

**Tentative Rulings for April 15, 2025**  
**Department 502**

**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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(Tentative Rulings begin at the next page)

## **Tentative Rulings for Department 502**

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(20)

**Tentative Ruling**

Re: ***In Re: Imidacloprid Cases***  
Superior Court Case No. 22JCCP05241

Hearing Date: April 15, 2025 (Dept. 502)

Motion: (1) By Nutrien Ag Solutions, Inc., Loveland Products, Inc., and Steve Mendonca to Compel Compliance with Subpoena by Non-Party Munger Brothers, LLC

(2) By Nutrien Ag Solutions, Inc., for Leave to File Cross-Complaint

**Tentative Ruling:**

(1) Motion to Compel Compliance with Subpoena – to grant and order Munger Brothers, LLC, to produce documents, without objections, responsive to the Deposition Subpoena for Production of Business Records ("Subpoena"), issued on December 16, 2021. Documents shall be produced within 20 days of service of the order by the clerk.

(2) Motion for Leave to File Cross-Complaint – to grant. Nutrien shall file the cross-complaint within five days of service of the order by the clerk.

**Explanation:**

Motion to Compel Compliance with Subpoena

Nutrien Ag Solutions, Inc. ("Nutrien"), Loveland Products, Inc., and Steve Mendonca ("Nutrien defendants") move to compel non-party Munger Brothers, LLC ("Munger") to comply with a subpoena issued in 2021. The subpoena was issued in connection with an arbitration proceeding related to coordinated case *Eriksson, LLC v. Loveland Products, Inc.*, Case No. 20CECG00766.

Nutrien's counsel informs the court that Munger has no objection to producing documents pursuant to the subpoena, only requires a court order to produce the documents due to a settlement agreement that it reached with plaintiff Eriksson, LLC, which contains a confidentiality provision. Munger has filed nothing in response to the motion. However, the court cannot treat the motion as unopposed by Munger.

However, "[a] written notice and all moving papers supporting a motion to compel an answer to a deposition question or to compel production of a document or tangible thing from a nonparty deponent must be **personally served** on the nonparty deponent unless the nonparty deponent agrees to accept service by mail or electronic service at an address or electronic service address specified on the deposition record." (Cal. Rules of Court, Rule 3.1346, emphasis added.) Here, the proof of service merely states that Munger's counsel was served by email and mail, without any showing that Munger agreed to accept service by these means. Since there has been no response by Munger to this motion, the court cannot consider the motion unopposed by Munger. For that reason, the motion must be denied without prejudice.

The court notes that Eriksson's opposition to the motion contends that the motion is premature because Munger should first be given an opportunity to comply with the settlement agreement's procedure of presenting documents first to plaintiff for review. Plaintiff contends that the motion may be premature if plaintiff does not seek to prevent production of documents. Neither party, Nutrien or Eriksson, provides any authority to the effect that parties can by private agreement completely alter the Code of Civil Procedure regarding discovery. Neither side cites to any authority regarding the timing or right of a party involved in the lawsuit to object to documents sought from a nonparty. In the context of subpoenas seeking records of a consumer or employee, and objection by the consumer or employee must be served within 20 days after service of the written objections. (Code Civ. Proc., §§ 1985.3, subd. (g), 1985.6, subd. (f)(4).) Plaintiff may not exactly be a consumer or employee, but it claims that the documents to be produced may be confidential. Yet Eriksson apparently never submitted any objection to the subpoena, though it now opposes the motion. Nor does it appear that Eriksson has at any time previously sought to review the documents to be produced to determine if it has any objection. An objection probably should have been made promptly after the subpoena was issued (though the court also notes that the proof of service attached to the subpoena does not show service on Eriksson).

In any future motion to compel compliance with the subpoena, the parties should address these procedural issues, including Eriksson's review of documents prior to production.

#### Motion for Leave to File Cross-Complaint

In the context of *Horizon Nut LLC v. Bayer CropScience, L.P., et al.*, Case No. 23CECG03129, Nutrien seeks leave to file a cross-complaint seeking equitable indemnification from Brian Watte,

A defendant may file a cross-complaint against third parties if the claims asserted against it and the claims it asserts against the third parties arise out of the same transaction. (Code Civ. Proc., § 428.10, subd. (b)(1).) A defendant must obtain leave of court to file a cross-complaint after the trial date is set. (Code Civ. Proc., § 428.50, subd. (c).) "Leave may be granted in the interest of justice at any time during the course of the action." (*Id.*, subd. (c).)

