

**Judge Mosbarger – Law & Motion – Wednesday, May 22, 2024 @ 9:00 AM
TENTATIVE RULINGS**

1-4. 21CV00365 EDWARDS, TYLER J ET AL V. PRUIS, BRANNON ET AL

EVENTS: (1) Cross-Complainant Pruis' Motion to Compel Production of Documents by Tyler Edwards, Inc., dba Edwards Construction, for Further Deposition

(2) Cross-Complainants Brannon Pruis and Jill Pruis' Motion for Sanctions Against Tyler Edwards and his Counsel

(3) Motion for Terminating, Issue, Evidentiary, and Monetary Sanctions

(4) Ex Parte Application for Order Compelling Production of Documents by Tyler Edwards, Inc., or in the Alternative, Order Shortening Time

Cross-Complainant Pruis' Motion to Compel Production of Documents by Tyler Edwards, Inc., dba Edwards Construction, for Further Deposition is GRANTED IN PART. As an initial matter, in connection with their Reply, Cross-Complainants submitted Objections to Evidence, specifically as to the Declaration of Stacie Power. The Court overrules the objections to ¶¶6, 7, 8, and 14 and sustains the objections to ¶¶11 (lacks personal knowledge), 12 (irrelevant), and 15 (irrelevant). The Court overrules Cross-Defendant's Objections to the requested discovery and orders Cross-Defendant Tyler Edwards, Inc. dba Edwards Construction and Tyler Edwards to produce documents responsive to the Request for Production of Documents included in the Third Amended Deposition Notice for Tyler Edwards pursuant to CCP §2025.280; specifically Request Nos. 6, 10, and 11. The documents shall be produced within 10 days' notice of this ruling. However, the Court denies the request for further deposition of Tyler Edwards. Counsel for the Cross-Complainants shall submit a form of order consistent with this ruling within two weeks.

Cross-Complainants Brannon Pruis and Jill Pruis' Motion for Sanctions Against Tyler Edwards and his Counsel is GRANTED, the Court finding a willful disobedience of this Court's prior Order. The Court issues the following sanctions:

Tyler Edwards, Inc., Tyler Edwards, and James Edwards are prohibited from objecting during the examination of Carol Finley at trial.

The Court makes a finding that Tyler Edwards has engaged in conduct amounting to witness tampering during this case and such conduct may be considered when evaluating Tyler Edward's credibility and the testimony of other witnesses.

The Court makes a finding that Tyler Edwards engaged in discovery abuses during this case and such abuses may be considered when evaluating the reliability of evidence presented or elicited by Tyler Edwards.

The Court issues monetary sanctions in the amount of \$1,500 against Tyler Edwards, payable to the Court within 14 days' notice of this Order.

The Court issues monetary sanctions in the amount of \$1,500 in against Stacie Power, payable to the Court within 14 days' notice of this Order.

The Court awards monetary sanctions of \$3,277.20 against Tyler Edwards and his attorney of record, Stacie Power, for attorneys' fees and costs related to the instant

motion, to be paid to the law office of Peters, Habib, McKenna, Juhl-Rhodes & Cardoza, LLP within 14 days' notice of this Order.

Additionally, the Court amends its prior Order to clarify that the respective parties are not to be present in person at said depositions, including in the parking lot or building in which the deposition is taking place. They may be present by phone only. They are not to speak to the deponents nor interrupt the proceedings. Counsel for the Cross-Complainants shall submit a form of order consistent with this ruling within two weeks.

As to the Motion for Terminating, Issue, Evidentiary, and Monetary Sanctions, in connection with their Reply, Cross-Complainants submitted Objections to Evidence, specifically as to the Declarations of Stacie Power and Tyler Edwards. As to Ms. Power's Declaration, the Court overrules the objections to ¶¶5, 6, 7, and 15 and sustains the objections to ¶¶8 (irrelevant), 9 (irrelevant), 10 (irrelevant), 13 (lacks personal knowledge), and 14 (argument). As to Mr. Edwards' Declaration, the Court overrules the objections to ¶¶13, 14, and 21, and sustains the objections to ¶5 (irrelevant). The Motion is DENIED in its entirety.

Finally, as to the Ex Parte Application for Order Compelling Production of Documents by Tyler Edwards, Inc., or in the Alternative, Order Shortening Time, the Court has reviewed the documents lodged by Cross-Defendants for purposes of determining whether such documents contain attorney work product. The Court finds that the work product of attorney's employee or agent, including a consultant, are treated as the work product of the attorney and are therefore protected from disclosure. See, *Rodriguez v. McDonnell Douglas Corp.* (1978) 87 Cal.App.3d 626 (disapproved on other grounds by *Coito v. Sup. Ct. (State of Calif.)* (2012) 54 Cal.4th 480, 499. The Court declines to order further production beyond what has previously been produced by Plaintiffs in regard to the communications of Lloyd Ippolito.

