

**Tentative Rulings and Resolution Review Hearings  
May 6, 2024  
Department 64 (formerly Department 3)**

**This Court does not follow the procedures described in Rules of Court, Rule 3.1308(a). Tentative rulings appear on the calendar outside the court department on the date of the hearing, pursuant to California Rule of Court, Rule 3.1308(b)(1). As a courtesy to counsel, the court also posts tentative rulings no less than 12 hours in advance of the time set for hearing. The rulings are posted on the court’s website ([www.shasta.courts.ca.gov](http://www.shasta.courts.ca.gov)) and are available by clicking on the “Tentative Rulings” link. A party is not required to give notice to the Court or other parties of intent to appear to present argument.**

**Per Local Rule 5.13, telephonic appearances through CourtCall (888-882-6878; [courtcall.com](http://courtcall.com)) are generally permitted on the Law & Motion and Resolution Review calendars and can be made without leave of Court.**

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**8:30 a.m. Law and Motion**  
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**J.B. VS. NORTH VALLEY BAPTIST CHURCH ET AL.  
Case Number: 22CV-0200169**

**Tentative Ruling on Motion for Terminating or Issue Sanctions:** Plaintiff J.B. moves for an order imposing terminating sanctions against Defendant Bonna Johnson pursuant to Code of Civil Procedure section 2023.030(d)(1), (4). The Motion is made on the grounds that Johnson is in purposeful violation of this Court’s prior Orders compelling responses to discovery. Alternatively, Plaintiff seeks an order of issue sanctions pursuant to CCP § 2023.030(b). Plaintiff also seeks sanctions of \$1,350 pursuant to CCP § 2023.030(a) and 2030.290(c). The Motion is unopposed.

On March 22, 2023, Plaintiff served Form Interrogatories, Special Interrogatories, Requests for Production of Documents, and Requests for Admissions to Defendant Bonna Johnson. Her deadline to respond was April 26, 2023. She did not serve responses or request any extensions. On September 13, 2023, Plaintiff filled three motions to compel responses to the Form Interrogatories, Special Interrogatories, and Requests for Production. Plaintiff also moved to deem facts admitted due to Defendant’s failure to respond to the Requests for Admission. The Court granted the motions on October 30, 2023. The Court also imposed monetary sanctions in the amount of \$600 for each motion to compel, and \$750 for Plaintiff’s motion to deem facts admitted. In total, \$2,550 in sanctions were issued against Defendant Johnson. The Court ordered Defendant to respond within 20 days of the Order. Plaintiff has not received any responses to date. Defendant has not paid the sanctions.

Merits: Misuses of the discovery process include disobeying a court order to provide discovery. CCP § 2023.010(g). The court may impose sanctions against anyone engaging in misuse of the discovery process, including monetary, issue, evidence, and terminating sanctions. CCP § 2023.030. Monetary sanctions *shall* be imposed unless the court finds the one subject to the sanction acted with substantial justification making imposition of sanctions unjust. CCP § 2023.030(a). Issue, evidence, and terminating sanctions *may* be imposed. CCP § 2023.030(b),

(c), and (d); 2025.450(h). Here, Plaintiff has established that Defendant has not responded to Form Interrogatories, Special Interrogatories, or Requests for Production in violation of the Court's October 30, 2023, Order. Defendant Johnson has not opposed the motion and has not provided any substantial justification for her failure to respond to the discovery as ordered. Therefore, the Court must impose monetary sanctions pursuant to CCP § 2023.030.

However, issue, evidence, and terminating sanctions are discretionary. Case law instructs that severe sanctions (i.e., evidence or terminating sanctions) for abusing the discovery process, are usually warranted only if a party willfully fails to comply with a court order. *See R.S. Creative, Inc. v. Creative Cotton, Ltd.* (1999) 75 CA4th 486, 495; *Vallbona v. Springer* (1996) 43 CA4th 1525, 1545; *Biles v. Exxon Mobil Corp.* (2004) 124 CA4th 1315, 1327; *Aghaian v. Minassian* (2021) 64 CA5th 603, 618-620, —“absent unusual circumstances, nonmonetary sanctions are warranted only if a party [acts] willfully” (but concluding that willfulness is not required for issue and evidence sanctions under CCP § 2023.030(b) and (c)).

