Tentative Rulings for July 31, 2025
Department 501

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)

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.***

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

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 501

Begin at the next page

(34)

Tentative Ruling

Re: ***In re: Joziah Guerra***
Superior Court Case No. 25CECG03138

Hearing Date: July 31, 2025 (Dept. 501)

Motion: to Approve Compromise of Claim of Minor

Tentative Ruling:

To deny, without prejudice. Petitioner must file an amended petition, with appropriate supporting papers and proposed orders. (Super. Ct. Fresno County, Local Rules, rule 2.8.4.)

Explanation:

The Petition seeks approval of the settlement of the personal injury claim of minor Joziah Guerra against the uninsured motorist coverage of petitioner's Kemper Insurance policy. There are two issues within the Petition that prevent approval.

First, the medical expenses to be paid from the settlement indicate Tower Chiropractic has agreed to accept the reduced amount of $2,100 to satisfy the $3,001.15 billed. (Petn. 12b(5)(b)(i).) No written evidence of the negotiated reduction has been provided to support the reduced payment. Written evidence of the agreed reduction is requested.

Second, the Petition seeks expenses in the amount of $574.50 from the settlement for filing fees for the Petition and "proof of deposit of funds into blocked account." (Petn. 13b.) There is no evidence to support these are fees incurred by petitioner in making this Petition. The court's filing fee is $435, not $535 as stated in the Petition. Also it appears the Petition is seeking reimbursement for a future filing fee of $39.50 for the Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) after the Petition has been approved and settlement funds deposited into the blocked account. There is no filing fee associated with this document. Costs should be reduced to those actually incurred or paid as a result of the incident.

Additionally, a proposed Order to Deposit Funds into Blocked Account (MC-355) has not been filed with the Petition.

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: DTT on 7/29/2025.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Bernal v. Town N Country Reedley, Inc., et al.***
Superior Court Case No. 24CECG02689

Hearing Date: July 31, 2025 (Dept. 501)

Motion: for Order Compelling Responses to Discovery and to Deem Requests for Admissions Admitted

Tentative Ruling:

To take off calendar.

Explanation:

The hearing is taken off calendar, as no moving papers have been filed. Pursuant Code of Civil Procedure section 1005, all moving and supporting papers were to be filed and served at least 16 court days before the hearing. (Code Civ. Proc. § 1005, subd. (b).)

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: DTT on 7/29/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re: ***Kathryn McKenry v. Kathleen Hanlon***
Superior Court Case No. 25CECG01958

Hearing Date: July 31, 2025 (Dept. 501)

Motion: Defendant's Demurrer and Motion to Strike

Tentative Ruling:

To continue the demurrer and motion to strike to Tuesday, September 30, 2025, at 3:30 p.m., in Department 501.

Explanation:

The court is continuing this matter to be heard after the Motion to Consolidate currently scheduled for August 19, 2025, and the Petitions currently scheduled for September 11, 2025, in Fresno Superior Court Case Number 25CEPR00529. It appears that issues relevant to the Demurrer and Motion to Strike, particularly that of plaintiff's standing, will be implicated by the aforementioned hearings.

Additionally, the court would note that an attorney, Amber Bridges, was appointed to represent Conservatee Michael McKenry in Fresno Superior Court Case Number 25CEPR00529 on May 2, 2025. (Request for Judicial Notice, Exh. E.) In light of this, courtesy notice of the Demurrer and Motion to Strike should be served on counsel appointed to Michael McKenry.

The court would further note that it appears defendant may have attempted to file the Motion to Consolidate intended to be filed in a proposed lead case, 25CEPR00529, in this case. The motion was rejected for failing to reserve a motion to consolidate in the instant matter. As it appears the request would have been to have the probate matter serve as the lead case, all that is required to be filed in the instant case is the Notice. Counsel may want to review its filings to ensure that any motion to consolidate has been correctly filed. No motion to consolidate has been reserved in the instant matter.

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: DTT on 7/29/2025.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Anthony Carranza v. City of Fresno***
Superior Court Case No. 25CECG02480

Hearing Date: July 31, 2025 (Dept. 501)

Motion: Petition for Relief from Government Claims Act

Tentative Ruling:

To grant.

