

Tentative Rulings for September 28, 2022
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.

20CECG01450 *Embree Asset Group, Inc. v. City of Huron* is continued to November 2, 2022 at 3:30 p.m. in Department 403

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Tentative Ruling

Re: **James Aguirre v. Western Grain & Milling, Inc.**
Superior Court Case No. 19CECG04215

Hearing Date: September 28, 2022 (Dept. 403)

Motion: by Non-party BAART Behavioral Health Services, Inc. for a Protective Order

Tentative Ruling:

To deny. (Code Civ. Proc. § 2025.420, subd. (b).)

Explanation:

“Before, during, or after a deposition, any party, any deponent, or any other affected natural person or organization may promptly move for a protective order. The motion shall be accompanied by a meet and confer declaration under Section 2016.040.” (Code Civ. Proc., § 2025.420, subd. (a).)

“The court, for good cause shown, may make any order that justice requires to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions: [¶] (1) That the deposition not be taken at all. [¶] (6) That the deponent's testimony be taken by written, instead of oral, examination.” (Code Civ. Proc., § 2025.420, subd. (b).)

“Discovery procedures are generally less onerous for strangers to the litigation.” (*Monarch Healthcare v. Superior Court* (2000) 78 Cal.App.4th 1282, 1289.) “ ‘While all discovery devices are available against a party, only deposition subpoenas can be directed to a nonparty.... [¶] The distinction between parties and nonparties reflects the notion that, by engaging in litigation, the parties should be subject to the full panoply of discovery devices, while nonparty witnesses should be somewhat protected from the burdensome demands of litigation.’ ” (Id. at p. 1290.) Nonparty discovery is subject to restriction if it is “unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive.” (Code Civ. Proc. § 2019.030, subd. (a)(1).) “[W]hen dealing with an entity which is not even a party to the litigation, the court should attempt to structure discovery in a manner which is least burdensome to such an entity.” (*Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 222.)

The decision of whether to issue a protective order, and what relief to grant pursuant to such an order, is generally left to the discretion for the trial court. (*Coalition Against Police Abuse v. Superior Court* (1985) 170 Cal.App.3d 888, 904-905.)

In the case at bench, non-party deponent BAART Behavioral Health Services, Inc. moves for a protective order to prevent defendants from taking the deposition of its

