

**Judge Mosbarger – Law & Motion – Wednesday, February 4, 2026 @ 9:00 AM
TENTATIVE RULINGS**

1. 22CV02312 ROE, MOLLY V. BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY ET AL

EVENT: Plaintiff's Motion to Quash – Defendant CSU's Records-Only Subpoenas to Gretchen Maurer & Kai Lucid

As an initial matter, Defendant has agreed to withdraw Request No. 8 from the Subpoenas to Gretchen Maurer and Kai Lucid and the Motion is thus granted in that regard. As to Request Nos. 2 and 7, the Court finds that in light of Plaintiff's allegations in this action, and as the Court has previously ruled, Defendant is permitted to discover all alternative sources of emotional distress as this information is directly relevant to Plaintiff's damages claim. The Motion is granted as to Request No. 8 and denied as to Request Nos. 2 and 7. Gretchen Maurer and Kai Lucid are to produce documents responsive to Request Nos. 1 through 7 within fourteen days. Counsel for the Plaintiff shall prepare and submit a revised form of order within two weeks.

2. 24CV00284 O'NEIL, TAEVEON V. AUSTAD, KRISTIN

EVENT: Motion to Deem Requests for Admission Admitted; or in the Alternative to Compel Responses to Requests for Admission

The Motion is unopposed and is granted. Pursuant to *Code of Civil Procedure* §2033.280, Plaintiff's Requests for Admission to Defendant Kristin Austad, Set One, is deemed admitted. Defendant Kristin Austad shall pay sanctions in the amount of \$2,000 to Del Rio & Caraway, P.C. within 30 days of notice of this Court's ruling. The Court will sign the form of order submitted by counsel with modification as to the amount of sanctions awarded.

3. 25CV00605 FREISE, RANDAL SCOTT V. FCA US, LLC ET AL

EVENT: Plaintiff's Motion to Compel Initial Disclosures Pursuant to CCP 871.26 and Request for Monetary Sanctions

Pursuant to *Code of Civil Procedure* §871.26, for a Song-Beverly matter filed on or after January 1, 2025, an automotive manufacturer is required to make an initial disclosure production within 60 days after the filing of an answer or other responsive pleading and produce the categories of documents outlined in *Code of Civil Procedure* §871.26(h). In this matter, the Court finds that Defendant FCA US, LLC ("Defendant" herein) complied with this requirement when it served its initial disclosure production on May 29, 2025. See Declaration of Nejla Miles at ¶7 and Exhibit C attached thereto. Therefore, although titled as a "Motion to Compel Initial Disclosures", Plaintiff actually seeks to compel a further or supplemental disclosure, arguing that what was produced initially is insufficient. For such a Motion, Plaintiff must comply with *Code of Civil Procedure* §§2031.310(b), 2016.040, and California Rules of Court Rule 3.1345, which Plaintiff has failed to do.

If the Court were to reach the merits of this Motion, the Court is left with a “he-said-she-said” argument because Defendant states that it has fully and completely complied with the initial disclosure requirements, and Plaintiff claims Defendant has not. The Court is unable to compel Defendant to produce documents it states to have already produced. As such, the requested relief is not appropriate as presented in this discovery motion.

Plaintiff’s Motion to Compel Initial Disclosures Pursuant to CCP 871.26 and Request for Monetary Sanctions is denied.

4. 25CV00744 FISHER, JEFF V. FISHER, JENNIFER

EVENT: Plaintiff’s Motion for Relief from Attorney Fee Order

A judgment debtor generally cannot file a claim of exemption before a levy is made on their property. According to *Code of Civil Procedure* §703.520, a claim of exemption must be filed with the levying officer after the notice of levy is served on the judgment debtor. The statute specifies timeframes for filing the claim depending on the method of service of the notice of levy, but it does not provide for filing a claim of exemption prior to the levy itself. Additionally, CCP §703.510 states that property that has been levied upon may be claimed as exempt, further indicating that the exemption process is triggered by the levy. Similarly, in the context of enforcement proceedings, the court in *Imperial Bank v. Pim Electric, Inc.* (1999) 33 Cal.App.4th 540 clarified that the determination of exemptions generally arises when the judgment creditor seeks to apply the judgment debtor’s property toward satisfaction of the judgment, such as through a levy or other enforcement action. *Id.* at 552-553 [“...the determination whether property is exempt shall be made under the circumstances existing at the earliest of the following times: (1) the time of levy; (2) the time of the commencement of court proceedings for the application of the property to the satisfaction of the money judgment; or (3) the time a lien is created under the E JL (citation omitted). Section 703.100 ‘adopts the principle that HN12 the question of exemptions does not arise until the judgment creditor has sought to apply the judgment debtor’s property toward the satisfaction of the judgment.’ (citation omitted).”] Thus, Plaintiff’s Motion is premature is denied on that basis.

Additionally, because it is unclear under which statutory authority Plaintiff seeks relief by way of this motion, should the Court deem the motion a Motion for Reconsideration under *Code of Civil Procedure* §1008, the Court makes the following findings.

While of course a court may always reconsider a prior order on its own motion, a party must show new or different facts or law. In so doing, a party must provide a satisfactory explanation for failing to present the information at the first hearing; i.e., a showing of reasonable diligence. See, *Garcia v. Hejmadi* (1997) 58 Cal.App.4th 674, 690. A motion for reconsideration may only be brought if the party moving for reconsideration can offer “new or different facts, circumstances, or law” which it could not, with reasonable diligence, have discovered and produced at the time of the prior motion. CCP §1008(a); see *Jade K. v. Viguri* (1989) 210 Cal.App.3d 1459, 1467; *Mink v. Superior Court* (1992) 2 Cal.App.4th 1338, 1342. Here, Plaintiff has failed to show new or different facts or law,

no changed circumstances alleged, nor has Plaintiff offered any explanation as to why these exemption arguments could not have been raised earlier. Therefore, the Motion would be denied on this basis as well.

The Court awards additional monetary sanctions in the amount of \$1,800 against Plaintiff Jeff Fisher, which are to be paid within 30 days' notice of this ruling. Counsel for the Defendant shall prepare and submit a form of order consistent with this ruling within two weeks.

5. 25CV04715 AHERN, MATTHEW, DO ET AL V. WEBBER, SALINA, RN

EVENT: Plaintiff's Motion for Preliminary Injunction

Based upon this Court's Order on Motion to Disqualify Balestra-Webb law and Nicholas R. Webb, Esq. From Representation Adverse to Former Client and Stay of Proceedings filed on January 21, 2026, all proceedings are stayed, and this matter is continued to trail the Case Management Conference on May 27, 2026 at 10:30 AM for further setting.