

Tentative Rulings for July 14, 2021
Department 502

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.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 502

Begin at the next page

(30)

Tentative Ruling

Re: **Quality Fresh Farms, Inc. v. Sal Parra**
Superior Court Case No. 18CECG01340

Hearing Date: July 14, 2021 (Dept. 502)

Motion: Motion to Compel Subpoenaed Records from Third-Party Fresno
Madera Farm Credit, by Defendant Burford Family Farming Co., L.P.

Tentative Ruling:

To deny.

Explanation:

A deposition subpoena for business records is enforceable by a motion to compel compliance. (Code Civ. Proc., § 1987.1.) However, a written notice and all moving papers supporting a motion 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.) The deposition subpoena itself, must also be served on the deponent or records custodian. Personal service is required, *not* service by mail. (Code Civ. Proc., § 2020.220, subd. (b)-(c).)

Defendant Burford seeks an order compelling nonparty deponent Fresno Madera Farm Credit to immediately produce all responsive documents in its possession. However, there is no evidence that moving papers were served on the deponent, and it is unclear whether the subpoena itself was personally served.

Accordingly, the instant motion is denied.

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: RTM on 7/12/2021.
(Judge's initials) (Date)

(24)

Tentative Ruling

Re: ***Corgiat v. Petco Animal Supplies, Inc.***
Superior Court Case No. 18CECG02833

Hearing Date: July 14, 2021 (Dept. 502)

Motion: Plaintiffs' Motions to Compel Further Responses to 1) Special Interrogatories, Set One and 2) Request for Production of Documents, Set Two, and for Monetary Sanctions

Tentative Ruling:

To grant plaintiffs' motion, and to deny defendant's request that this motion be stayed pending its motion for protective order. Defendant Petco Animal Supplies, Inc. ("Petco") shall provide further responses, without objections to special interrogatories, set one, numbers 1 through 6, and to request for production of documents, set two, numbers 18 through 20. (Code Civ. Proc., §§ 2030.300; 2031.310.) Defendant Petco shall serve its responses no later than 20 court days from the date of this order, with the time to run from the service of this minute order by the clerk.

To grant monetary sanctions against defendant in the amount of \$1,745.00 if a hearing is not required, or \$1,995.00 if a hearing is required, payable within 30 days from the date of issuance of this order, with the time to run from the service of this minute order by the clerk.

Explanation:

In the first place, the responses were untimely, resulting in the waiver of the right to object. (Code Civ. Proc., §§ 2030.290, 2031.300.) No relief from waiver is permissible here because no admissible evidence of excusable neglect was provided.

Further, defendant fails to persuade the court that the insurance information sought is not discoverable. The rule of "horizontal exhaustion" relates to an insurer's duty to defend and indemnify. Defendant cited no authority for the proposition that it is also related to the discoverability of insurance information and that the rule outweighs clearly applicable law. (See Code Civ. Proc., § 2017.210 [Allowing discovery of "any agreement under which any insurance carrier may be liable [...]."].)

The court does not find the requests to be unduly burdensome. Plaintiffs are not seeking discovery of each and every insurance policy, of any type, defendant carries, but just those policies that would provide coverage for the subject motor vehicle accident that occurred in California. It also strains credulity to suppose that disclosure of all such insurance policies will cause plaintiffs' counsel to be so unreasonable that no pretrial settlement will be possible. Furthermore, counsel's arguments alone are insufficient to sustain a finding that disclosure of the policies will implicate defendant's trade secrets. Even so, the parties are free to fashion an appropriate stipulated protective

order that would prevent public disclosure of the information, and the court will sign such an order if presented.

Monetary sanctions are warranted here. (Code Civ. Proc. §§2030.300, subd. (d), 2031.310, subd. (h).) The court will allow sanctions calculated based on 6.5 hours at Mr. Kalajian's reasonable hourly rate of \$250.00, plus the filing fee of \$120.00 (for two motions, based on the two types of discovery at issue), for a total amount of \$1,745.00

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: RTM **on** 7/12/21.
(Judge's initials) (Date)