

**Judge Mosbarger – Law & Motion – Wednesday, August 20, 2025 @ 9:00 AM
TENTATIVE RULINGS**

1-2. 19CV01362 BOWEN, AARON ET AL V. CITY OF CHICO ET AL

EVENTS: (1) Respondent City of Chico's Motion to Tax Costs

(2) Defendants Jack Danielson and Heidi Danielson's Motion for Attorney's Fees and Costs

Respondent and Defendant City of Chico ("the City" herein) to Tax or, in the Alternative, Reduce Costs is granted in part and denied in part. The City objects to the costs sought for filing, motion and service costs based on the fact that Plaintiffs Aaron Bowen and Hilda Bowen (collectively "Plaintiffs" herein) were only partially successful (prevailing against the City on their first cause of action and losing on all remaining five causes of action) and yet appear to seek to recover from the City all of their costs. The City also objects to these fees because Plaintiffs appear to seek to recover costs from the City that Plaintiffs incurred with respect to other Defendants. In Opposition, Plaintiffs state that the costs sought are for those filing fees incurred in prosecuting the First Cause of Writ of Mandate against the City and have further reduced those fees by 33% to account for the other Defendants. The Court finds that Plaintiffs have sufficiently reduced the amounts requested to address the issues raised by the City. The costs now sought are limited to those incurred in relation prosecuting the First Cause of Writ of Mandate against the City and have been further reduced by 33% to account for the other Defendants. The Court therefore awards costs to Plaintiffs and against the City in the amount of \$1,455 for Filing, Motion and Service Costs (including those related to Case Management Conference/Court Call costs). Further, the City argues that the award of mediation fees is discretionary, and (a) the mediation occurred after the Court entered the sole relief that Plaintiffs obtained in this action, and (b) the mediation involved other defendants, against whom Plaintiffs were unsuccessful. Plaintiffs argue in Opposition that the claims in the writ of mandate cause of action are so closely tied to the non-writ claims, that any global settlement between the parties requires a resolution of the writ claims, as well. That is why the parties engaged in the mediation and sought to obtain a global settlement after March 17, 2020, which would hopefully resolve all claims, including the writ of mandamus claims and the actions by the City required by the Peremptory Writ. In Reply, the City confirms that the mediation continued to include the City which suggests that the City was still participating in the mediation for purposes of a global settlement, even in light of the Court's ruling on the Writ of Mandate. The Court thus concludes that the fees requested by Plaintiffs, as reduced, are appropriate and Plaintiffs are awarded \$416.67 for mediation related fees against the City. The Court orders that Plaintiffs are awarded costs against the City in the total amount of \$1,871.67.

In regard to Defendants Jack Danielson and Heidi Danielson's (collectively hereafter referred to as "Defendants") Motion for Attorney's Fees and Costs, the trial court has broad authority to determine the amount of a reasonable fee. *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095. The Court finds that the Defendants have provided ample evidence to support a finding that the requested attorney fees are reasonable. Therefore, the Court awards attorneys' fees of \$106,576.53 [Diepenbrock & Cotter LLP (\$98,906.03), David Griffiths (\$6,270.50) and Michael Shepherd (\$1,400.00)].

Additionally, there being no timely Motion to Tax/Strike Costs, the Court confirms costs to Defendants in the amount of \$5,135.94. Defendants shall prepare and submit a form of order consistent with this ruling within two weeks.

3. 21CV00888 DAUN, DOROTHY ET AL V. STRATUS TOOL TECHNOLOGIES, LLC ET AL

EVENT: Defendants Stratus Tool Technologies, LLC; Tempest Aero Group, LLC; and Aero Accessories, LLC's Motion to Quash and Motion for Protective Order

The Court finds: (1) The documents requested in the Subpoena to Vance Street Capital LLC are relevant to the claims or defenses in this action and reasonably calculated to lead to the discovery of admissible evidence. (2) The Subpoena's document requests are not overly broad in time or scope, do not impose undue burden and expense, and do not appear designed to harass nonparty witnesses. (3) Defendants argue that the subpoenaed documents may contain privileged communications but provide no specific evidence of what communications occurred or when, or even whether such documents even exist. Plaintiffs confirm that the subpoena seeks factual information, not attorney-client communications or attorney work product, and any such documents can be withheld with the submission of a privilege log. Further, in relation to the Defendants' privacy arguments, the balance weighs in favor of disclosure here. (4) The requested protective order is not appropriate in this instance. Based on the above, the Court rules that Defendants' Motion to Quash the subpoena to Vance Street Capital, LLC is denied; Defendants' Motion for Protective Order barring inquiry into Vance Street Capital, LLC is denied. Vance Street Capital, LLC is ordered to comply with Plaintiffs' Subpoena within 20 days of entry of this Order; and Defendants' request for sanctions is denied. The Court will sign the form of order submitted by Plaintiffs.