5. 21CV02530 GILL, JANET DIANE, MD V. ENLOE MEDICAL CENTER ET AL

EVENT: Defendants' Ex Parte Application for an Order Granting Trial Continuance

As an initial matter, the Court's comment that the proper procedure for the Court to reconsider its prior ruling in regard to Plaintiff's prior Motion for Leave of Court to File Second Amended Complaint, was not an invitation to submit such an argument in connection with the Opposition to the pending Motion. A timely filed and properly noticed motion that complies with *Code of Civil Procedure* §1008 is required. Therefore, the requested relief for reconsideration as set forth in the Opposition is denied. Defendants' Motion to Continue Trial is GRANTED, the Court finding good cause for the requested continuance. The Court vacates the trial date of July 22, 2024, the trial readiness conference set for July 18, 2024, and the mandatory settlement conference set for June 12, 2024. This matter is set for a Case Management Conference on June 26, 2024 at 10:30 a.m. for resetting of trial dates. Case Management Conference Statements are to be timely filed and served. All related pre-trial dates and deadlines are continued in

accordance with the continued trial date. Counsel for the Defendants shall submit a revised form of order within two weeks.

6. 22CV00398 GINTER, HELENE V. VANNOTE, MARALEE LOUISE

EVENT: Motion to Set Aside Judgment; Motion for Appointment of Referee – To amend and review the Default Judgment

The Court will conduct a default prove-up hearing.

7-9. 22CV02021 DELMAR, KYLE V. SHORT, HEATHER ET AL

EVENTS: (1) Motion by Defendant Burns & Wilcox Insurance Services, Inc. for an Order Compelling Plaintiff's Verified Responses to Special Interrogatories, Set Two, and Request for Monetary Sanctions of \$500.00 Against Plaintiff and/or His Counsel of Record

(2) Motion by Defendant Burns & Wilcox Insurance Services, Inc. for an Order Compelling Plaintiff's Verified Responses to Request for Production of Documents, Set Two, and Request for Monetary Sanctions of \$500.00 Against Plaintiff and/or His Counsel of Record

(3) Motion by Defendant Burns & Wilcox Insurance Services, Inc. for an Order Compelling Plaintiff's Verified Responses to Request for Admissions, Set Two, and Request for Monetary Sanctions of \$500.00 Against Plaintiff and/or His Counsel of Record

When no response to discovery is given, all that need be shown in the moving papers is that a set of discovery was properly served on the opposing party, that the time to respond has expired, and that no response of any kind has been served. See, *Leach v. Sup. Ct. (Markum)* (1980) 111 Cal.App.3d 902, 905-906. No separate statement is required. See CRC 3.1345(b) ["A separate statement is not required under the following circumstances: (1) When no response has been provided to the request for discovery..."] The Motions are granted. Plaintiff is to provide verified responses to Special Interrogatories, Set Two, Request for Production of Documents, Set Two, and Request for Admissions, Set Two without objections, within 10 calendar days' notice of this Order. Sanctions are awarded in the amount of \$1,500. The Court will sign the forms of order submitted by counsel.

10. 23CV00189 VOLLRATH, MICHAEL DAVID V. MID VALLEY TITLE AND ESCROW COMPANY ET AL

EVENT: Motion for Discovery Sanctions

The Court finds that there has been a showing of ongoing and willful disobedience of a Court's discovery order and blatant and ongoing abuse of the discovery process that

risers to the level of discovery abuse to support terminating sanctions. See, *Liberty Mutual Fire Ins. Co. v. LcL Administrators, Inc.* (2008) 163 Cal.App.4th 1093. As such, terminating sanctions are warranted and Defendant's motion is granted. The Complaint filed on January 25, 2023 is stricken and the matter is dismissed with prejudice. The Court will sign the form of order submitted by counsel.

11. 23CV00521 IN RE: PENUNURI, PETRA KG

EVENT: Order to Show Cause

The Court has not received proof of service on the minor's parents, no response to the instant Order to Show Cause, and no Request for Dismissal. If there is no appearance by Petitioner, the Petition will be dismissed without prejudice.

12. 23CV02343 DENNY, CINDY V. GENERAL MOTORS, LLC

EVENT: Plaintiff's Motion to Compel the Deposition of Defendant's Employee and Repurchase Reviewer, Dave McWhorter, with Production of Documents

Code of Civil Procedure §§2025.450 and 2025.480 require good faith meet and confer efforts before filing of a motion to compel. The Court finds that Plaintiff has satisfied her burden in this regard. Additionally, while the Court notes that Defendant's Opposition was untimely filed, the Court in its discretion has considered the arguments therein.

The Motion is granted in part and denied in part. The Court grants the Motion as it relates to the deposition of Mr. Dave McWhorter and Defendant is ordered to produce Mr. McWhorter for deposition within twenty days' notice of this order. Additionally, the Court overrules Defendant's objections to and orders the deponent to produce the responsive documents requested in the Notice of Deposition Nos. 1-9, and 11, at least 48 hours prior to the deposition date/time. As to Request No. 10, Defendant indicated in the Objections that Defendant is not currently aware of any documents responsive to this Request, as such the Motion is denied as to Request No. 10. The Court will sign the form of order submitted by Plaintiff.

13. 24CV00176 IN RE: TRACY, BRANDEE LEE

EVENT: Amended Petition for Change of Name

The Court has not yet received proof of publication. If there is no appearance by the Petitioner and the Court still has not received proof of publication, the Petition will be denied without prejudice.

14. 24CV00376 IN RE: STROUD, KYLAH ACE

EVENT: Petition for Change of Name

If proper proof of publication is submitted at or before the hearing, the Petition will be granted.