Explanation:

Government Code section 911.2 requires that a claim relating to a cause of action for personal injury be presented to the public entity within six months after accrual of the cause of action. Section 911.4, subdivision (a), provides that when the injured party fails to file a timely claim, a "written application may be made to the public entity for leave to present such claim." Petitioner Anthony Carranza ("petitioner") made such an application to respondent City of Fresno ("respondent" or "The City")[1] but the application was denied on April 8, 2025. (Cutting Decl., ¶ 7, Exh. 4.)

The court can only grant relief to present a late claim if the application was made within a reasonable time not to exceed one year from the actual date of the cause of action. (Gov. Code, § 911.4 subd. (b).) Here, the application was made to the City of Fresno on April 4, 2025, which is within the requisite one year. (Cutting Decl., ¶ 7, Exh. 4.)

The court must relieve the petitioner from the claim filing requirements if it finds the application to file a late claim was made within a reasonable time (not to exceed 1 year) after the accrual of the cause of action, and that one or more of the following is applicable:

(1) The claim was not presented due to mistake, inadvertence, surprise or excusable neglect, and the governmental entity was not prejudiced in its defense of the claim by the claimant's failure to present the claim within the specified time.
(2) The person who sustained the alleged injury, damage or loss was a minor during all of the time allowed for presentation of the claim.
(3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time allowed for presentation of the claim, and by reason of such disability failed to present a claim during such time.

[1] Also named as respondents in the initial petition were the County of Fresno and the State of California. The County of Fresno was dismissed on June 16, 2025, and the State of California was dismissed on July 9, 2025.

(4) The person who sustained the alleged injury, damage or loss died before the expiration of the time allowed for the presentation of the claim.

(Gov. Code, § 946.6, subd. (c).)

Petitioner relies on subdivision (c)(1), bringing this petition on the grounds that his claim was not filed during the statutory period specified by Government Code section 911.2 due to his own mistake, inadvertence, surprise, and excusable neglect.

As established above, the claim and request to present late claim was submitted to the City within one year of accrual of the cause of action. The City did not oppose this petition, and thus claims no prejudice from the petitioner's failure to submit a timely claim.

Petitioner was injured while traveling on an electric skateboard in a bike lane in Fresno, California. Due to the nature and extent of his injuries, petitioner was in a coma and hospitalized for a week following the incident. (Mello Decl., ¶ 14, Carranza Decl., ¶ 3.) Petitioner spent another three months at home recovering from his injuries. (Mello Decl., ¶ 16, Carranza Decl., ¶ 5.) Petitioner states he became aware of the six-month claim deadline but mistakenly calendared the deadline for a year out instead of six months. (Carranza Decl., ¶ 8.) He attributes this mistake to his brain injury. (*Ibid*, see also ¶ 6.)

Petitioner states the majority of the delay is due to his mistaken belief that he had counsel working on his behalf. In June 2024, he contacted Omega Law Group and believed his matter was being investigated. (Carranza Decl., ¶ 9.) When he received no response to his attempts to contact the firm, he contacted another legal group. (*Ibid*.) In August or September of 2024, he contacted PersonalInjury.com and spoke to a representative who took his statement and assured a callback. (*Id*., ¶ 10.) His follow-up calls and messages went unaddressed. (*Id*., ¶¶ 10, 11.) A third firm was contacted without success prior to retention of the current counsel, who petitioner contacted on March 31, 2025. (*Id*., ¶¶ 12-13, 16.)

Since properly retaining counsel, petitioner acted diligently to bring this petition. (See generally Declaration of Stacey R. Cutting.) The City has not opposed this petition.

Accordingly, the court finds that claim was not timely presented due to the mistake, inadvertence, surprise, and/or excusable neglect of petitioner. Any doubts about granting relief to submit a late claim should be resolved in favor of the application. (*Kaslavage v. West Kern County Water Dist.* (1978) 84 Cal.App.3d 529, 535.)

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: DTT on 7/29/2025.
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Hall v. Fresno Unified School District Employee Health Care Plan***
Superior Court Case No. 20CECG00607

Hearing Date: July 31, 2025 (Dept. 501)

Motion: (1) By Defendant Fresno Unified School District Employee Health Care Plan on Demurrer to Fifth Amended Complaint
(2) By Defendant Fresno Unified School District Employee Health Care Plan to Strike Portions of Fifth Amended Complaint

Tentative Ruling:

To overrule the demurrer to the Fifth Amended Complaint in its entirety. (Code Civ. Proc., § 430.10, subd. (e).)