4. 23CV00166 THEARD, DONRECKA V. BLACK, MISTY

EVENT: Demurrer to Complaint Based on Statute of Limitations

The Court notes: (1) The proof of service shows service by mail on July 28, 2025, which is only 16 Court days plus one additional day. *Code of Civil Procedure* §1005(b) requires an additional four calendar days because the Demurrer was served by mail. The last day on which to file the Demurrer (with notice served by mail) was July 24, 2025. Thus, Notice is insufficient. (2) Before filing a demurrer, the demurring party is required to meet and confer with the party who filed the pleading demurred to for the purposes of determining whether an agreement can be reached through a filing of an amended pleading that would resolve the objections to be raised in the demurrer. *Code of Civil Procedure* §430.41. Here, there is no indication that the parties attempted any meet and confer efforts. (3) Pursuant to *Code of Civil Procedure* §1005(b), a timely Opposition was to be filed and served no later than August 7, 2025 [9 Court days before the hearing]. An untimely Opposition was filed by Plaintiff in this action on August 11, 2025. However, the issue of improper notice is not raised in the Opposition. Taking all of the above into consideration, the Court in its discretion, has reached the merits of the Demurrer and

rules as follows: Both parties acknowledge that the applicable statute of limitations for this action is two-years pursuant to *Code of Civil Procedure* §335.1. Here, the two-year deadline ran on January 3, 2023. Although the Complaint shows a filing date of January 17, 2023, Plaintiff argues that the Complaint was actually submitted for filing on January 3, 2023, which is supported by an e-filing receipt. For purposes of determining compliance with the statute of limitations, a complaint is generally deemed filed on the date it is first presented to the court clerk, even if it is later rejected for technical reasons, provided the complaint complies with state law requirements. The clerk has a ministerial duty to file the complaint when it is presented, and local court rules cannot impose additional conditions that would delay the filing date. See, *Carlson v. Dep't of Fish & Game* (1998) 68 Cal.App.4th 1268, 1272-1273. Carlson cites to former California Rules of Court, Rule 201, which is now Rule 2.100 relating to the form and format of documents presented for filing. If a Complaint is filed in conformance with that Rule, rejection does not warrant a finding that the Complaint was not timely filed when first presented to the Court. Here, the basis for the rejection was in relation to how the parties were referred to in the e-filing submission ["Donrecka Charney Remia Theard" vs "Donrecka Theard"], and it appears that the Complaint itself was in compliance with California Rules of Court, Rule 2.100. Thus, the Court concludes that the Complaint was timely submitted for filing within the two-year statute of limitations and the Demurrer is overruled. Defendant shall file an Answer within 10 days' notice of this ruling. Counsel for the Plaintiff shall submit a form or order within two weeks. Additionally, the Court advances the Case Management Conference on calendar August 20, 2025 at 10:30 a.m. to 9:00 a.m. and continues the Case Management Conference to November 19, 2025 at 10:30 a.m. Case Management Conference Statements are to be timely filed and served.

5. 24CV01332 JAEGEL, ANTON FRANK V. GENERAL MOTORS, LLC

EVENT: Plaintiff's Motion for Leave to File First Amended Complaint

Defendant argues that the California Supreme Court's decision in *Rodriguez v. FCA US LLC* (2024) 17 Cal.5th 189 should not be a reason to grant Plaintiff leave to amend because (1) the decision was pending for a significant enough time that Plaintiff could have already added her Magnuson-Moss claims; and (2) Plaintiff had the right to assert Magnusson-Moss claims from the outset of this litigation. The Court finds neither of these arguments to be persuasive. Further, Defendant has not demonstrated any substantial prejudice which would result from amendment. See *Rickley v. Goodfriend* (2013) 212 Cal.App.4th 1136, 1159 [Holding that the burden of demonstrating prejudice is held by the party claiming to be prejudiced]. Defendant's claim of prejudice is based solely on their having to conduct additional discovery, which could have already been conducted had Plaintiff included her Magnusson-Moss claims in the initial Complaint. However, the Court finds that Plaintiff's factual allegations appear essentially unchanged, and it does not appear on the face of the proposed First Amended Complaint that any substantially different discovery would need to be conducted. Plaintiff's Motion for Leave to File First Amended Complaint is granted. Plaintiff shall file and serve the First

Amended Complaint within ten (10) days. Counsel for the Plaintiff shall submit a form of order.

