**Judge Benson – Law & Motion – Wednesday, October 14, 2026 @ 9:00 AM**

1. **21CV03075 Hall, Chantelle v. City of Chico**

*EVENT: Plaintiff's Motion for Sanctions Against the City for Failing to Comply with the September 2, 2026 Order*

Preliminarily, the City's responses were not timely. The Court disagrees with the City's interpretation of CCP 1013.

CCP 1013. Manner and completion of service by mail, Express Mail, facsimile transmission, or electronically

> (a) In case of service by mail, the notice or other paper shall be deposited in a post office, mailbox, subpost office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service by mail; otherwise at that party's place of residence. Service is complete at the time of the deposit, but any period of notice and any right or duty to do any act or make any response within any period or on a date certain after service of the document, which time period or date *is prescribed by statute or rule of court,* shall be extended five calendar days,
>
> …
>
> [Emphasis Added]

As noted, the 5 day extension under 1013 applies when the time period is prescribed by statute or rule of court. The court's order after hearing fits in neither category. Obviously, "rule of court" refers to the California Rules of Court, not an order after hearing.

Thus, CCP 1013 does not extend the City's responsive time by 5 days. Again, the order required supplemental responses within 10 days, with no additional qualifications. Based on the service on 9/8, the City's response was due by September 18. Thus the supplemental responses on September 23 were late.

The Court's September 2, 2026 order required further responses without objection. The City's supplemental responses are in clear defiance of that order as the responses interpose numerous objections, many of them boilerplate. Especially egregious is the position that the condition of other City sidewalks is irrelevant to this case.

That contention is particularly egregious considering the City filed a motion for summary judgment years ago in which their position was that because the subject sidewalk was in existence prior to 1968, Plaintiff needed to demonstrate that the city sidewalks, in their entirety, were inaccessible to the disabled public. The motion further argued that Plaintiff could not provide admissible evidence demonstrating that the city sidewalks as a whole

were inaccessible to the disabled public. (See City's Motion for Summary Judgment/Adjudication filed on August 7, 2024)

Now, apparently, the City's position is that the condition of other City sidewalks is not relevant. This suggest of a high level of gamesmanship. Accordingly, the Court imposes an issue sanction conclusively determining in Plaintiff's favor whether the City sidewalks are inaccessible in their entirety as prescribed by the ADA.

Plaintiff shall prepare a form of order within two weeks.

**2. 22CV02786 TA v. California Southern Baptist Convention et al**

*EVENT: Defendant California Southern Baptist Convention's Motion for Summary Judgment*

Defendant California Southern Baptist Convention's Motion for Summary Judgment is GRANTED. Defendant has demonstrated no triable issue of fact exists on one or more elements of both causes of action and the motion is unopposed.

Defendant shall prepare the form of order within 2 weeks.

**3. 23CV00871 Hector, David v. Murphy, Matthew et al**

*EVENT: Defendants Anne Margaret Murphy, Mike Murphy, and Matthew Murphy's Motion for Terminating Sanctions and Monetary Sanctions in the Amount of $497.50; or, in the Alternative, Motion to Enforce Settlement Pursuant to CCP 664.6*

Preliminarily, the Court is not considering Plaintiff's late filed opposition.

The Court finds it does not have jurisdiction under CCP 664.6 to issue an order enforcing the settlement agreement. There is no evidence the parties agreed the Court would retain jurisdiction to enforce the agreement pursuant to CCP 664.6.

Defendants Anne Margaret Murphy, Mike Murphy, and Matthew Murphy's Motion for Terminating Sanctions and Monetary Sanctions in the Amount of $497.50 is GRANTED.

Plaintiff's conduct in failing to comply with the Court's discovery order combined with his refusal to finalize the settlement agreement he agreed to warrants terminating sanctions.

The Court will sign the proposed order.

**4. <u>23CV02979 Heredia's Familia, Inc. et al v. Cruz, Francisco</u>**

*EVENT: (1) Francisco Cruz and La Perla Services, Inc.'s Motion for a Protective Order*

*(Continued from 9/30/26)*

Per CCP 2030.260 the responding party has 30 days to respond to the discovery. Per CCP 1010.6 when service is by email the time to respond is extended by 2 court days. Plaintiff served the instant discovery on July 10, making the responsive deadline August 11. Defendants served objection only responses on August 12. Consequently, objections to the discovery were waived.

The question is whether the waiver of objections precludes Defendant from obtaining a protective order under the protective order statute, CCP 2030.090. Nowhere in section 2030.090 does it indicate whether waived objections preclude seeking a protective order.