To grant the motion to strike as to paragraph 39, without leave to amend. To deny on all other grounds.

Defendant Fresno Unified School District Employee Health Care Plan is directed to file an answer within 10 days of service of the order by the clerk.

Explanation:

Demurrer

Defendant Fresno Unified School District Employee Health Care Plan ("defendant") demurs to the Fifth Amended Complaint ("5AC") filed by plaintiff Pete Hall ("plaintiff") on the grounds that the second cause of action, for Penal Code section 496 receipt of stolen property, fails to state sufficient facts.[1]

On a demurrer a court's function is limited to testing the legal sufficiency of the complaint. A demurrer is simply not the appropriate procedure for determining the truth of disputed facts. (*Fremont Indemnity Co. v. Fremont General Corp*. (2007) 148 Cal.App.4th 97, 113-114.) In determining a demurrer, the court assumes the truth of the facts alleged in the complaint and the reasonable inferences that may be drawn from those facts. (*Miklosy v. Regents of University of California* (2008) 44 Cal.4th 876, 883.) The court must determine if the factual allegations of the complaint are adequate to state a cause of action under any legal theory. (*Barquis v. Merchants Collection Assn.* (1972) 7 Cal.3d 94, 103.)

Contentions, deductions, and conclusions of law, however, are not presumed as true. (*Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 967.) A plaintiff is not required to

[1] Plaintiff's Request for Judicial Notice is granted.

plead evidentiary facts supporting the allegation of ultimate facts; the pleading is adequate if it apprises the defendant of the factual basis for the plaintiff's claim. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.)

Statute of Limitations

Defendant submits a threshold issue of statute of limitations. Defendant argues that a one-year limitation applies under Code of Civil Procedure section 340, which governs statutory penalties and forfeitures. Plaintiff opposes, arguing that a three-year[2] limitation applies under Code of Civil Procedure section 338, which governs over causes of action created by statute, other than a penalty or forfeiture.

The applicable limitation is under Code of Civil Procedure section 340. On its face, Penal Code section 496 does not confer upon a civil complaint a right of action to recover on stolen property, or receipt thereof. (*See generally* Pen. Code, § 496.) Those rights of action arise not from the Penal Code, and sound firmly in the realm of torts. Rather, Penal Code section 496 merely appends, where a person who is injured by the criminal acts of receiving stolen property, treble damages, costs of suit and reasonable attorney fees are available. (Pen. Code, § 496, subd. (c).) As the Penal Code section provides for damages additional to the actual loss incurred, these treble damages are penal in nature, and therefore governed by Code of Civil Procedure section 340. (*See Prudential Home Mortgage Co. v. Superior Court* (1998) 66 Cal.App.4th 1236, 1242-1243.)

There is no general dispute that the second cause of action of the 5AC was added far after the one-year limitations period. The parties focus on the issue of delayed discovery. The discovery rule postpones accrual of a cause of action until the plaintiff discovers or has reason to discover the claim. (*Fox v. Ethicon Endo-Surgery, Inc.* (2005) 35 Cal.4th 797, 806-807.) A plaintiff has reason to discover a claim when he or she has reason at least to suspect a factual basis for its elements. (*Id.* at p. 807.) It is the suspicion of wrongdoing, rather than the specific legal elements of a particular claim that control. (*Ibid.*) A plaintiff is charged with presumptive knowledge at the moment he has notice or information of circumstances to put a reasonable person on inquiry, or has the opportunity to obtain knowledge from sources open to his investigation. (*Gutierrez v. Mofid* (1985) 39 Cal.3d 892, 896-897.) Thus, to plead delayed discovery, the alleged facts must show (1) the time and manner of discovery; and (2) the inability to have made earlier discovery despite reasonable diligence. (*Camsi IV v. Hunter Technology Corp.* (1991) 230 Cal.App.3d 1525, 1536.) Where only one conclusion may be drawn, this inquiry is a question of law, appropriate on demurrer. (*Nguyen v. Western Digital Corp.* (2014) 229 Cal.App.4th 1522, 1552.) Otherwise, once properly pled, the inquiry is one of fact. (*Ibid.*)

