

Judge Benson – Law & Motion – Wednesday, April 16, 2025 @ 9:00 AM
TENTATIVE RULINGS

1. 20CV00578 Holman, Ryan v. County of Butte et al.

EVENT: Plaintiff's Motion for Change of Venue (Continued from 12/4/24)

In light of the pending appeal, Plaintiff's Motion for Change of Venue is continued to September 17, 2025 at 9:00am.

2. 23CV02816 PBB Oroville Pads LLC v. Underwood, Jack Lyle

EVENT: Jack Lyle Underwood's Motion to Continue Trial

Jack Lyle Underwood's Motion to Continue Trial is GRANTED. The Mandatory Settlement Conference, Trial Readiness Conference, and Jury Trial dates are vacated. A Case Management Conference is scheduled for May 21, 2025 at 10:30am. The parties shall timely file CMC statements.

3. 23CV02863 Nietzsche, Ileah v. Barnes, Haylee Alex et al.

EVENT: Petition for Approval of Minor's Compromise

Petition for Approval of Minor's Compromise is GRANTED. The Court will sign the proposed order.

4. **24CV03226 Northern California Collection Service Inc. v. Gardner, Richard**

EVENT: Plaintiff's Motion to Compel Initial Responses to Special Interrogatories Set One, and to Impose Monetary Sanctions

Plaintiff's Motion to Compel Initial Responses to Special Interrogatories Set One, and to Impose Monetary Sanctions is GRANTED and is unopposed. Defendant is ordered to provide responses to Special Interrogatories, Set One within 10 days of notice of this order. Sanctions are imposed against Defendant in the amount of \$775.60, payable no later than April 30, 2025. The Court will sign the proposed order with these modifications.

5. **24CV03526 Wells Fargo Bank, N.A. v. Cervantes, Michael**

EVENT: Plaintiff's Motion for Judgment on the Pleadings

Plaintiff's Motion for Judgment on the Pleadings is GRANTED. The Answer does not deny the general allegations in the Complaint.

Weil & Brown Civil Procedure Before Trial

[6:399] Failure to deny constitutes admission: Assuming there is no valid general denial (see ¶6:403 ff.), any material allegation in the complaint that is not specifically denied is deemed admitted. [CCP §431.20(a); see *Hennefer v. Butcher* (1986) 182 CA3d 492, 504, 227 CR 318, 325]

The Court will sign the proposed order and judgment.

6. 24CV03585 Fair Political Practices Commission v. Fennell, David et al

EVENT: OSC re: Contempt

The Court will conduct a hearing.

One of the elements of indirect contempt is the Contemnor's knowledge of the order. (*Koehler v. Superior Court*, (2010) 181 Cal. App. 4th 1153, 1169) The Court is not convinced, absent authority provided to the contrary, that Defendant's presence at the October 30, 2024 hearing is sufficient to satisfy this element. The Court is inclined to find this element requires a proof of service demonstrating Defendant was served with the signed order. Additionally, there is no indication from the Court file that Defendant was served with the proposed order.

7. 24CV03645 Hardwick, Cody R et al v. Ford Motor Company et al.

EVENT: Plaintiff's Motion to Compel Further Responses to Plaintiffs' Request for Production of Documents, Set One

As to the meet and confer requirement, the Court finds both sides have failed to diligently meet and confer in good faith. Defense counsel indicated he was providing a "reciprocal extension" concerning the motion deadline. That representation is vague – reciprocal as to what? The time between counsel's February 4 and March 10 letters? Reciprocal to the 60 days needed to produce the additional documents? Due to the harsh consequences of the motion deadline, the responding party needs to be crystal clear concerning the extended deadline. Whether the deadline has been extended and how far it has been extended necessarily effects the analysis of whether the moving party met and conferred in good faith. The less time left before the deadline, the less is expected from the moving party in terms of continued meet and confer efforts, and vice versa.

On the other hand, Plaintiff should have attempted to obtain clarification concerning the status of the deadline prior to filing the motion; and should have indicated whether the supplemental production proposed by defense counsel was sufficient.

Ultimately, the Court will rule on the merits of the motion. The motion is not moot. Ambiguity exists as to what documents have been produced. Further, no amended responses have been provided as requested in the moving papers.

Nos. 1 – 11, 13 -15, 23 - 30

The motion is granted. The responses provide a substantive response is being provided in part, which necessarily means some responsive documents are being withheld.

CCP § 2031.240

(a) If only part of an item or category of item in a demand for inspection, copying, testing, or sampling is objectionable, the response shall contain a statement of compliance, or a representation of inability to comply with respect to the remainder of that item or category.

(b) If the responding party objects to the demand for inspection, copying, testing, or sampling of an item or category of item, the response shall do both of the following:

(1) Identify with particularity any document, tangible thing, land, or electronically stored information falling within any category of item in the demand to which an objection is being made.

(2) Set forth clearly the extent of, and the specific ground for, the objection. If an objection is based on a claim of privilege, the particular privilege invoked shall be stated. If an objection is based on a claim that the information sought is protected work product under Chapter 4 (commencing with Section 2018.010), that claim shall be expressly asserted.

[Emphasis Added]

(b)(1) clearly requires defendant to identify documents being withheld and correlate the corresponding objections. Because the response does not do that, it is not code complaint. Regarding the privilege objections, Defendant shall provide a privilege log for any privileged material. The remaining objections are without merit.

No. 12 – motion denied.

Nos. 16 – 22, 31 - granted, however, the request is limited in time to 2020 - present.

Defendant shall provide further responses as discussed herein with 10 days of this order. All requests for sanctions are denied. Plaintiffs shall prepare the form of order.

8. 25CV00455 In re: Quint, Edward Henry

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

9. **25CV00460 In re: Fleming, Michael Ray**

EVENT: Change of name (adult)

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.

10. **25CV00523 In re: Martindale, Stephanie**

EVENT: Change of name (minor)

The Court will hear from Petitioner.

11. **25CV00545 In re: Anderson, Jordan Faith**

EVENT: Change of name (minor)

The Court will conduct a hearing.

12. **25CV00730 In re: Palos Lopez, Maria**

EVENT: Change of name (adult)

The Court is in receipt of the proof of publication and will sign the decree provided.

13. 25CV01252 City of Chico – Animal Control v. Hakanson, Karin

EVENT: Petition to Determine if Dog is Potentially Dangerous

The Court will conduct a hearing. The proof of service indicates Petitioner sent notice by certified mail. However, Food and Agriculture Code section 31621 requires service either personally or by mail return receipt requested. Certified mail is not the same as return receipt requested. Unless Respondent appears and waives notice, the hearing will need to be continued.