

**Tentative Rulings for April 23, 2026**  
**Department 403**

**For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)**

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There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) *The above rule also applies to cases listed in this "must appear" section.*

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The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

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| 22CECG02432 | <i>Jane Doe v. Doug Wilkins</i> is continued to Thursday, May 28, 2026 at 3:30 p.m. in Department 403.                       |
| 24CECG02141 | <i>Athena McCowan v. Remarc Inc.</i> is continued to Wednesday, May 5, 2026, at 3:30 p.m. in Department 403.                 |
| 25CECG04529 | <i>Kathy Arredondo v. Saint Agnes Medical Center</i> is continued to Thursday, May 28, 2026, at 3:30 p.m. in Department 403. |

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(Tentative Rulings begin at the next page)

# **Tentative Rulings for Department 403**

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(03)

**Tentative Ruling**

Re: ***Rogers v. Dogwood East Village***  
Case No. 22CECG00402

Hearing Date: April 23, 2026 (Dept. 403)

Motion: Defendants Kevin Christiansen and K&K Property Management's Motions to Compel Plaintiffs Kristi Rogers and Nicole Sherfield's Responses to Written Discovery, to Deem Matters in Requests for Admissions to be Admitted, and for Sanctions

Defendants Kevin Christiansen and K&K Property Management's Motions to Compel Depositions of Plaintiffs Kristi Rogers and Nicole Sherfield, and for Sanctions

**Tentative Ruling:**

To grant defendants K&K Property Management and Kevin Christiansen's motions to compel plaintiffs Kristi Rogers and Nicole Sherfield to provide written responses to the written discovery served on them. Plaintiffs are ordered to serve verified responses without objections to the form interrogatories, special interrogatories, and requests for production served by defendants on November 20, 2025 within 10 days of the date of service of this order.

To deem plaintiffs Rogers and Sherfield to have admitted the truth of the matters in the requests for admissions, unless plaintiffs serve verified responses to the requests without objections before the hearing.

To deny sanctions with regard to the motions to compel written responses, for lack of any evidence of the fees and costs incurred with regard to the motions to compel.

To grant defendants' motions to compel the depositions of plaintiffs Rogers and Sherfield. Plaintiffs are ordered to attend their depositions within ten days of the date of service of this order, or such other date as noticed by defendants.

To grant sanctions against plaintiffs Rogers and Sherfield in the amount of \$1,648.45 per plaintiff for their unjustified failure to appear for their noticed depositions. Plaintiffs shall pay sanctions to defense counsel within 30 days of the date of service of this order.

**Explanation:**

**Motions to Compel Written Discovery and Deem Admissions to be Admitted:** According to defendants' evidence, plaintiffs Rogers and Sherfield were served with the written discovery requests, including form interrogatories, special interrogatories, requests for production of documents, and requests for admissions, on November 20, 2025. They failed to respond or request an extension of time to respond within the statutory time for



(47)

**Tentative Ruling**

Re: ***Isabel Aquino v. Jennifer Alderkin***  
Superior Court Case No. 24CECG00181

Hearing Date: April 23, 2026 (Dept. 403)

Motion: Plaintiff's Motion for Relief from Sanctions

**Tentative Ruling:**

To grant the motion for relief from sanctions. (Code Civ. Proc. § 473, subd. (b).)

**Explanation:**

Plaintiff Isabel Aquino ("Aquino" or "plaintiff") requests that this Court enter an order vacating its October 3, 2025 sanctions order against Aquino and her counsel, in the amount of \$250 and due 30 days from October 3, 2025, for failure to file a proof of service.

Code of Civil Procedure section 473, subdivision (b), provides, in pertinent part:

The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken.

Navid Kanani's declaration provides adequate reasons why plaintiff's attorney made diligent efforts to obtain the address of residence of the individual defendants, first by seeking this information directly from Defendant, Quest Diagnostics' counsel; then by investigating their addresses; and then through the propounding of discovery.

Accordingly, the Court vacates its October 3, 2025 order, ordering sanctions against plaintiff in the amount of \$250 for its failure to Proof of Service for individuals on time.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order



(37)

**Tentative Ruling**

Re: **Viveros v. Sierra Tribal Consortium, Inc.**  
Superior Court Case No. 25CECG01122

Hearing Date: April 23, 2026 (Dept. 403)

Motion: 1) By Plaintiff Maria Viveros to Compel Further Responses and Testimony  
2) By Defendant Sierra Tribal Consortium, Inc. for Dismissal

**Tentative Ruling:**

To deny plaintiff's motion to compel further responses and testimony.

