allowed Defendants 30 days from notice of the order within which to respond to the order. Court's 4/16/2025 Order on Plaintiff's Motion to Compel; Looney Decl. ¶ 12. Defendants have continued to fail to respond, despite court orders compelling that response within 30 days. *Id*. at ¶ 11. This motion followed on July 17, 2025.

On examination, there is an error in Plaintiff's declaration. Plaintiff avers that the order compelling post-judgment discovery was served on April 23, 2025. This is what is reflected on Plaintiff's original proof of service. See Plaintiff's 5/5/2025 Proof of Service. However, Plaintiff has submitted a "corrected" proof of service stating that service was actually performed on April 30, 2025. Plaintiff's 7/6/2025 Corrected Proof of Service. Given that the declaration does not reflect this correction, this does draw concern from the Court that the declaration may not be reflective of accurate statements. Nonetheless, there is no opposition to pressure Plaintiff's conclusion.

In the end, Defendants' failure to respond evidences a general intractability in engaging with this matter, and the judgment thereon. Plaintiff has demonstrated that "considering the interests of both the judgment creditor and the judgment debtor, the appointment of a receiver is a reasonable method to obtain the fair and orderly satisfaction of the judgment." See CCP § 708.620.

Plaintiff has sufficiently shown that the appointment of a receiver is warranted and therefore, the motion is GRANTED.

The Receiver shall post an undertaking in the amount of $1,000.00 upon his appointment.

III. Conclusion

The motion is GRANTED. The Receiver shall post an undertaking in the amount of $1,000.00 upon his appointment.

Plaintiff shall submit an order to the Court consistent with the proposed order attaching this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

4. 24CV07431, Trinh v. County of Sonoma

Plaintiff Phat Dinh Trinh ("Plaintiff") filed the currently operative first amended complaint (the "FAC") in this action against defendants the County of Sonoma ("Defendant") and Does 1-20, for dangerous condition of public property.

This matter is on calendar for a September 5, 2025, hearing on Defendant's demurrer to the cause of action for dangerous condition of public property within the FAC pursuant to Cal. Code Civ. Proc. ("CCP") § 430.10(e) for failure to state facts sufficient to constitute a cause of action. The Court is now in receipt of a declaration filed by Defendant's counsel, Ms. Diana S. Godwin, stating "The Parties agree that Plaintiff's counsel would file an amended complaint, but that the Parties would meet and confer further prior to the filing of any amended complaint." (09/03/25

Godwin Decl. ¶5). On September 4, 2025, Plaintiff's counsel has also contacted this Court advising that the parties have reached an agreement allowing for the filing of a second amended complaint ("SAC"). Based counsels' representations, the Court now finds Defendant's Demurrer to the FAC is now **MOOT**. The Parties are required to meet and confer prior to the filing of the SAC. However, the SAC should be filed by no later than September 19, 2025.

5. <u>25CV00987, Jensen v. Syeda</u>

Plaintiff Philip H. Jensen ("Plaintiff"), individually and as trustee of The Philip H. Jensen Revocable Trust of October 18, 2004, filed the complaint (the "Complaint") relating to a real property against the following defendants: Shahbano Syeda ("Syeda") and Razi Arifudden ("Arifudden"), individually and as trustees of the Syeda-Arifudden Trust dated 11/8/2016; Alan M. Pedrazzi ("Pedrazzi") individually and as trustee of The Alan M. and Colleen C. Pedrazzi Revocable Trust; James Levy ("Levy"), individually and as trustee of the James R. Levy Revocable Trust dated June 18, 2004; the heirs of Laurance Gaye Ariasi and Felix Ariasi (the "Ariasi Heirs", together with Syeda, Arifudden, Pedrazzi, and Levy, "Defendants")); all other claimants of whatsoever kind and character who may have an interest in real properties commonly known as 1298 High School Road, Sebastopol, APN 060-303-028 (the "Property"); and Does 1-50.

The matter is on calendar for the demurrer to the Complaint filed by Syeda and Arifudden under Code of Civil Procedure ("CCP") § 430.10.

The instant Demurrer was filed on May 6, 2025. On August 15, 2025. Plaintiff filed a first amended complaint ("FAC"). Therefore, the Demurrer appears to be MOOT. It is accordingly dropped from calendar.

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