The material allegations of the 5AC are thus. In June 2017, CH was a participant in a health plan and was eligible for benefits. (5AC, ¶ 7.) CH, while participating in the plan, suffered an incident necessitating air medical transportation. (*Id.*, ¶¶ 8, 9.) Defendant, on the plan, acknowledged the necessity of air medical transport and issued authorization for coverage that was medically necessary. (*Id.*, ¶ 10.) CH was medically transported

[2] Plaintiff's opposition brief argues four years. However, the statute relied upon unambiguously begins "Within three years:" (Code Civ. Proc., § 338.)

nearly 6,000 miles from Zurich, Switzerland, to San Diego, California. (*Id.*, ¶ 11.) The air medical transportation service provider, Jet ICU, did not have a pre-negotiated contract with the plan. (*Id.*, ¶ 12.) Defendant should have known that Jet ICU would charge its usual rate for the service provided. (*Id.*, ¶ 13.) Jet ICU charged its usual rate for the service provided. (*Id.*, ¶ 14.) Defendant had all necessary information to adjudicate the claim. (*Id.*, ¶ 15.) Jet ICU requested payment for the services rendered. (*Id.*, ¶ 17.) Defendant issued only a partial payment. (*Id.*, ¶ 18.)

Based on the above allegations of the 5AC, reasonable minds may differ as to whether plaintiff was sufficiently on inquiry notice of intent, at the point defendant argues, when defendant failed to pay the amount requested. Accordingly, the issue of whether the action is timely is a factual dispute, inappropriate to resolve on demurrer. The 5AC otherwise alleges the time and manner of discovery. (5AC, ¶¶ 31, 41.) The 5AC suggests that the discovery could not have occurred prior to permitted discovery. (*Id.*, ¶ 41.) The demurrer as to the issue of the statute of limitation is overruled.

Sufficient Facts

Every person who receives any property that has been stolen or that has been obtained in any manner constituting theft, knowing the property to be so stolen or obtained, or who conceals, sells, withholds any property from the owner, knowing the property to be so stolen or obtained is liable for three times the amount of actual damages. (Pen. Code, § 496, subd. (c).) Thus, to state the cause of action, plaintiff needs to allege that (1) defendant concealed or withheld property that was stolen; (2) when defendant concealed or withheld that property, defendant knew that the property had been stolen; and (3) defendant had possession of the property. (*People v. Land* (1994) 30 Cal.App.4th 220, 223.) Although not a specific intent crime, a necessary element of the offense of receiving stolen property is actual knowledge of the stolen character of the property. (*People v. Rodriguez* (1986) 177 Cal.App.3d 174, 179.)

Defendant submits that, to prove a theft, the plaintiff must establish criminal intent on the part of the defendant beyond mere proof of nonperformance or actual falsity. (*Siry Investment, L.P. v. Farkhondehpour* (2022) 13 Cal.5th 333, 361.) This is to prevent ordinary commercial defaults from being transformed into theft. (*Ibid.*) If misrepresentations or unfulfilled promises are made innocently or inadvertently, they can no more form the basis for a prosecution for obtaining property by false pretenses than can an innocent breach of contract. (*Ibid.*) Relatedly, defendant further submits that what was allegedly withheld was not stolen to manifest the necessary intent of knowledge of holding stolen property.

Here, the 5AC sufficiently alleges theft by false pretense. The 5AC alleges that defendant approved the service without any limitation as to payment (5AC, ¶ 33); that defendant knew or should have anticipated that the service would approach or exceed $1.5 million, and still approved the service (*id.*, ¶ 34); that defendant sent approval without agreement to a fee structure and therefore approved the service with the intent to dispute or deny payment after (*id.*, ¶ 35); and that defendant did refuse to pay (*id.*, ¶ 36). Accordingly, the 5AC sufficiently alleges theft by false pretense. (*Switzer v. Wood* (2019) 35 Cal.App.5th 116, 126-128 [defining theft to include false or fraudulent

representation or pretense to defraud a person of money or labor].)[3] The 5AC thereafter alleges or reasonably infers facts that defendant withheld the stolen property (5AC, ¶ 37); that defendant knew the property had been stolen (*id.*, ¶ 38); that defendant had possession of the property (*see id.*, ¶¶ 34-38); and that defendant knew the property was stolen (*see id.*, ¶¶ 34-38.)

