

**Tentative Rulings
September 25, 2023
Department 2**

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) 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.

In furtherance of compliance with the California Department of Public Health and CDC guidelines and recommendations, the Superior Court of California, County of Shasta is continuing to undertake precautionary measures to ensure the health and safety of the courthouse users. Persons are encouraged to make appearances telephonically, through CourtCall (888-882-6878; courtcall.com). If attending a hearing in person, use of face masks by all Court users is required unless exempt in accordance with the public safety guidelines. See Administrative Order 19-2022.

2:00 p.m.

**LYON VS. CITY OF REDDING ET. AL.
Case Number: CVPO21-0197324**

Tentative Ruling on Motion for Relief from Deemed Admissions: Plaintiff Shayna Lyon moves for the Court to correct or void its prior order/ruling issued on April 11, 2023.

Factual Background: Defendant Shasta County propounded Request for Admissions, Set One on Plaintiff on January 17, 2023. On February 26, 2023, Plaintiff signed and verified her Request for Admission responses, but the responses were not provided to Defendant at that time. On March 6, 2023, Defendant filed a motion to deem matters admitted based on Plaintiff’s failure to respond. The motion was set for hearing on April 3, 2023. On March 31, 2023, Plaintiff served her verified responses to the Request for Admissions on Defendant.

At the hearing on April 3, 2023, Plaintiff’s counsel appeared and informed the Court that it filed an opposition to the motion the week before. The Court reviewed the file and consulted with the clerk, but no opposition had been filed the week before the hearing. In fact, Plaintiff’s opposition was not filed until April 3, 2023. The opposition was signed by Plaintiff’s counsel and dated April 3, 2023. A review of the case management systems shows that the document was processed by the clerk’s office after the April 3, 2023 hearing.

Without any admissible evidence that Plaintiff had provided responses, the Court was required to grant the motion. The motion was taken under submission on April 3, 2023, and the final ruling approved, but not prepared and executed, that same day. For reasons unknown, the oppositions filed after the April 3, 2023 hearing were not brought to the Court’s attention. The final ruling was issued on April 11, 2023, and deemed the matters admitted.

On August 15, 2023, Plaintiff filed the present motion for relief from deemed admissions.

Merits of Motion: Code of Civil Procedure section 2033.280 provides in pertinent part, “If a party to whom requests for admissions are directed fails to serve a timely response, the following rules apply, (a) The party to whom the request for admissions are directed waives any objection to the requests including one based on privilege or on the protection of work product . . . (b) the requesting party may move for an order that the

genuineness of any documents and the truth of any matters specified in the requests be deemed admitted. . . .” The Court shall make this order *unless responses are served prior to the hearing on the motion* and the responses are in substantial compliance with Section 2033.100. CCP § 2033.280(c). Emphasis added.

At the prior hearing on April 3, 2023, the Court had no evidence that responses had been served prior to the hearing. Plaintiff’s counsel appeared and argued that her opposition has been filed the week before but that was untrue. In fact, the opposition was not signed by counsel and provided to the Court until April 3, 2023, the date of the hearing. Without any evidence that responses had been provided, the only basis to deny the motion to deem matters admitted was counsel’s false representations that the opposition has been filed the week before. Accordingly, the motion was granted. However, an opposition was filed sometime on April 3, 2023, but not brought to the Court’s attention. That opposition, even untimely, shows that responses were provided prior to the hearing and a review of those documents show they were in substantial compliance. If the information had been timely provided to the Court, it would have denied the request to deem matters admitted but would have still imposed monetary sanctions.

Now, Plaintiff requests relief from the matters deemed admitted. A Court has inherent authority to review and modify any prior order on any grounds and at any time that it believes may have been issued in error. See *Le Francois v. Goel* (2005) 35 Cal.4th 1094. While the error was Plaintiff’s counsel for failing to provide evidence of responses, it is undisputed that responses were served before the April 3, 2023 hearing. As such the Court should not have made an order deeming the matters admitted. The Court will exercise its inherent authority to modify its prior ruling to deny the request to deem the matters admitted. In exercising this authority, the Court notes that deeming the matters admitted would ultimately have the effect of a terminating sanction and would deprive the Plaintiff of an opportunity to have her case heard on the merits. The Court denies the request to reconsider or otherwise modify its order related to the other discovery or to sanctions.

The motion is **GRANTED** as to the matters deemed admitted only. Plaintiff shall prepare a new order consistent with the Court’s final ruling.

Tentative Ruling on Motion for Judgment on the Pleadings: Defendants County of Shasta, Sergeant Thomas Fleming, Sergeant Chris Van Eyck, Deputy Garrett Brian Dorn and Lieutenant Jerry Fernandez move for judgment on the pleadings.

Merits of Motion: CCP § 438(c)(1)(A) provides a plaintiff may move for judgment on the pleadings if the complaint states sufficient facts to constitute a cause of action and the answer does not state facts sufficient to constitute a defense to the complaint. The grounds for the motion shall appear on the face of the challenged pleading or from any other matter of which the court may take judicial notice. CCP § 438(d). The Court may take judicial notice of responses to discovery records pursuant to Evidence Code §§ 452(d) and 453. *Arce v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 485.

Here, Defendants’ motion is based on judicial notice of matters previously deemed admitted by the Court. Those admissions would negate the elements necessary for Plaintiff to prove her case. By separate motion, Plaintiff has requested relief from those admissions. The Court intends on granting that motion which would remove the grounds in support of a judgment on the pleadings.

The motion is **DENIED**. A proposed order was lodged with the Court which will be modified to reflect the denial.