To grant defendant's motion for dismissal. The matter is dismissed, with prejudice. Defendant is to submit to this court, within seven days of service of the minute order, a proposed judgment dismissing this action.

**Explanation:**

On October 16, 2025, defendant filed a motion to dismiss this matter asserting tribal sovereign immunity. On January 20, 2026, the Court posted a tentative ruling indicating the Court's intent to grant defendant's motion to dismiss this matter for lack of jurisdiction. Defendant asserts that it is an arm of the tribe and subject to tribal sovereign immunity. On January 22, 2026, oral arguments were held on this matter and the Court took the matter under advisement. On January 23, 2026, the Court issued an order after hearing continuing the matter to April 23, 2026 so that plaintiff could "conduct *limited* discovery on the issue of defendant's assertion of tribal sovereign immunity." (Order After Hearing, January 23, 2026, emphasis added.)

**COMPEL FURTHER**

On March 20, 2026, plaintiff filed a motion to compel further responses and further testimony. On April 14, 2026, the Court continued the motion to compel and instructed defendant to conduct an additional search for any documents created in 1978 regarding the founding of defendant Sierra Tribal Consortium or its predecessor, Comprehensive Indian Alcohol Rehabilitation Program, Inc. ("CIARP"). Defendant was instructed to reach out to former Board members, prior counsel, the tribes, and search locations where documents might be archived outside of defendant's offices, which had already been searched. Defendant has done so and no additional documents were found. (Reyes Supp. Decl.; Beihn Decl.)

The Court is satisfied with defendant's efforts to locate originating documents. Plaintiff did obtain the 1978 Articles of Incorporation for CIARP, as demonstrated by plaintiff's use of these in her opposition to the pending motion to dismiss. (Whelan Supp. Decl., Exh. E.) Additionally, the Court understands that plaintiff was able to depose two

individuals with knowledge regarding defendant, the current Executive Director Robert Reyes and the longest-sitting member of defendant's Board of Directors Leora Beihn. Plaintiff's motion to compel further responses and testimony is denied.

DISMISSAL

### Evidentiary Objections

The Court overrules each of plaintiff's evidentiary objections to the Declaration of Robert Reyes.

The Court overrules defendant's evidentiary objections numbers 1-3, 6-7, 9, and 14-17 of the Declaration of Yolanda Herrera. The Court sustains defendant's evidentiary objections numbers 4-5, 8, 10-13, and 18-21.

### Judicial Notice

The Court takes judicial notice of the Certificate of Amendment of Articles of Incorporation dated May 12, 1982; the Certificate of Amendment of Articles of Incorporation dated October 8, 1999; and the Statement of Information filed April 10, 2025.

### Merits

Native American tribes are immune from suit as a matter of federal law. (*People v. Miami Nation Enterprises* (2016) 2 Cal.5th 222, 234.) Tribal sovereign immunity may extend to claims arising from a tribe's commercial activities, even where such activities occur off of Native American land. (*Ibid.*) Such immunity may be abrogated by Congress or waived by the tribe. (*Ibid.*) Waiver by the tribe must be clear. (*Ibid.*)

"The Indian Self-Determination and Education Assistance Act of 1975 (the Indian Self-Determination Act; 25 U.S.C. § 5301 et seq.) reflects a national policy of advancing Native American autonomy and control." (*United Indian Health Services, Inc./Tribal First v. Workers' Comp. Appeals Bd.* (2025) 111 Cal.App.5th 1064, 1069.) The Act "recognizes that Indian tribes may form coalitions or '[i]nter-tribal consorti[a]' to 'participat[e] in self-governance' in the area of Indian health, including through a tribal organization." (*Id.* at p. 1070, quoting 25 U.S.C. § 5381 (a) (5).) Tribal organizations can include organizations of Native Americans "controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the [Native American] community to be served by such organization and which includes the maximum participation of [Native Americans] in all phases of its activities." (*Ibid.*, quoting 25 U.S.C. § 5304(l).) Such an organization may serve more than one Native American tribe. (*Ibid.*)

In determining whether a tribally affiliated entity shares immunity, the entity must show by a preponderance of the evidence that it is an "arm of the tribe". (*People v. Miami Nation Enterprises, supra*, 2 Cal.5th at p. 236.) To determine this, the court applies a five factor, weight based test. (*Ibid.*) The five factors to be considered are: 1) the entity's method of creation, 2) the tribe's intent to share its immunity, 3) the entity's purpose, 4) the tribe's control over the entity, and 5) the financial relationship between

the tribe and the entity. (*Ibid.*) When an entity establishes that it is an arm of the tribe, the court is to treat the claim as if it were against the tribe itself. (*Id.* at p. 244.) Where immunity is asserted, the plaintiff must show immunity has been abrogated or waived. (*Id.* at p. 242.)