Plaintiff has cited no case law suggesting that waiver of objections precludes the filing of a protective order. The Court finds that, in a general sense, a party is not necessarily precluded from seeking a protective order despite the fact they have waived objections to pending discovery.

However, when the basis for the protective order is objections to the underlying discovery requests, the statute providing for waiver of objections would supersede the protective order statute to the extent there is any conflict or tension.

Specific statutes supersede general statutes to the extent there is a conflict. (*See Perry v. Stuart* (2025) 111 Cal.App.5th 472, 507). Under these circumstances the waiver statute is the more specific statute.

Further, if a party could circumvent the waiver statute by filing a motion for a protective order after the objections were waived, that would undermine the purpose of the waiver statute. The waiver statute specifically requires a motion for relief from waiver. If we grant a protective order under these circumstances we would be essentially circumventing that process.

The gravamen of this motion is that the discovery is burdensome. That is a cognizable objection which we frequently see incorporated in discovery responses. Thus, when Defendant waived objections, he necessarily waived the burdensome objection. Because

the waiver statute supersedes the protective order statute in this circumstance, waiver essentially bars this motion.

Even if waiver did not bar this motion, based on the fact Defendant served a 500 + production of document request back in May, that is a tacit admission that the volume of discovery sought by Plaintiff (i.e. 406 interrogatories) is warranted for this case. Defendant's discovery conduct undermines their position that the volume of the instant discovery is not warranted.

*ESI*

As discussed, this objection was waived. Further, Defendant's argument here is not sufficiently developed. Defendant does not provide an estimate of how many documents will have to be produced in ESI form. There is no quantitative analysis here, only generalized arguments.

*Privacy*

Again, objections have been waived. Further, in light of the right to attach order, CCP 485.230 authorizes discovery of Defendants' property interests. The Court previously denied Defendant's motion to set aside the right to attach order.

Despite the fact the privacy objections were waived and CCP 485.230 permits discovery into Defendant's property interests, a protective order is still necessary to prevent the dissemination of private information to unnecessary third parties.

Counsel is ordered to meet and confer regarding a protective order. If they cannot agree on the form of a protective order by October 21, then each side shall submit a proposed order to the Court.

In consideration of Defendant's language barrier, and in the interests of moving the case forward, the Court will order further substantive responses to the underlying discovery in two stages:

> Defendants shall serve substantive responses to the first half of the underlying discovery by November 16, 2026.
>
> Defendants shall serve substantive responses to the second half of the underlying discovery by December 16, 2026.

All requests for sanctions is denied.

5. **24CV04191 Capital One, NA successor by merger to Discover Bank v. Baumgarner, Casey**

*EVENT: Plaintiff's Motion for Judgment Pursuant to CCP 664.6*

Plaintiff's Motion for Judgment Pursuant to CCP 664.6 is GRANTED. The Court will sign the proposed order and judgment.

6. **25CV00758 Mathisen, Kendall Lloyd et al v. Enloe Medical et al.**

*EVENT: Defendants Kag Leasing Inc., Kag West Energy, LLC and Eliasar Michael Seadler's Motion for Summary Judgment, or in the Alternative, Summary Adjudication*

Defendants Kag Leasing Inc., Kag West Energy, LLC and Eliasar Michael Seadler's Motion for Summary Judgment, or in the Alternative, Summary Adjudication is DENIED.

The Court rules on the following evidentiary objections it deems material to the ruling.

Plaintiff's evidentiary objections are sustained in full. (Police reports are inadmissible pursuant to VC 20013)

Defendants' objection no. 35 is sustained in part. Mr. Herbert's opinion that Mr. Seabler had his low beams on is a case specific fact per *People v. Sanchez* (2016) 63 Cal.4th 665, 676. However, the remainder of his testimony is admissible.

Defendants' objection no. 36 – sustained. Mr. Mason's opinion that an object was visible "from the forward facing camera for 5-7 seconds before impact" [Emphasis Added] is testimony of a case specific fact per *People v. Sanchez* (2016) 63 Cal.4th 665, 676. The expert is simply providing testimony as to what the video shows. The trier of fact does not require an expert opinion to determine when the object became visible on the roadway *as exhibited in the video*.

Defendants' objection no. 37 – overruled.

FACTS

Before the Court can analyze whether Defendants owed a duty, the applicable facts for purposes of this motion must be ascertained. Generally, when conflicting inferences can be reasonably drawn from the evidence, a triable issue of fact is deemed to exist. (*Savaikie v. Kaiser Foundation Hospitals* (2020) 52 Cal.App.5th 223, 229-230)

*Decedent Kyle Martin Mathisen*

Undisputed: Decedent was on a 5150 hold and eloped from Enloe Medical Center; Defendant Seadler collided with Decedent while Decedent was lying in the middle of his lane on Highway 99.

