

**Judge Benson – Law & Motion – Wednesday, September 17, 2025 @ 9:00 AM**  
**TENTATIVE RULINGS**

**1. 22CV02404 Guinn, Lisa v. Graham Solar Systems, Inc et al**

*EVENT: Plaintiff's Motion to Strike Answer of Graham Solar Systems, Inc.*

Plaintiff's Motion to Strike Answer of Graham Solar Systems, Inc. is continued to October 22, 2025 at 9:00am. Defendant Graham Solar Systems, Inc. is hereby placed on notice that if it does not retain counsel and have a substitution of attorney form filed with the Court by the October 22, 2025 hearing, the Court will grant the motion and the answer will be stricken. Plaintiff shall serve a copy of this ruling on Defendant and file a proof of service evidencing the same.

**2. 24CV00887 Gibson, Casey v. Aristotle Custom Homes LLC et al.**

*EVENT: Motion to Be Relived as Counsel (Defense Counsel) (Continued from 6/11/25, 7/16/25, and 8/13/25)*

Motion to Be Relived as Counsel is DENIED WITHOUT PREJUDICE.

The mandatory Judicial Council form MC-052, which was filed after the July 16 hearing, contains in the caption a hearing date of July 16. The proof of service filed on August 13, indicates that same form was served by mail on July 16. Consequently, the clients were mailed the MC-052 form on the same day of the hearing date in the caption on that form.

Notice was not sufficient because, by the time the clients received the form in the mail, the hearing date in the caption of that form had already occurred days previously. The Court has previously granted three continuances to resolve the procedural defects with this motion. At this point, the Court finds it would be simpler for counsel to start over, making sure all of the mandatory Judicial Council forms are filed and properly served prior to the new hearing.

3. **24CV02216 Garbolinsky, Greg v. Gillingham, Jeffrey Duke Paul et al**

*EVENT: Motion to Be Relived as Counsel (Plaintiff's Counsel) (Continued from 6/11/25, 7/16/25, and 8/13/25)*

Motion to Be Relived as Counsel is DENIED WITHOUT PREJUDICE.

The mandatory Judicial Council form MC-052, which was filed after the July 16 hearing, contains in the caption a hearing date of July 16. The proof of service filed on August 13, indicates that same form was served by mail on July 16. Consequently, the clients were mailed the MC-052 form on the same day of the hearing date in the caption on that form.

Notice was not sufficient because, by the time the clients received the form in the mail, the hearing date in the caption of that form had already occurred days previously. The Court has previously granted three continuances to resolve the procedural defects with this motion. At this point, the Court finds it would be simpler for counsel to start over, making sure all of the mandatory Judicial Council forms are filed and properly served prior to the new hearing.

4-5. **25CV00374 Sun Valley, Inc v. Weiss-McNair, LLC**

*EVENT: (1) Plaintiff's Amended Motion to Compel Further Discovery Responses  
(2) Defendant's Amended Motion to Compel Further Discovery Responses*

Plaintiff's Motion to Compel Further Discovery Responses

The motion is GRANTED in its entirety as unopposed. The Court is not considering the late filed opposition which was submitted two days before the hearing. All objections are deemed waived. Defendant shall provide further responses within 20 days of this order. Defendant is sanctioned in the amount of \$2,400.00.

Defendant's Motion to Compel Further Discovery Responses

Note: The untimely reply submitted by Defendant two days before the hearing is not being considered.

Preliminarily, as it pertains to objections, the Court declines ruling on objections when the substantive response is code compliant. In the Court's opinion, challenging objections to

a discovery response without challenging the substantive portion of the response is a futile exercise. The law does not require a futile act. (See *Crawford v. JPMorgan Chase Bank, N.A.* (2015) 242 Cal.App.4th 1265, 1274 citing *Sutherland v. Barclays American/Mortgage Corp.* (1997) 53 Cal.App.4th 299, 313; (See also Civil Code § 3532)

There is a caveat when the response is phrased in such a way that it makes it unclear whether some information is being withheld based on an objection(s). Some of the discovery responses are prefaced with “without waiving objections”, or language to that effect. In the Court’s view this language does not suggest information is being withheld. Other responses state all non-privileged documents will be produced. Those responses suggest documents might be withheld based on privilege objections. In those instances, the Court will address the objections. Further, with respect to production of documents specifically, the code requires a statement whether all or a portion of the responsive documents are being produced, see CCP § 2031.220.

#### *Plaintiff’s Notice Objections are Overruled*

Where a reasonable attempt has been made to comply with a statute in good faith, and there was no attempt to mislead or conceal, the doctrine of substantial compliance holds that the statute may be deemed satisfied. (*Davis v. Allstate Ins. Co.* (1989) 217 Cal.App.3d 1229, 1232) While service may not have technically complied with CCP § 1011 in that it was not delivered directly to another person, the end result was counsel did in fact receive the moving papers at the doorstep and therefore had actual notice. This is substantial compliance and satisfies the statutory purpose.

#### *Meet and Confer*

Although in this Court’s opinion the better practice would have been to send the meet and confer letter earlier, the Court finds the letter from Ms. Knowles dated July 10 sufficient. While the notice of motion was filed that same day, the letter clearly indicated that the motion would only proceed if necessary and was filed to preserve the timeliness of the motion. Further, the letter provided Plaintiff with the opportunity to provide amended responses. Under these circumstances, meet and confer efforts were adequate.

