

Tentative Rulings for February 7, 2023
Department 403

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

22CECG01343 *Garduno v. Cobb* is continued to Thursday, February 16, 2023 at
3:30 p.m. in Department 403

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Tentative Ruling

Re: ***Aguilar v. Steitz & Der Manuel, Inc.***
Superior Court Case No. 21CECG02173

Hearing Date: February 7, 2023 (Dept. 403)

Motions: by Plaintiff for an Order Compelling Defendant Erik Scott's Responses to Form Interrogatories, set one and Requests for Production of Documents, set one; Sanctions

Tentative Ruling:

To grant the motions unless proof that Defendant Scott's responses have been served to Plaintiff before the hearing on this motion. (Code Civ. Proc. §§ 2030.290, subd. (b) and 2031.300, subd. (b).)

To impose monetary sanctions in favor of Plaintiff Noe Aguilar and against Defendant Erik Scott. (Code Civ. Proc. §§ 2030.290, subd. (c) and 2031.300, subd. (c).) Defendant is ordered to pay monetary sanctions in the amount of \$600 to the Grossman Law Offices, APLC law firm within 30 days of the clerk's service of the minute order.

Explanation:

A party that fails to serve a timely response to a discovery request waives "any objection" to the request. (Code Civ. Proc. §§ 2030.290, subd. (a), 2031.300, subd. (a).) The propounding party may move for an order compelling a party to respond to the discovery request. (Code Civ. Proc. §§ 2030.290, subd. (b), 2031.300, subd. (b).)

Where responses are served after the motion is filed, the motion to compel may still properly be heard. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 409.) Unless the propounding party takes the matter off calendar, the court may determine whether the responses are legally sufficient, and award sanctions for the failure to respond on time. (*Ibid.*)

In the case at bench, Respondent served form interrogatories, set one and request for production of documents, set one, on Defendant Erik Scott, in pro per, April 13, 2022 by mail. (Kreit Decl. ¶ 2, Exh. A and B.) Counsel for plaintiff corresponded with counsel for Defendant Steitz & Der Manuel, Inc. on August 17, 2022 and was advised Ms. Konczal would be representing Mr. Scott once he signed a substitution of attorney. (*Id.* at ¶ 4, Exh. C.) Ms. Konczal was advised of the outstanding discovery in further email correspondence on September 2, 2022 but confirmed she had not yet been substituted as counsel for Mr. Scott. (*Id.* at ¶ 5, Exh. D.) Counsel for plaintiff again emailed on September 22, 2022 and October 14, 2022 to inquire regarding Mr. Scott's representation and discovery responses and was advised he remained in pro per. (*Id.* at ¶¶ 6-7, Exhs. E and F.) Counsel for plaintiff filed the instant motion on November 1, 2022.