#### *Method of Creation*

Courts consider the "law under which the entity was formed" in assessing the method of creation. (*People v. Miami Nation Enterprises, supra*, 2 Cal.5th at p. 245.) Formation under state law weighs against immunity. (*Ibid.*) Here, Defendant concedes it was formed under California law as a non-profit. This weighs against immunity. However, defendant's bylaws state, "STCI is established as a Tribal Organization within the meaning of the Indian Self-Determination Act..." (Reyes Decl., Exh. 2, Section III.1.) This weighs in favor of immunity.

In the September 13, 1999 Resolution of CIARP Board of Directors Changing Corporate Name to Sierra Tribal Consortium, Inc. it is stated, "WHEREAS CIARP has reorganized to become a tribal organization as provided by federal law (25 U.S.C. '450 et seq.)". (Reyes Supp. Decl., ¶ 7 and Exh. D.) Further, the 1978 Articles of Incorporation state, "This corporation is organized under the general Non-Profit Corporation law of the State of California." (Whelan Supp. Decl., Exh. E.) Notably, this does suggest that CIARP may not have originally been considered an arm of the tribes. However, in 1999, when CIARP became Sierra Tribal Consortium, part of the intent, as directly addressed in the Resolution, was to make it a tribal organization. (Reyes Supp. Decl., ¶ 7 and Exh. D.) Thus, on the whole, while immunity may not have been considered in 1978 for CIARP, it was in 1999 for defendant.

Ultimately, the Court finds this factor weighs in favor of immunity.

#### *Tribal Intent*

The tribal ordinances or articles of incorporation may express the tribe's intent to share its immunity with the entity. (*People v. Miami Nation Enterprises, supra*, 2 Cal.5th at p. 246.) However, it may be possible to infer tribal intent where such documents are silent. (*Ibid.*) Here, Defendant's bylaws state,

"Because STCI is a tribal organization carrying out governmental functions and is established by, composed of, and operated and controlled by federally-recognized Indian tribes which are each immune from un-consented suit, STCI share the sovereign attributes of its member Tribes and may assert such sovereign immunity in any legal or administrative proceeding in which STCI, its officer, agents, or employees are named as parties."

(Reyes Decl., Exh. 2, Section XV.1.)

Membership requires a resolution of support and two delegates from each member tribe to be seated as Board members for Defendant. (Reyes Decl., Exh. 2, Section IV.1.)

Defendant's bylaws indicate the member tribes intended to share their immunity with defendant.

Additionally, defendant has provided resolutions from some of the tribes which indicate defendant is a tribal consortium organized for the benefit of the tribes. (Reyes Decl., Exh. C.) These state that the tribes are sovereign tribes exercising their powers of self-government and support their respective memberships in the Sierra Tribal Consortium. (Ibid.) These resolutions, affirming their support of defendant, inherently affirm defendant's bylaws which assert immunity.

This factor weighs in favor of immunity.

#### *Purpose*

Courts consider any stated purpose for the entity's creation and the degree to which the entity serves such purpose. (*People v. Miami Nation Enterprises, supra*, 2 Cal.5th at p. 247.) Here, defendant's bylaws state defendant's specific purpose, as a charitable organization is to provide alcohol and other substance abuse programs for members of local tribes and other eligible Native Americans. (Reyes Decl., Exh. 2, Section III.2.) Plaintiff's own complaint states, "Sierra Tribal Consortium (STC) is a non-profit organization that operates rehabilitation facilities... The organization's mission is to support individuals dealing with substance abuse and related challenges, with a focus on serving Native American communities." (Complaint, ¶ 5.) The 1978 Articles of Incorporation for CIARP state,

"The charitable, educational, and scientific purposes for which this Corporation is formed are:

- (1) To establish Indian alcohol and drug Abuse programs that will serve Indian reservations, rural, and urban areas of California, and;
- (2) To initiate, sponsor, promote and carry out plans, policies, and activities that will tend to further the development of programs to cope with the problems and prevention of alcoholism and drug use among Indians."

(Whelan Decl., Exh. E.)

The entity's purpose as primarily serving Native Americans struggling with substance abuse issues weighs in favor of immunity.