Though defendant urges that the claim amounts to nothing more than a commercial dispute (*Siry Investment, L.P. v. Farkhondehpour*, *supra*, 13 Cal.5th at p. 361), the claim is tempered with allegations of criminal intent (*id.* at pp. 361-362). Whether what defendant intended to not pay, or to pay only what it wanted, rises to knowledge and criminal intent is a question of fact.

For the above reasons, the demurrer to the second cause of action for receipt of stolen property is overruled as to sufficiency of facts alleged.

Motion to Strike

Defendant seeks to strike from the 5AC, paragraph 39 in its entirety, which pertains to allegations of settlement attempts to reduce the amount sought; and paragraph 41, lines 2 to 4, 8 to 10 ["Key documents – withheld by defendants for months despite plaintiff's repeated discovery demands – were not produced until March 29, 2024"; "The concealment and delay in production of this evidence was a substantial factor in delaying Plaintiff's discovery of the facts underlying its theft of services claim".] Defendant submits that these allegations must be struck as irrelevant, false or an improper matter inserted into a pleading. (Code Civ. Proc., § 436.)

Defendant submits that paragraph 39 is excludable evidence as settlement negotiation discussions. (Evid. Code, § 1152.) This is an evidentiary standard, not a pleading standard, which the parties implicitly acknowledge through their citations on the standard. Whether such evidence will be allowed to be argued to a fact-finder is a matter of trial.

Defendant submits that paragraph 39 is irrelevant. It is irrelevant. The allegation does not tend to support either cause of action for quantum meruit nor receipt of stolen property. Plaintiff suggests in opposition that the offer demonstrates defendant's strategic invocation of the guise of negotiation. However, the allegation of the 5AC was that Jet ICU offered to reduce its claim. (5AC, ¶ 39.) Nothing in the 5AC suggests that defendant had attempted to negotiate beyond what was paid out. The motion to strike paragraph 39 is granted.

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[3] Defendant relies on *Lacagnina v. Comprehend Systems, Inc.,* for the premise that labor does not fall within the meaning of stolen property. (*Lacagnina v. Comprehend Systems, Inc.* (2018) 25 Cal.App.5th 955, 969-971.) The holding was considered by the California Supreme Court, who instead adopted the interpretations of *Bell v. Feibush* (2013) 212 Cal.App.4th 1041, and *Switzer v. Wood*, *supra*. (*Siry Investment, L.P. v. Farkhondehpour*, supra, 13 Cal.5th at p. 361.) Penal Code section 496, subdivision (a) applies where property has been obtained in <u>any manner constituting theft</u>, as defined by Penal Code section 484. (*Ibid.*) This includes theft of labor. (Pen. Code, § 484.)

Defendant submits that the statements in paragraph 41 are improper and irrelevant. The statements of paragraph 41 address the claim of delayed discovery, which defendant expressly acknowledges. The allegations are therefore conceded as relevant to the 5AC.

Defendant suggests that the statements are conclusory. Lines 2 to 4 are not conclusory. It is a factual allegation that documents were withheld and not produced. Whether this allegation demonstrates that plaintiff could have sought the documents earlier than as indicated is a factual dispute. Lines 8 to 10 are conclusory. However, they are supported by other facts and context. (5AC, ¶¶ 10-19, 31-38, 41 [p. 11:2-4].) The motion to strike the applicable portions of paragraph 41 is denied.

Based on the above, the court finds that leave to amend as to paragraph 39 would not result in any further clarity of the matters defendant is already called to answer. Further, plaintiff does not seek leave to amend. Accordingly, the motion to strike paragraph 39 is granted without leave to amend.

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: DTT on 7/29/2025.
(Judge's initials) (Date)

(37)

Tentative Ruling

Re:	***Susan Davis v. Hyundai Motor America*** Superior Court Case No. 23CECG04428
Hearing Date:	July 31, 2025 (Dept. 501)
Motion:	by Defendant/Cross-Complainants Hyundai Motor America and Hyundai Motor Company to Compel Further Responses from Cross-Defendant Michael Bransby [4]1) During Deposition, 2) As to Special Interrogatories, Set One, 3) As to Request for Production of Documents, Set One, and 4) for Monetary Sanctions

Tentative Ruling:

To find the Hyundai Defendants' motions to compel untimely. The court lacks jurisdiction to decide these on their merits.

