

Tentative Rulings for September 22, 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

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(03)

Tentative Ruling

Re: **River Park Properties II v. Kwatra**
Superior Court Case No. 20CECG02239

Hearing Date: September 22, 2021 (Dept. 502)

Motion: Plaintiff's Motions to Compel Defendant Seema Kwatra to Provide Initial Responses to Form Interrogatories, Set One, and to Deem Requests for Admissions to be Admitted, and for Monetary Sanctions

Plaintiff's Motions to Compel Defendant Saaniya Kwatra to Provide Initial Responses to Form Interrogatories, Set One, and to Deem Requests for Admissions to be Admitted, and for Monetary Sanctions

Tentative Ruling:

To grant plaintiff's motions to compel defendants Seema Kwatra and Sanniya Kwatra to provide initial responses to form interrogatories, set one. (Code Civ. Proc. § 2030.290.) Defendants shall serve verified responses without objections to the form interrogatories within 10 days of the date of service of this order. Each defendant shall also pay sanctions of \$410 to plaintiff's counsel within 30 days of the date of service of this order. (*Ibid.*)

To grant plaintiff's motions to deem defendants Seema Kwatra and Saaniya Kwatra to have admitted the truth of the matters in the requests for admissions, set one. (Code Civ. Proc. § 2033.280.) Each defendant shall also pay additional sanctions of \$410 to plaintiff's counsel within 30 days of the date of service of this order. (*Ibid.*)

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 9/14/2021.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Richard Ruiz v. Marc C. Anderson, et al.***
Superior Court Case No. 19CECG01800

Hearing Date: September 22, 2021 (Dept. 502)

Motion: Plaintiff's Motion to Deem Request for Admissions Admitted by Defendants and for Monetary Sanctions

Tentative Ruling:

To grant Plaintiff Richard Ruiz's motion to deem request for admissions, set two admitted by Defendant Marc C. Anderson unless responses are served before the hearing on this motion. (Code Civ. Proc. § 2033.280(c).)

To grant Plaintiff Richard Ruiz's motion to deem request for admissions, set one admitted by Defendant Bethany Coelho Anderson unless responses are served before the hearing on this motion. (Code Civ. Proc. § 2033.280(c).)

To impose monetary sanctions in favor of Plaintiff Richard Ruiz, and against Defendants Marc C. Anderson and Bethany Coelho Anderson. (Code Civ. Proc. § 2033.280(c).) Defendants are ordered to pay \$810.00 in sanctions to the Dias Hall, Inc. law firm, within 30 days of the clerk's service of the minute order.

Explanation:

Where a party fails to timely respond to a propounding party's request for admissions, the court must grant the propounding party's motion requesting that matters be deemed admitted, unless it finds that the party to whom the requests were directed has served, prior to the hearing on the motion, a proposed response that is substantially in compliance with Code of Civil Procedure section 2033.220. (Code Civ. Proc. §2033.280(c); see also *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 778.) "Substantial compliance" means compliance with respect to " 'every reasonable objective of the statute.' [Citation.]" (*Id.* at p. 779.) Where the responding party serves its responses before the hearing, the court "has no discretion but to deny the motion." (*Id.* at p. 776.)

In the case at bench, there is no evidence that responses have been served since the filing of this motion. Unless responses are served before the hearing, the motion is granted and the requests are deemed admitted.

Sanctions

The court must impose a monetary sanction against the party or attorney, or both, whose failure to respond necessitated the motion to deem matters admitted. (Code Civ. Proc. §2033.280(c).)

Plaintiff is seeking \$2,460 in sanctions for 8 hours of time spent on the motion and in anticipation of an opposition and hearing, and the \$60 filing fee. (Dias Decl. ¶10.) Plaintiff's request for sanctions is granted for the reduced amount of two hours of time and the filing fee. Defendants Marc C. Anderson and Bethany Coelho Anderson are ordered to pay \$810.00 in sanctions to the Dias Hall, Inc. law firm, within 30 days of the clerk's service of the minute order.