#### *CCP § 1010 Requirements for Notice of Motion*

While the initial noticed motion may not have fully complied with CCP § 1010, the amended notice is compliant.

### *Verifications*

In light of the verifications attached to Ms. Diaz's declarations, this appears to be a non-issue.

### *Timeliness*

Defense counsel acknowledged that an extension to file a motion to compel was granted to July 10. Thus, the initial notice of motion filed on July 10 preserved Defendant's ability to bring this motion.

### *Conflicting Responses Between Special Interrogatory Response and Production of Documents Response*

The production of documents requests which were contemporaneously served with the special interrogatories ask plaintiff to produce documents that it references in its responses to the special interrogatories. For example, Production of documents #5 asks plaintiff to produce the documents identified in responses to special interrogatory #2. Unfortunately, there are some instances where the interrogatory response and the production response are conflicting. Plaintiff's response to special interrogatory #2 refers Defendant to the documents that are being produced. However, Plaintiff's response to production of document request #5 states the following:

The Responding Party has made a reasonable and diligent search in a good faith effort and cannot comply because the Responding Party believes that no responsive documents have ever existed.

Thus, Plaintiff responds to special interrogatory #2 by referencing the attached documents, but in the response to the production of documents seeking the very documents relevant to special interrogatory #2, plaintiff represents no documents exist.

Either there are documents that are responsive to special interrogatory #2 or there are not. Plaintiff needs to amend and clarify whether responsive documents exist. If there are no documents responsive, then the response to special interrogatory #2 will have to be amended as one cannot reference documents in a response to an interrogatory that do not exist. In that instant the existing response is incomplete.

For these reasons, the following interrogatory and production of document pairs must be amended:

Interrogatory No.	Production of Documents No.
2	5
8	3
29	10

### *Special Interrogatories with no Corresponding Document Request*

As noted, the production of document requests which were contemporaneously served with the special interrogatories ask plaintiff to produce documents that it references in its responses to the special interrogatories. However, there are 63 special interrogatories that are subject to this motion as compared to 25 production of document requests. Thus, there are many interrogatories which do not have corresponding production of document requests.

The Court has been presented with a factual dispute as to whether documents have, or have not, been produced. Plaintiff represents it has provided responsive documents to the requests for production. The Court takes that at face value. However, because there are interrogatories which do not have corresponding production of document requests, it is unclear whether the documents referenced in those responses can be found in the production of document responses. Plaintiff must amend its responses to special interrogatories falling under this category and clarify whether the documents referenced are part of the production of documents responses. If they are, the responses need to provide with reasonable specificity where the documents can be located. If the documents were not produced as part of the response to production of documents, they must be produced.

Accordingly, the following responses to special interrogatories must be amended:

4,5,7,10,13,16,19,22,25,28,31,34,37,40,43,46,49,52,55,58,61

### *Special Interrogatories – Motion Denied*

The motion is denied as to the following interrogatories for which the Court finds complete substantive responses were provided.

1,3,6,9,11,12,14,15,17,18,20,21,23,24,26,27,30,32,33,35,36,38,39,41,42,44,45,47,48,50,51,53,54,56,57,59,60,62,63

### *Production of Documents*

For the reasons previously discussed, responses to request nos. 3,5, and 10 must be amended.

The Court will hear from defense counsel concerning the representation that no documents have been produced. Is counsel representing that no documents of any kind have been produced?

Is defense counsel representing that, with respect to the interrogatories which do not have a corresponding document request, no documents have been produced? If that is the case, the Court refers the parties to the “Special Interrogatories with no Corresponding Document Request” section of this ruling. As discussed, Plaintiff is required to amend and clarify where those documents can be found if they have been produced.

The moving papers seem to suggest Plaintiff should be required to provide duplicative responses by attaching the documents to the production of document responses and again attaching those same documents to the special interrogatory responses. The code makes no such requirement. In any event, there is no practical benefit requiring Plaintiff to make duplicative responses. Thus, to the extent Defendant’s representation that no documents have been produced is based on this argument, the motion is denied.

Outside of the question of whether documents have, or have not been produced, all of the responses must be amended because they suggest documents are possibly being withheld based on privilege objections. The responding party has the burden to substantiate their objections, see *People v. Williams* (2017) 3 Cal.5th 531, 541. Here, the privilege objections appear to be boilerplate objections and were not substantiated in the opposition. The responses shall be amended removing the objections and removing the qualifying language that all non-privileged documents are being produced.

Request for attorney fees is denied.

Plaintiff shall serve amended responses within 20 days of this order. Defendant shall prepare the form of order within 2 weeks.

**6. 25CV02345 In re: Silvas, Esquivel, Citally**

*EVENT: Change of name (minor) (Continued from 9/3/25)*

The Court will hear from Petitioner. If there are no appearances at the hearing the Petition will be dismissed without prejudice.

7. **25CV02565 In re: Powers, Shawnta**

*EVENT: Change of name (minor)*

The Court will conduct a hearing.

8. **25CV02706 In re: Sheldon, Annalise**

*EVENT: Change of name (minor)*

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

9. **25CV02870 In re: Stepheny, Eddie Dean Jr.**

*EVENT: Change of name (adult)*

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