#### *Control*

Control involves the entity's governance structure and day-to-day management. (*People v. Miami Nation Enterprises, supra*, 2 Cal.5th at p. 247.) "Evidence that a tribe actively directs or oversees the operation of the entity weighs in favor of immunity; evidence that the tribe is a passive owner, neglects its governance roles, or otherwise exercises little or no control or oversight weighs against immunity." (Ibid.) Here, defendant is governed by a Board of Directors consisting solely of representatives from the member tribes. (Reyes Decl., Exh. 2, Sections IV.1 and V.1-2.) Defendant employs

non-tribal members, but the member tribes maintain control. (Reyes Decl., ¶ 5.) Additionally, in 1999, a resolution was passed to increase the number of tribal representatives on the Board of Directors for CIARP. (Reyes Supp. Decl., Exh. C.)

This factor weighs in favor of immunity.

#### *Financial Relationship*

In assessing the financial relationship between the entity and the tribe, the “starting point ... is whether a judgment against the entity would reach the tribe’s assets.” (*People v. Miami Nation Enterprises, supra*, 2 Cal.5th at p. 247.) However, this is not a “threshold requirement for immunity nor a predominant factor”. (*Ibid.*) Where a tribe might be insulated from a judgment, if a judgment would act to undermine tribal self-sufficiency, this weighs in favor of immunity. (*United Indian Health Services, Inc./Tribal First v. Workers’ Comp. Appeals Bd., supra*, 111 Cal.App.5th at p. 1077.) Here, defendant asserts that “over 95 percent of STC’s funding is generated by the Indian Health Service (“IHS”), with the rest largely funded through the North Fork Rancheria of Mono Indians tribe.” (Reyes Decl., ¶ 6.) Plaintiff asserts that defendant maintains insurance coverage, which defendant does not dispute. Plaintiff seeks \$2,500,000 in compensatory damages, punitive damages, attorney’s fees and costs, interest, and wage penalties. (Complaint, Prayer.) There is no guarantee that defendant’s insurance would satisfy a judgment against defendant. A reduction in funds available for defendant would likely undermine its ability to serve its member tribes.

Plaintiff asserts that, according to the deposition testimony of Leora Beihn, a Board member of defendant, defendant is not funded by any tribe, maintains its own bank accounts, does not commingle funds with any tribe, and files its own tax returns. (Whelan Decl., ¶ 11 and Exh. A.) Beihn also testified that the tribes would not be responsible for defendant’s debts or liabilities. (*Id.* at ¶ 12 and Exh. A.) Additionally, in the event defendant were to wind up and dissolve, the assets would be distributed with the coordination of the Fresno County Superior Court. (*Id.* at ¶ 14, Exhs. A, E.) However, the 1978 Articles of Incorporation for CIARP clarify such assets should be distributed to another charitable organization which “to the greatest extent possible, has purposes similar to those of this Corporation.” (*Id.* at Exh. E.)

Critically, it appears one of the reasons CIARP adopted a resolution in 1999 increasing tribal representation on its Board of Directors was in response to the reality that “the primary source of funding for CIARP programs for more than ten years has been funding from the Indian Health Service, U.S. Department of Health & Human Services, through Indian Self-Determination Act (P.L 93-638) contracts for those funds allocated to the tribes participating in the Sierra Tribal Consortium (STC); and STC has authorized CIARP to use its funds for CIARP’s programs...” (Reyes Supp. Decl., Exh. C.)

Ultimately, this factor weighs in favor of immunity.

#### *Waiver*

As discussed above, waiver must be clear. (*People v. Miami Nation Enterprises, supra*, 2 Cal.5th at p. 242.) Also, defendant’s bylaws state, “A waiver of STCI’s sovereign

immunity to un-consented suit, if any, may be granted only by the Board of Directors of STCI." (Reyes Decl., Exh. 2, Section XV.2.) Section XV.4 of the bylaws describes the procedures for a waiver of immunity and Section XV.5 describes requirements for a valid waiver. (Reyes Decl., Exh. 2, Section XV.4-5.) Plaintiff has not provided any evidence of a clear and express waiver, consistent with either law or defendant's bylaws. Here, plaintiff's arguments that defendant waived immunity in its pleadings also fails to acknowledge that in each of the pleadings addressed by plaintiff, defendant asserted its immunity, while also asserting other potentially relevant defenses related to California law. Plaintiff has not met her burden in showing defendant waived its immunity.

Therefore, the Court grants defendant's motion to dismiss. In light of the above, the matter is dismissed with prejudice.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

**Tentative Ruling**

**Issued By:**                      **on**           4-22-26          .

(Judge's initials)

(Date)