To grant monetary sanctions against the Hyundai Defendants in the amount of $1,755. Monetary sanctions are ordered to be paid to Bordin Semmer LLP within 30 calendar days from the date of service of the minute order by the clerk.

Explanation:

Timeliness for Motions to Compel Further Discovery Responses

Tolling functions merely to "stop the clock" on a statutory timeframe. As the California Supreme Court has explained, "[t]olling may be analogized to a clock that is stopped and then restarted. Whatever period of time that remained when the clock is stopped is available when the clock is restarted, that is, when the tolling period has ended." (*Woods v. Young* (1991) 53 Cal.3d 315, 326, *fn* 3.) For example, as explained by the court in *Woods v. Young*, if a plaintiff serves a pre-filing notice of intent to sue (which "stops the clock") on the last day of the limitations period, then she will only have one day to file her complaint once the tolling period ends and the clock "starts" again. (*Ibid.*)

Applying that here, a motion to compel further responses to interrogatories must be filed within 45 days after the responses were served (as extended based on the method of service, for instance extended five days when responses are mailed). If it is not filed within that time period, the right to compel further responses to the interrogatories is waived. (Code Civ. Proc., § 2030.300, subd. (c).) This time limit is jurisdictional, and a trial court acts in excess of its jurisdiction if it makes an order based on an untimely motion to compel. (*Vidal Sassoon, Inc. v. Superior Court* (1983) 147 Cal.App.3d 681, 685.)

[4] Each of the parties have used several spellings of this individual's name, to include Bransey, Bransley, and Bransby.

This court's local rule (rule 2.1.17) contains a provision which tolls the time limit from the time the Request for Pretrial Discovery Conference is filed until the time the court issues its order on that Request. (Local Rules, *supra*, rule 2.1.17, subd. (A)(5).) This time is further extended based on the manner in which the Order is served (generally by mail). (Code Civ. Proc., §§ 1010.6, subd. (a)(4), 1013, 1013a, subd. (4) [Statutory extensions for service includes service made by clerk of the court].)

The time limit for bringing a motion to compel further responses to written discovery requests is 45 days from the services of a verified response. (Code Civ. Proc., §§ 2030.300, subd. (c), 2031.310, subd. (c).) However, "objections need not be verified under oath." (*Golf & Tennis Pro Shop, Inc. v. Superior Court* (2022) 84 Cal.App.5th 127, 135.) Here, unverified, objection only responses were served on January 29, 2025. (Ball Decl., Exhs. 5 and 6.) Supplemental responses were provided on February 28, 2025, but these entirely omitted Special Interrogatory numbers 8 and 9 and Request for Production numbers 17 and 18. (Ball Decl., Exhs. 8 and 9.) Thus, they remained purely objection responses. Additionally, the parties agreed to extend the time for any motions to compel to April 1, 2025. (Serpik Decl., Exh. E.) Hyundai filed its Request for Pretrial Discovery Conference on March 27, 2025, and on April 4, 2025, the court denied the request, but granted permission to file motions to compel. (Order, April 4, 2025.) The court noted that the time was tolled by eight days. (Ibid.) Based on the agreement to an extension of time to file motions to compel to April 1, 2025, tolling eight days, and adding five days for service by mail of the order by the clerk, this would put the time for any motions to compel as to the discovery responses at April 14, 2025. The motions were not filed until July 8, 2025. As such, the motions were untimely. Thus, the court lacks jurisdiction to decide these on their merits.