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** 9/14/21.
(Judge's initials) (Date)

(30)

Tentative Ruling

Re: ***River Park Properties II v. Seema Kwatra***
Superior Court Case No. 20CECG02263

Hearing Date: September 22, 2021 (Dept. 502)

Motions (x2): (1) Motion to Compel Responses to Form Interrogatories, Set One against Defendant Seema Kwatra and for Related Sanctions, by Plaintiff

(2) Motion to Deem Admissions, Set One Admitted against Defendant Seema Kwatra and for Related Sanctions, by Plaintiff

Tentative Ruling:

To grant both motions. To impose monetary sanctions against defendant Seema Kwatra, in the amount of \$820. (Code Civ. Proc., §§ 2030.290, subd. (c), 2033.280, subd. (c).) Sanctions must be paid by defendant Seema Kwatra, to the Law Office of Gregory L. Altounian, within 30 days after service of this order. If oral argument is requested, the court will consider the additional costs incurred for plaintiff.

Explanation:

Motion to Compel Responses to Interrogatories

Code of Civil Procedure section 2030.290, subdivision (b) provides for a motion to compel where the opposing party fails to respond to written interrogatories. Further, when a party has not responded to interrogatories all a moving party need show is that a set of interrogatories was properly served on the opposing party, that the time to respond has expired, and that a response has not been served. (*Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 905-906.) Unresponsive parties waive all objections, including privilege and work product. (Code Civ. Proc., § 2030.290, subd. (a).)

The motion is granted. Plaintiff's interrogatories seek permissible information. Plaintiff seeks general information about defendant as well as information regarding insurance, witnesses, defenses, and any relevant contracts. (Decl. Altounian, Ex. 1.) These are proper for discovery as they are "relevant to the subject matter involved..." (Code Civ. Proc., § 2017.010.) Nevertheless, defendant has waived all objections by failing to respond.

Procedural requirements are also met. Defendant was properly served with the request for discovery on February 12, 2021. (Decl. Altounian, ¶ 2 & Ex. 1 [POS].) Responses were due by March 19, 2021 (30 days [Code Civ. Proc., § 2030.260] + 5 days for U.S. mail [Code Civ. Proc., § 1013]). The deadline has passed without compliance. (Decl. Altounian, ¶ 4.)

Motion to Deem Admissions Admitted

Where a party fails to timely respond to a propounding party's RFAs, the court must grant the propounding party's motion requesting that matters be deemed admitted, unless it finds that the party to whom the requests were directed has served, prior to the hearing on the motion, a proposed response that is substantially in compliance with Code of Civil Procedure section 2033.220. (Code Civ. Proc., § 2033.280, subd. (c); *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 778.) Also, where a responding party fails to timely provide its responses, that party waives any objections to the requests. (Code Civ. Proc., § 2033.280, subd. (a).) Matters admitted are conclusively established against the party making the admissions. (Code Civ. Proc. § 2033.410, subd. (a).)

The court intends to grant the motion. Plaintiff's requests for admission are relevant. The requests are designed to establish the elements of plaintiff's claims. (Decl. Altounian, Ex. 1.) These are proper for discovery as they are "relevant to the subject matter involved..." (Code Civ. Proc., § 2017.010.) And again, defendant has waived all objections by failing to respond.

Procedural requirements are also met. On February 12, 2021, plaintiff properly propounded the subject requests for admissions upon defendant via U.S. mail. (Decl. Altounian, ¶ 2 & Ex. 1 [POS].) Responses were due by March 19, 2021 (30 days [Code Civ. Proc., § 2033.250] + 5 days for U.S. mail [Code Civ. Proc., § 1013]). The deadline has passed without compliance. (Decl. Altounian, ¶ 4.)

Pursuant to California Rules of Court, rule 3.1312 and Code of Civil Procedure section 1019.5(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** 9/20/2021 .
(Judge's initials) (Date)