*Weather Conditions*

Undisputed facts: the accident occurred at night, at 11:17pm. The roadway was dry.

*Defendant Seadler's Conduct*

Undisputed: The maximum speed limit was 55mph.

Disputed: Mr. Seadler's rate of speed. Defendants contend he was driving 55 mph, Plaintiffs contend he was driving 56-60mph. The Court has overruled Defendants' objections to Plaintiff's evidence suggesting Mr. Seabler was driving 56-60mph.

Because a triable issue of fact exists, for purposes of this motion Mr. Seabler was driving 56-60mph which is in excess of the speed limit.

Disputed: Whether Mr. Seabler applied brakes prior to the collision.

The Court has overruled Defendants' objections to Plaintiff's evidence suggesting Mr. Seabler did not apply the brakes prior to impact. Because a triable issue of fact exists, for purposes of this motion Mr. Seabler did not apply brakes prior to impact.

Undisputed: Amount of time between when Mr. Seabler observed the hazard and impact. The Court has sustained the objection to Mr. Mason's testimony that an object was visible from the forward facing camera for 5-7 seconds before impact.

Defendants have lodged the dash camera video depicting the incident. Plaintiff did not object to the evidence. Defendants' moving papers contend Mr. Seabler only had a few seconds to react. (Defendants' P&A's p. 6 lines 8-10) Further, Mr. Seabler's declaration states the video is an accurate depiction of what occurred.

The Court has reviewed the video carefully. The video supports Defendants' position that the decedent was only visible in the roadway for at most, two seconds before the collision. Prior to that time no roadway hazard was discernable.

Thus, for purposes of this motion, Mr. Seabler could see or react to decedent at most 2 seconds before impact.

Disputed: Whether Mr. Seabler's speed was appropriate for the conditions.

Mr. Herbert opines when a truck driver is driving at night with his low beams on, he should reduce his speed significantly and the maximum posted speed is not dispositive under those circumstances. (See paragraphs 35-38 and 55 of Mr. Herbert's declaration) The Court has overruled Defendants' objections to this evidence with the exception of the testimony that Mr. Seabler's low beams were on, which is a case specific fact. In reviewing the video it depicts Mr. Seabler intermittently switching between high beams and low beams.

Consequently, because Mr. Seabler was intermittently switching between high beams and low beams a triable issue of fact exists whether his speed was appropriate for the conditions. Thus, for purposes of this motion, pursuant to Mr. Herbert's expert testimony, we must assume Mr. Seabler's speed was not appropriate for the conditions.

## LEGAL ANALYSIS

*ISSUE #1: A Triable Issue of Fact Exists Whether Defendants Owed a Duty to Decedent*

It is well settled that an operator of a motor vehicle has a duty to drive at an appropriate speed for the conditions.

VC 22350:

> No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, *visibility*, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property. [Emphasis Added]

Ostensibly Plaintiffs' theory is that, had Mr. Seabler significantly reduced his speed due to the low beams, he would have and should have discovered decedent sooner than he did. The further inference being that Mr. Seabler was driving at a speed in excess of what was reasonable due to the reduced visibility of the low beams.

*Parsekyan v. Thompson* (1962) 208 Cal.App. 2d 848, 850 cited by Defendants primarily stands for the proposition that a driver is not negligent when a hazard abruptly appears on the roadway and the driver only has a few seconds to react. However, *Parsekyan* contemplates in dicta that a driver may be liable if he unreasonably failed to discover the hazard sooner.

Based on Mr. Herbert's opinion that Mr. Seabler's speed was unsafe for the conditions combined with the fact (assumed as true for purposes of this motion) he was exceeding the speed limit by driving 56-60mph, facts we must assume are true for purposes of the motion, a triable issue of fact exists on the issue of duty.

*ISSUE #2: A Triable Issue of Fact Exists Whether the Sudden Emergency Defense Applies*

CACI 452 Sudden Emergency

> 1.That there was a sudden and unexpected emergency situation in which someone was in actual or apparent danger of immediate injury;
>
> 2.That [name of plaintiff/defendant] did not cause the emergency; and
>
> 3.That [name of plaintiff/defendant] acted as a reasonably careful person would have acted in similar circumstances, even if it appears later that a different course of action would have been safer.
>
> [Emphasis Added]

As discussed, a triable issue of fact exists whether Defendants breached a duty to drive an appropriate speed under the conditions. Because a triable issue of fact exists, a triable issue of fact necessarily exists with respect to element #3 of the sudden emergency defense.