Timeliness for Motion to Compel Further Responses During Deposition

The time limit for bringing a motion to compel answers or produce documents during deposition is 60 days from the completion of the record of the deposition. (Code Civ. Proc., § 2025.480, subd. (b).) There is a lack of clarity regarding whether a transcript is complete when the reporter sends notice that the transcript is available or after expiration of the time to sign or correct the transcript. "The safer course is to use the date of the reporter's notice." (Weil & Brown, Cal. Prac. Guide: Civ. Proc. Before Trial (TRG June 2025) § 8.801.) The deposition at issue here took place on March 3, 2025, and the reporter certified it on March 4, 2025. (Ball Decl., Exh. 10.) These are the only dates with which the parties have produced any evidence. There is no indication that any portions of the deposition were altered thereafter. Hyundai filed its Request for Pretrial Discovery Conference on March 27, 2025, and on April 4, 2025, the court denied the request, but granted permission to file motions to compel. (Order, April 4, 2025.) The Court noted that the time was tolled by eight days. (Ibid.) Utilizing the March 4, 2025, date, adding eight days for tolling, and five days for the clerk's service by mail of the order, this would put the time for any motions to compel as to further deposition responses at May 16, 2025. The motion was not filed until June 12, 2025. As such, the motion is untimely. Thus, the court lacks jurisdiction to decide it on the merits.

Sanctions

Code of Civil Procedure sections 2025.480, subdivision (j), and 2033.290, subdivision (d), provide for sanctions for unsuccessfully making or opposing a motion to compel further responses, unless the court finds substantial justification or that other circumstances make imposing a sanction unjust. Here, the court is finding that all of Hyundai's motions were untimely made. As such, the court is inclined to award monetary sanctions in favor of Cross-Defendant Michael Bransby. Counsel asserts that he bills at $270 per hour and has spent 6.5 hours in preparing the oppositions to these motions. (Serpik Decl., ¶¶ 17-18.) Counsel anticipates 1.5 additional hours in order to review the replies, prepare for hearing, and attend any hearing. (Ibid.) The court is inclined to award $1,755 in monetary sanctions. The court will consider additional sanctions in the event a hearing goes forward.

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: DTT on 7/29/2025.
(Judge's initials) (Date)

(36)

Tentative Ruling

Re: ***RJP Latchkey, LLC v. Latchkey Pioneers, LLC, et al.***
Superior Court Case No. 22CECG03368

Hearing Date: July 31, 2025 (Dept. 501)

Motion: by Defendants: (1) to Quash Deposition Subpoena Issued by Plaintiff to North Bay Credit Union; and (2) to Compel Plaintiff's Further Response to Second Request for Production of Documents

Tentative Ruling:

To deny the motion to quash, without prejudice.

To grant the motion to compel plaintiff RJP Latchkey, LLC's ("plaintiff") further response to defendant Latchkey Pioneers, LLC's Second Request for Production of Documents, Request Nos. 7, 9 and 12-16, and to deny the motion to compel a further response to Request Nos. 1-6 and 17. (Code Civ. Proc., § 2031.310, subd. (b)(1).) To overrule and strike the preliminary statement, general responses, and general objections in plaintiff's responses. (Code Civ. Proc., § 2031.210, subd. (a).)

To grant and impose monetary sanctions in the amount of $4,810 against plaintiff payable within 20 days of the date of this order, with the time to run from the service of this minute order by the clerk. (Code Civ. Proc., § 2031.300, subd. (c).)

Plaintiff shall serve further verified responses on defendant Latchkey Pioneers, LLC's ("LP") within 20 days from the date of service of the order by the clerk.

Explanation:

Motion to Quash

Defendants LP, Claremont Capital Partners LLC ("CCP") and Casey Dalton ("Dalton") seek to quash a deposition subpoena served by plaintiff on third-party North Bay Credit Union ("NBCU") for production of bank records. However, the court is unable to locate the deposition subpoena within the moving papers or any of the supporting documents. Although the papers provide that the document is attached as Exhibit I to the declaration of defense counsel, Jeff Augustini, upon review, the document attached as Exhibit I is a proof of service filed by plaintiff's counsel on August 30, 2024, regarding a prior motion to compel NCBU's compliance with another deposition subpoena. This issue is further exacerbated by the absence of a separate statement, which is ordinarily required in such a motion to quash. (Cal. Rules of Court, rule 3.1345(a)(5).) In the absence of the actual terms of the deposition subpoena, the court is unable to evaluate the nature of the claims and lacks the pertinent information to rule on the instant motion to quash. Accordingly, the motion is denied, without prejudice.

Compel Further

LP moves to compel plaintiff's further responses to LP's second set of document production, Request for Production Request Nos. 1-7, 9 and 11-17, to overrule and strike plaintiff's preliminary statement, general responses, general objections, and for monetary sanctions.