6. 24CV01783 STEELE, MANDY ET AL V. HARMONY COMMUNITIES, INC ET AL

EVENT: Plaintiffs' Motion for Sanctions for Defendants' Spoliation of Evidence

The Court finds that Plaintiffs have failed to meet their burden of showing a substantial probability of damaging their ability to establish an essential element of their claim. The alleged incident occurred May 18, 2024 through May 30, 2024. Thereafter, and for the next approximately 10 months, Plaintiff conducted ample discovery including several inspections, testing, and the preparation of reports and estimates. Plaintiffs were given every opportunity to conduct additional investigations and were put on notice by Defendants of the intent to sell or otherwise dispose of the abandoned mobile home and personal property (which was confirmed by Plaintiffs' counsel) without a timely response. The Court also notes that Plaintiff does not indicate in their Motion what additional discovery they have been precluded from conducting, only the broad allegation that "further testing or examination of the mobile home and its contaminated condition" is now impossible. This is insufficient to warrant the requested relief. Plaintiffs' Motion for Sanctions for Defendants' Spoliation of Evidence is denied, including the request for sanctions. Counsel for the Defendants shall prepare and submit a form of order consistent with this ruling within two weeks.

7. 25CV00631 SPEROW, BENJAMIN C V. FRITZ, KAI ET AL

EVENT: Defendant Kai Fritz's Demurrer to Plaintiff's Complaint

Plaintiff has sufficiently alleged facts demonstrating that Defendant Fritz "authorized, requested, commanded, participated in, or ratified the hazing" [Complaint at ¶¶17, 23, 131.c.] and the Demurrer to the First Cause of Action for Violation of Matt's Law (Hazing) is overruled. The Court also finds that Plaintiff has sufficiently stated a cause of action for negligence as to Defendant Kai Fritz [Complaint at ¶¶17, 102-103, 107-142], and the Demurrer to the Second Cause of Action for Negligence is overruled. Finally, the Court finds that Plaintiff has sufficiently stated a cause of action for premises liability as to Defendant Kai Fritz [Complaint at ¶¶143-151], and the Demurrer to the Third Cause of Action for Negligence/Premises Liability is overruled. The Demurrer is therefore overruled in its entirety. Defendant Kai Fritz shall file his Answer within 10 days' notice of this ruling. Counsel for the Plaintiff shall prepare and submit a form of order consistent with this ruling within two weeks.

8. 25CV02563 ROBINSON, ANDREW V. DEAL, MONTE ET AL

EVENT: Motion for Mandatory Injunction and Temporary Restraining Order

Defendant Monte Deal's Objections to Evidence are sustained as to Nos. 1 and 3 (hearsay) and Nos. 2 and 4 (improper legal conclusions/opinions). The Court finds that Plaintiff has failed to establish a likelihood of success on the merits and the balance of harm weighs in favor of the Defendant. The Motion is denied. Counsel for the Defendant shall submit a form of order within two weeks.

9. 25CV02798 TYLER, MATHEW V. STATE OF CALIFORNIA ET AL

*EVENT: Motion for Court-Supervised Service of Process at Public Expense
ADA/Section 504 Reasonable Accommodation Request*

Pursuant to *Code of Civil Procedure* §1005(b), all Motions are to be filed and served no later than 16 Court days prior to the hearing ["Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served *and filed* at least 16 court days before the hearing."] Here, the Motion was filed on August 14, 2025, which is only 4 Court days prior to the hearing. The Court therefore deems this matter an ex parte application for relief. In that regard, the Court finds that Plaintiff has failed to comply with the requirements of California Rules of Court, Rule 3.1203(a) [improper notice]; and Rule 3.1202 [no affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte], and the Motion is denied. Additionally, even if the Court were to consider the merits of the Motion, the Court finds that Plaintiff has presented no legal authority supporting Plaintiff's request for "Court-Supervised Service of Process at Public Expense". The Motion is denied on that basis as well. Finally, Plaintiff has failed to establish that the Sheriff's Department has declined to serve the Summons and Complaint without a fee as required pursuant to the Order on Fee Waiver executed by the Court on July 30, 2025, California Rules of Court, Rule 3.55(5), and *Government Code* §26720, et seq., including specifically §26721.2(a). Therefore, the Court finds that the instant Motion is premature and is likewise denied on that basis as well.