The trial court has broad discretion in selecting discovery sanctions, subject to reversal only for abuse. The trial court should consider both the conduct being sanctioned and its effect on the party seeking discovery and, in choosing a sanction, should attempt to tailor the sanction to the harm caused by the withheld discovery. The trial court cannot impose sanctions for misuse of the discovery process as a punishment.

The discovery statutes evince an incremental approach to discovery sanctions, starting with monetary sanctions and ending with the ultimate sanction of termination. “Discovery sanctions ‘should be appropriate to the dereliction and should not exceed that which is required to protect the interests of the party entitled to but denied discovery. If a lesser sanction fails to curb misuse, a greater sanction is warranted: continuing misuses of the discovery process warrant incrementally harsher sanctions until the sanction is reached that will curb the abuse. “A decision to order terminating sanctions should not be made lightly. But where a violation is willful, preceded by a history of abuse, and the evidence shows that less severe sanctions would not produce compliance with the discovery rules, the trial court is justified in imposing the ultimate sanction.”

*Doppes v. Bentley Motors, Inc.* (2009) 174 Cal. App. 4th 967, 992 (internal citations omitted).

Here, the Court notes that Plaintiff's Requests for Admissions have been deemed admitted. Plaintiff states “the Court previously deemed all necessary facts admitted against Johnson to establish liability.” (Motion 4:21-22.) Plaintiff does not provide any argument regarding what additional information is needed – that is, the harm to Plaintiff is not identified with particularity. Additionally, although Plaintiff is not statutorily required to do so if they have received no discovery responses, Plaintiff has apparently made no efforts to reach out to Defendant by phone, letter, or email to attempt to meet and confer on this issue. Plaintiff also does not provide any evidence or argument regarding the willfulness of the pro per Defendant's conduct. The Court does not find the facts here sufficient to justify imposing the ultimate sanction. Rather, additional monetary sanctions will be ordered to attempt to compel compliance. If sanctions prove ineffective, the Court will consider issue, evidence, or terminating sanctions on motion.

Sanctions: The court may impose sanctions against anyone engaging in misuse of the discovery process, including monetary, issue, evidence, and terminating sanctions. CCP § 2023.030.

Monetary sanctions *shall* be imposed unless the court finds the one subject to the sanction acted with substantial justification making imposition of sanctions unjust. CCP § 2023.030(a). The court may award sanctions under the Discovery Act in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed. CRC 3.1348. The motion is unopposed and therefore no justification has been provided. Sanctions will be awarded. Plaintiff's counsel has requested an hourly rate of \$450 per hour and a total of 3 hours which includes the preparation of the motion and estimated time to file a reply and appear at hearing. The Court finds that the hourly rate of \$450 is unreasonable and excessive for this legal community. The Court finds that \$300 per hour is a reasonable hourly rate. The Court also finds that the 3 hours of work is unwarranted given the lack of an opposition or reply. The Court will reduce the amount of time to 2 hours. Sanctions are awarded in the amount of \$600 (\$300 per hour X 2 hours).

The motion is **GRANTED** in part. Sanctions are awarded in the amount of \$600. No issue or terminating sanctions will be imposed. A proposed order was lodged with the Court which will be modified to conform to the Court's final ruling.

## **IN RE BERG**

### **Case Number: 24PB-0032393**

**Tentative Ruling on Petition to Approve Minor Compromise:** Petitioner/Guardian Ad Litem Jason Berg seeks an order approving the compromise of a claim on behalf of his minor son, Matthew Berg. California Rule of Court Rule 7.950 states that a petition for court approval of a minor's compromise must contain a full disclosure of all information that has any bearing upon the reasonableness of the compromise. This Petition is incomplete, as it does not include the required Attachment 8 ("An original or a photocopy of any doctor's report containing a diagnosis of the claimant's injuries or a prognosis of the claimant's recovery, and a report of the claimant's current condition.")

This matter is continued to **Tuesday, May 28, 2024, at 8:30 a.m. in Department 64** for further proceedings on the Petition. A Second Amended Petition with Attachment 8 should be filed no later than May 20, 2024. **No appearance is necessary on today's calendar.**

## **CREDIT CORP VS. HARRIS**

### **Case Number: CVG18-0001125**

**Tentative Ruling on Claim of Exemption:** Judgment Debtor/Claimant Katelyn Harris claims an exemption from wage garnishment of all earnings as necessary for the support of herself. Pursuant to Federal Law, 75% of disposable income is automatically exempt (i.e. the maximum that can be withheld is 25% of disposable income). 15 USC § 1673(a). Section 1672(b) of Title 15 of the United States Code defines "disposable earnings" as "that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld." CCP section 706.011 provides an almost identical definition. Under California law, even more than 75% can be exempt, if the income is sufficiently low under the calculations set forth in CCP section 706.050. California also permits the exemption of all income that a judgment debtor proves is necessary for the support of the judgment debtor or the judgment debtor's family. CCP § 706.051(b). Finally, it should be noted that the judgment debtor has the burden of proof. CCP § 703.580.