A motion to compel must "set forth specific facts showing good cause justifying the discovery sought by the inspection demand." (Code Civ. Proc., § 2031.310, subd. (b)(1).) Ordinarily, that burden is met simply by a fact-specific showing of relevance. (*Glenfed Dev. Corp. v. Superior Court* (1997) 53 Cal.App.4th 1113, 1117.) If "good cause" is shown by the moving party, the burden is then on the responding party to justify any objections made to document disclosure. (*Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98.)

Since an opposition is not filed, there has been no attempt to justify any of plaintiff's objections against document production. Accordingly, this ruling only addresses whether defendants have met their burden in establishing good cause for the discovery demand.

Preliminary Statement, General Responses, General Objections

Plaintiff's preliminary statement, general responses, and general objections are overruled and stricken. "The party to whom a demand for inspection. . . has been directed shall respond *separately* to each item or category of items. . ." (Code Civ. Proc., § 2031.210, subd. (a), emphasis added.)

Request Nos. 1-5 and 17

Request Nos. 1-5 and 17 seek the financial information of plaintiff and/or two of its principals, Ron Russo and John O'Rourke. Defendants indicate that there is good cause for the production of this information, since plaintiff has alleged that defendant Dalton has utilized the corporate financial accounts of the other entity defendants for personal use and benefit, and/or has otherwise alleged commingling on defendants' part. Defendants argue that they require the information to show that Mr. Russo and Mr. O'Rourke have also routinely placed personal charges on plaintiff's corporate accounts in order to disprove plaintiff's claims against them. However, this information is not relevant to defendants' defense, as a showing of plaintiff's similar behavior or any mutuality of conduct is not a defense against the theory of piercing the corporate veil. Further, plaintiff's conduct is not at issue in these proceedings where defendants have not alleged any cause of action against plaintiff.

Request No. 6

Request No. 6 seeks all documents that show all persons or entities that have paid any portion of the legal expenses incurred in this case, and the amounts they have paid to date. Defendants argue that they require this information since plaintiff is seeking recovery of attorneys' fees and plaintiff would not be entitled to recover any fees that were not paid by plaintiff. Defendants do not cite to any authority to support this

contention. Absent authority to the contrary, the court does not find such information to be relevant to these proceedings.

Request Nos. 7, 9, 13 and 16 and Request Nos. 12, 14 and 15

Request Nos. 7, 9, 13 and 16 seeks documents pertaining to the valuations and appraisals of value on the property securing the note. Request Nos. 12, 14 and 15 seek communications between Mr. Russo and certain individual retirement accounts administrators relating to plaintiff, Defendants, the property securing the note, the note, the deed of trust, the participation agreement, and/or this lawsuit.

The former requests are undoubtedly relevant, as they seek information pertaining to the valuation of the property securing the note, of which defendants are alleged to have defaulted on. As to the latter requests, defendants contend that they believe the communications will contain information showing that plaintiff has improperly declared LP in default for ulterior motives. While there is little evidence to support these motives, the evidence is relevant to defendants' defense if it is proven that plaintiff improperly declared LP to be in default of the loan. Therefore, the court finds that defendants have met their burden in showing that there is good cause for the production of Request Nos. 7, 9 and 12-16.

Monetary Sanctions

Sanctions are mandatory unless the court finds that the party acted "with substantial justification" or other circumstances that would render sanctions "unjust." (Code Civ. Proc., § 2031.300, subd. (c).) Since an opposition was not filed, no facts were presented to warrant finding sanctions unjust. The court finds it reasonable to allow only 10 hours for the preparation of the moving papers at the hourly rate of $475, provided by counsel, and $60 for the cost of filing the motion to compel. Therefore, the total amount of sanctions awarded is $4,810.

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: DTT on 7/29/2025.
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***In re Sofia Aleman Rojas***
Superior Court Case No. 25CECG02289

Hearing Date: July 31, 2025 (Dept. 501)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant the Petition. Proposed Orders to be signed. No appearances necessary. The court sets a status conference for Tuesday, November 18, 2025, at 3:30 p.m., in Department 501, for confirmation of deposit of the minors' funds into the blocked accounts. If petitioner files the Acknowledgment of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) at least five court days before the hearing, the status conference will come off calendar.

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: DTT on 7/30/2025.
(Judge's initials) (Date)