"...[D]efendants may cross-complain against any person from whom they seek equitable indemnity. Defendants need only allege that the harm for which they are being sued is attributable, at least in part, to the cross-defendant." (Weil & Brown, *Cal. Practice Guide: Civ. Proc. Before Trial* (TRG 2022) ¶ 6:529.) "Cross-complaints for comparative equitable indemnity would appear virtually always transactionally related to the main action." (*Time for Living, Inc. v. Guy Hatfield* (1991) 230 Cal.App.3d 30, 38.)

Here, there is no dispute about whether the cross-claim against Watte arises from the same transaction. Watte opposes the motion, contending that it is untimely, primarily because trial is less than three months away set for 7/7/25.

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: KCK on 04/11/25  
(Judge's initials) (Date)

(34)

### Tentative Ruling

Re: ***Maria Gonzalez v. Walter Richie***  
Superior Court Case No. 24CECG01016

Hearing Date: April 15, 2025 (Dept. 502)

Motion: by Plaintiff to Compel Defendant Evolve Healthcare, Inc.'s Further Responses to Discovery

### Tentative Ruling:

To continue the hearing to Tuesday, December 16, 2025 at 3:30 p.m. in Department 502, due to the stay of this action as to Defendant Evolve Healthcare, Inc. The opposition and reply due dates shall run from the new hearing date.

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: KCK on 04/11/25.  
(Judge's initials) (Date)

(36)

**Tentative Ruling**

Re: ***The Dentists Insurance Company v. Legacy Stone Works, Inc.***  
Superior Court Case No. 24CECG03605

Hearing Date: April 15, 2025 (Dept. 502)

Motion: Application of Jodi E. Barrett to Appear *Pro Hac Vice* on  
Behalf of Defendant Tyco Fire Products, LP

**Tentative Ruling:**

To continue the matter to Wednesday, May 28, 2025 at 3:30 p.m. in Department 502 to allow the applicant to correct the defects outlined below. All papers must be submitted no later than Wednesday, May 21, 2025.

**Explanation:**

The application cannot be granted at this time for the following reasons:

Service

"A person desiring to appear as counsel pro hac vice in a superior court must file with the court a verified application together with proof of service by mail in accordance with Code of Civil Procedure section 1013a of a copy of the application and of the notice of hearing of the application on all parties who have appeared in the cause and on the State Bar of California at its San Francisco office. The notice of hearing must be given at the time prescribed in Code of Civil Procedure section 1005 unless the court has prescribed a shorter period." (Cal. Rules of Court, rule 9.40(c)(1).)

The proof of service attached to the applicant and supporting papers only indicate that plaintiff's counsel was served by electronic service. There is no indication that any other appearing party was served with notice. Nor is there any indication that the State Bar of California was served. Local counsel's declaration providing that he will serve this application on all parties and the State Bar of California is insufficient, as service to all parties and the State Bar of California must be provided in accordance with the time prescribed in Code of Civil Procedure section 1005.

However, rather than deny the application for faulty service, it appears appropriate to continue the matter to allow for additional notice. Such notice must be made in accordance with Code of Civil Procedure section 1005 and account for any extension of time for the manner of service. Applicant is directed to file a new proof of service reflecting that all appearing parties, as well as the State Bar of California, were served with notice of this application and a copy of the application papers.

Application Fee

“An applicant for permission to appear as counsel *pro hac vice* under [California Rules of Court, rule 9.40] must pay a reasonable fee not exceeding \$50 to the State Bar of California. . .” (*Id.*, subd. (e), emphasis added.)

There is no indication of whether the applicant has paid the requisite application fee to the State Bar of California. Local counsel's declaration that the fee will be paid is insufficient. The applicant must submit a supplemental declaration providing proof of payment of the application fee.

## Good Standing

The application must state that the applicant is a licensee in good standing in the courts to which the applicant has been admitted to practice. (Cal. Rules of Court, rule 9.40(d)(3).)

The applicant's declaration does not explicitly state whether or not she is in good standing with the courts to which she has been admitted to practice. The applicant must include a statement indicating whether is in good standing with all of these courts in her supplemental declaration.

Accordingly, the applicant cannot be granted at this time, and the court continues the matter to May 28, 2025 to allow the applicant an opportunity to correct the defects. All papers must be filed no later than on May 21, 2025.

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: KCK on 04/11/25.  
(Judge's initials) (Date)