The Financial Statement provides that Claimant's gross monthly income is \$3,082.68 (gross monthly pay plus average monthly tips). She claims payroll deductions totaling \$542.81. Claimant's net monthly income is therefore \$2,539.87. Pursuant to both Federal and State law only 25% or \$634.97 per month can be subject to garnishment. The claimed household expenses are \$2,240 which the Court finds reasonable. Based on the foregoing, Claimant's attachable monthly income is \$299.87 (\$2,539.87 net income minus \$2,240 for expenses). This amount is lower than the \$634.97 permitted under Federal and State law. Claimant is paid weekly and therefore the amount subject to garnishment per paycheck is \$69.20 (\$299.87 per month x 12 months ÷ 52 pay periods).

The claim of exemption is **GRANTED** as to all income **EXCEPT** for the amount of \$69.20 per pay period. No proposed order has been lodged as required by Local Rule 5.17(D). Judgement Creditor shall prepare the order.

## **HADLEY, ET AL. VS. AMERICAN HONDA MOTOR CO, INC.**

**Case Number: 23CV-0201803**

**Tentative Ruling on Motions to Compel Discovery:** This matter is on calendar for hearing on three discovery motions: 1) Plaintiff's Motion to Compel Responses to Requests for Production, 2) Plaintiff's Motion to Compel Responses to Interrogatories, and 3) Plaintiff's Motion to Deem Matters Admitted. On May 1, 2023, the Parties filed a Joint Stipulation and Proposed Order to continue today's hearing for thirty days. Hearing on the Motions is continued to **Monday, June 10, 2024, at 8:30 a.m. in Department 64.** **No appearance is necessary on today's calendar.**

## **IN RE: LAURITZEN**

**Case Number: 24CV-0204217**

**Tentative Ruling on Petition for Change of Name:** Petitioner Antonia Maria Munoz, aka Toni Maria Munoz, aka Antoinette Marie Munoz seeks to change her name to Antoinette Marie Lauritzen. No proof of publication has been submitted. The Court requires a Certificate of Publication from the publishing newspaper before the Petition may be granted. If the Certificate of Publication is provided, the Court intends to grant the Petition, vacate all future dates and close the file.

## **IN RE: ROE**

**Case Number: 24CV-0204286**

**Tentative Ruling on Petition for Change of Name:** Petitioner David Francis Roe seeks to change his name to David Francis Mullins. All procedural requirements of CCP §§ 1275 et. seq. have been satisfied. The Petition is **GRANTED**. All future dates will be vacated, and the file closed upon the processing of the Decree Changing Name.

## **IN RE: SPALDING**

**Case Number: 24CV-0204159**

**Tentative Ruling on Petition for Change of Name:** Petitioner Maasen Patrick Spalding seeks to change his name to Maasen Patrick Bryant. No proof of publication has been submitted. The Court requires a Certificate of Publication from the publishing newspaper before the Petition may

be granted. If the Certificate of Publication is provided, the Court intends to grant the Petition, vacate all future dates and close the file.

## **SYSCO SACRAMENTO VS. SELLS**

**Case Number: CVG21-0000685**

**Tentative Ruling on Application for Judgment Debtor Examination:** Code of Civil Procedure section 708.110 requires personal service to be made on the judgment debtor at least thirty calendar days prior to the examination. No Proof of Personal Service on judgment debtor Joseph T. Sells has been filed. The debtor examination shall not proceed. The Application for Debtor Examination is **DENIED** and the Order for Appearance is **VACATED**.

## **IN RE: ZELENKOV**

**Case Number: 24CV-0204474**

**Tentative Ruling on Petition for Change of Name:** Petitioner Mary Charlotte Zelenkov seeks to change her name to Marchya Z Smith. No proof of publication has been submitted. The Court requires a Certificate of Publication from the publishing newspaper before the Petition may be granted. If the Certificate of Publication is provided, the Court intends to grant the Petition, vacate all future dates and close the file.