*ISSUE #3: Wrongful Death*

The wrongful death cause of action is derivative of the negligence cause of action. Accordingly, because a triable issue of fact exists as to the negligence cause of action, the motion is necessarily denied as to the wrongful death claim.

Plaintiffs shall prepare and submit a form of order consistent with this ruling within 2 weeks.

**7-8. 25CV01528 Grayson, John I, IV v. Franchise Tax Board**

*EVENT: (1) Defendant's Demurrer*

*(2) OSC Why Plaintiff Should Not Be Deemed a Vexatious Litigant*

Demurrer

Defendant's demurrer is sustained without leave to amend and is unopposed. The pleading fails to demonstrate Plaintiff submitted any written claim as required under the Government Claims Act. Additionally, the pleading fails to allege facts supporting how he paid taxes in the amount he is now claiming a refund for. The case is dismissed with prejudice. The Court will sign the proposed order.

OSC re: Vexatious Litigant

Pursuant to CCP 391((b)(3) Plaintiff is hereby deemed a vexatious litigant. Plaintiff has filed a series of frivolous actions and pleadings, some of which are detailed in Defendant's response to this OSC. In addition, he has filed documents with the Court which are blatantly fraudulent. As one example, in this case Plaintiff attached as an exhibit purportedly on Franchise Tax Board letterhead indicating he was entitled to a $2 trillion dollar refund.

Pursuant to CCP 391.7(a), Plaintiff is prohibited from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed.

Pursuant to CCP 391.7(f), the clerk is directed to provide the Judicial Council with a copy of this order.

The Court will prepare the order.

## 9. 25CV02794 Hill, Carlos v. City of Chico et al

*EVENT: Qualified Witness's Motion to Quash Defendant's Business Records Subpoena*

Qualified Witness's Motion to Quash Defendant's Business Records Subpoena is DENIED. The Court finds good cause exists for the categories sought in the subpoena. To the extent the subpoena implicates material subject to the qualified work product privilege under CCP 2018.030(b), the Court finds denial of discovery will unfairly prejudice the party seeking discovery due to the overlap of the two cases and issues pertaining to causation.

Note: responding party has represented the subpoena only implicates qualified work privilege and does not implicate absolute work product privilege pursuant to CCP 2018.030(b).

As to Rule 1.6, the Court agrees with the County that said rule is subject to other laws, including the County's right to the discovery under applicable discovery law.

Responding party shall provide responses consistent with this ruling within 30 days' notice of this order. Defendant County shall prepare the form of order.

## 10. 25CV03067 Martinez Macedo, Luis Angel v. Greentek, Inc.

*EVENT: Plaintiffs Motion for Approval of PAGA Settlement*

Plaintiffs Motion for Approval of PAGA Settlement is GRANTED. A final accounting hearing is scheduled for August 4, 2027 at 9:00am. The Court will sign the proposed order with this modification.

## 11. 26CV01328 Tri Counties Bank v. Hamilton, Douglas E. et al

*EVENT: Defendant Constance Yerba Hamilton's Motion to Set Aside Entry of Default*

Defendant Constance Yerba Hamilton's Motion to Set Aside Entry of Default is DENIED WITHOUT PREJUDICE. The motion fails to include a proof of service demonstrating Plaintiff was served with the motion in compliance with CCP 1005.

**12. 26CV02430 In re: Jones, Sherri Rene**

*EVENT: Change of name (minor) (continued from 9/16/23)*

The petition is in order. The Court will sign the decree provided.

**13. 26CV02507 In re: Alimujiang, Shawuti**

*EVENT: Change of name (minor) (Continued from 9/30/26)*

The Court is in receipt of the proof of publication. As of this writing the Court is awaiting the results of the background checks.

**14. 26CV02670 In re: Zavala, Jose Antonio**

*EVENT: Change of name (adult)*

The petition is in order. The Court will sign the decree provided.

**15. 26CV02682 In re: Maus, Todd Jason**

*EVENT: Change of name (adult) (Continued from 9/23/26)*

The petition is in order. The Court will sign the decree provided.

**16. 26CV02881 In re: Gregory, Shelby Jane**

*EVENT: Change of name (minor) (continued from 9/30/26)*

The Court will hear from Petitioner.

**17. 26CV02942 In re: Gross, Geoffrey Dale**

*EVENT: Change of name (adult)*

The Court is in receipt of the proof of publication. As of this writing the Court is awaiting the results of the background check.

**18. 26CV02995 In re: Morrison, Elizabeth**

*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.