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**9:00 a.m. Review Hearings**  
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**ANDERSON VS. REDDING NORTH SENIOR, ET AL**

**Case Number: CVPO22-0198891**

This matter is on calendar for review regarding status of settlement. This litigation settled on March 4, 2024 at the mandatory settlement conference. No dismissal has been filed. The Court intends on dismissing this case pursuant to California Rule of Court 3.1385(b) unless the parties appear at today's hearing and show good cause why the case should not be dismissed.

**IN RE MEIDINGER, ET AL**

**Case Number: CVPB22-0031429**

This matter is on calendar for review to confirm deposit of funds into Court blocked accounts. As previously indicated in the Court's January 29, 2024 and March 25, 2024 rulings, the Court requires revised Acknowledgments which show the accounts were opened in the names of the minors (the Petitioner's name can also appear in the title if it is clear that the funds are for the benefit of the minor), and which attach a copy of the Order to Deposit Funds in Blocked account and which are properly executed. The Court has previously mailed the January 29, 2024, and March 25, 2024, Orders to Counsel as a courtesy. Nothing has been filed to address these deficiencies. **An appearance is necessary on today's calendar to provide a status of the accounts. Failure to appear will result in the issuance of an Order to Show Cause Re: Sanctions for failure to appear and failure to timely confirm deposit of funds.**

**BRINK, ET AL. VS. VIBRA HOSPITAL OF NORTHERN CALIFORNIA, ET AL.**

**Case Number: 23CV-0202932**

This matter is on calendar for review regarding trial setting, the previous trial date having been vacated by the Court's order dated February 23, 2024. The Court designates this matter as a Plan II case and intends on setting the matter for trial no later than February 11, 2025. Defendants have posted jury fees but Plaintiffs have not. Plaintiffs are granted 10 days leave to post jury fees. A failure to post jury fees in that time will be deemed a waiver of the right to a jury. **The parties are ordered to appear to provide the Court with available trial dates.**

**BRITT VS. GLAVE, ET AL.**

**Case Number: 22CV-0200428**

This matter is on calendar for status of settlement and dismissal. This matter settled on November 16, 2023. Plaintiff has filed a Request for Dismissal of entire action. The matter is dismissed and today's hearing is **VACATED**. The clerk is instructed to close the file. **No appearance is necessary on today's calendar.**

**CHUCK I FAMILY LIMITED PARTNERSHIP VS.  
MCDERMOTT, ET AL.**

**Case Number: 23CVG-01356**

This matter is on calendar for status of accounting. The Inventory and Accounting have been filed pursuant to California Civil Code section 798.61. The clerk is directed to close the file. **No appearance is necessary on today's calendar.**

**MEDALLION BANK VS. CHAN**

**Case Number: CVG22-0000105**

This matter was on calendar for review regarding status of default judgment. Default judgment was entered on May 1, 2024. Today's hearing has been **VACATED**. **No appearance is necessary on today's calendar.**

**NOONKESTER, ET AL. VS. DOWNING, ET AL.**

**Case Number: 22CV-0201210**

This matter is on calendar for review regarding status of the case. On May 1, 2024, Plaintiff filed a Request for Dismissal of the Complaint. The action is dismissed and today's hearing is **VACATED**. **No appearance is necessary on today's calendar.**

**SANFILIPPO VS. WATEGA, ET AL.**

**Case Number: 23CV-0202899**

This matter is on calendar for review regarding trial setting. The previous trial date was vacated by the Court's order dated March 12, 2024. The Court designates this matter as a Plan II case and intends on setting the matter for trial no later than February 11, 2025. Defendant has posted jury fees but Plaintiff has not. Plaintiff is granted 10 days leave to post jury fees. A failure to post jury fees in that time will be deemed a waiver of the right to a jury. **The parties are ordered to appear to provide the Court with available trial dates.**

**SHUFELBERGER, ET AL VS. PACIFICI, ET AL**

**Case Number: CVPO21-0197113**

This matter is on calendar for review regarding status of the judgment/dismissal. The named Defendants have been dismissed. The Doe Defendants have not been dismissed. Plaintiff has submitted a Status Report which provides that the Does have been left as active parties to pursue UIM claims with the insurance. Plaintiff is still treating for his injuries. In light of the foregoing, this matter is continued to **Monday, December 2, 2024, at 9:00 a.m. in Department 3.** **No appearance is necessary on today's calendar.**