Superior Court of the State of California
County of Orange
TENTATIVE RULINGS FOR DEPARTMENT CM06
HON. JUDGE Megan L. Wagner

Date: 10/28/2026

Court Room Rules and Notices

#	Case Name	Tentative
2A	Nunes – Trust 01396741	**MOTION FOR RECONSIDERATION AND CLARIFICATION (ROA 128)** Petitioner Peggy Nunes ("Petitioner") filed a motion titled "Motion for Reconsideration, Clarification, Correction of the Record, and Limited Protective Relief Regarding the Court's May 14, 2026 Ruling." On 3/9/26, Petitioner filed a Motion for Protective Order. (ROA 81.) In said motion, Petitioner requested that Respondents Mervyn Nunes and Theresa Nunes (collectively, "Respondents") be prohibited from questioning Petitioner or seeking any discovery related to Petitioner's 2016 criminal matter. (Id.) Petitioner argued that the information was irrelevant because this case involves allegations of the invalidity of Trust Amendments procured in 2014 and 2015, prior to the criminal case. (Id.) In his Opposition to the motion, Respondents repeatedly referred to Petitioner's "criminal conviction" for "elder abuse." (ROA 97.) Respondents argued that the alleged wrongful conduct that led to the 2016 criminal proceedings occurred earlier than 2016 and that such conduct may have also led to the trust amendments. In her Reply, Petitioner argued that there was no conviction for elder abuse and that the criminal proceedings were ultimately dismissed. (ROA 115.) On 5/14/26, this court denied Petitioner's Motion for Protective Order; nonetheless, the court issued a protective order prohibiting the dissemination of any information obtained concerning the alleged criminal conduct and criminal proceedings outside the instant litigation. (ROA 116.) In making such ruling, the court made the following findings: "The alleged criminal conduct and subsequent criminal proceedings are within the realm of relevance for this proceeding. Petitioner has not met her burden of showing that any annoyance, embarrassment, or oppression that might result from questions or written discovery regarding those events is unwarranted." (Id.)

		The court did **not** make any findings regarding the 2016 criminal proceedings. In this motion, Petitioner raises concerns about language the court used at the hearing on the motion. Specifically, Petitioner is concerned that the court may have made a finding that Petitioner has been previously convicted of elder abuse and that the conviction was later expunged. The court has reviewed the official transcript of the hearing. The court notes that it did refer to a criminal "conviction" that was "expunged." (See e.g., RT, 9:14-15 and 10:5-11:1, May 14, 2026.) The court clarifies here for the record that, despite the use of such language, the court made no finding of a conviction or an expungement in connection with the Motion for Protective Order. The court further clarifies that its decision to deny the protective order was not based on any understanding that there had been a conviction and/or expungement. As stated in the court's written tentative and written minute order, the court's only finding is that "[t]he alleged criminal conduct and subsequent criminal proceedings are within the realm of relevance for this proceeding." Petitioner has offered no new facts or law to warrant reconsideration of the court's order. Accordingly, the motion is **GRANTED** to the extent it seeks clarification of the court's 5/14/26 Order. Clarification is provided hereinabove. The motion is **DENIED** to the extent it seeks reconsideration. The court's 5/14/26 Order stands. Petitioner is ordered to give notice of this ruling.
2B	Nunes – Trust 01396741	**MOTION FOR RECONSIDERATION (ROA 159)** Petitioner Peggy Nunes ("Petitioner") filed a motion titled "Motion for Reconsideration of July 30, 2026 Minute Order; Request to Vacate or Reduce Monetary Sanctions and to Stay Enforcement Pending Determination of Motion." (ROA 159.) On 4/30/26, Petitioner filed a Motion Compel Further Responses to Special Interrogatories, Requests for Production of Documents, and Requests for Admission. (ROA 109.) On 7/30/26, the court issued a ruling, denying Petitioner's discovery motion as moot since supplemental responses had been served, and awarding Respondents monetary sanctions of $1,575.00. Petitioner moves for reconsideration of both orders. A motion for reconsideration made by a party must be based on new or different facts, circumstances, or law than those before the court at the time of the original ruling. (Code Civ. Proc. § 1008(a).) The motion must also be accompanied by an affidavit

		from the moving party that states: (1) what application was previously made; (2) when and to what judge; (3) what order was made; and (4) what new or different facts, circumstances or law are claimed to be shown. (Code Civ. Proc. § 1008(a).) A party seeking reconsideration of a prior order based on "new or different facts, circumstances or law" must provide a satisfactory explanation for failing to present the information at the first hearing; i.e., a showing of reasonable diligence. (*Garcia v. Hejmadi* (1997) 58 Cal.App.4th 674, 690; *New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 213.) The burden under section 1008 "is comparable to that of a party seeking a new trial on the ground of newly discovered evidence: the information must be such that the moving party could not, with reasonable diligence, have discovered or produced it at the trial." (*New York Times Co. v. Superior Court*, *supra*, 135 Cal.App.4th at 212–13.) Consistent with a motion for new trial, the new evidence or law offered in support of a motion for reconsideration must be "material" to the court's decision. (*Baldwin v. Home Sav. Of America* (1997) 59 Cal.App.4th 1192, 1198.) A showing of new or different facts or circumstances that are merely collateral to the merits of the initial motion is insufficient to warrant reconsideration. (*Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500.) Here, Petitioner has not met her burden of showing that reconsideration is warranted. Petitioner moves for reconsideration on the grounds that she did not know that Respondents had agreed to a short continuance of the motion. Such new "fact" is collateral to the merits of the motion. (*Gilberd v. AC Transit*, *supra* [The fact that a party did not intend to waive oral argument was immaterial to the merits of the motion.]) Petitioner further moves for reconsideration on the grounds that she inadvertently referred to the wrong pre-prepared statement at the hearing. Petitioner's discovery motion was heard along with Respondents' discovery motion, and Petitioner claims that she inadvertently relied on the statement that she had prepared in connection with Respondents' motion. Petitioner has not established that the statement she prepared for her motion would have been material to the court's decision. Petitioner's moving papers in connection with this motion for reconsideration do not set forth the substance of the statement or how the content of the statement differed from the content of Petitioner's moving and reply papers which the court did consider. Petitioner asks the court to vacate or dismiss the award of sanctions due to her financial hardship.

		Petitioner cites no case or statutory law stating that the court must take into account the sanctioned party's financial situation when deciding to award discovery sanctions, and the court is not aware of any such law. Regardless, Petitioner could have raised the issue in reply to the opposition or at the hearing, but failed to do so. Finally, Petitioner asks the court to reconsider the award of sanctions because she acted in good faith. However, discovery sanctions are not issued as a result of bad faith. Discovery sanctions are issued based on whether the motion was made or opposed without substantial justification. The court found that Petitioner acted without substantial justification in maintaining the motion after supplemental responses had been served. Furthermore, Petitioner could have made such arguments in reply to the Opposition or at the hearing on the motion. For the foregoing reasons, Petitioner's motion for reconsideration of the court's 7/30/26 Order is **DENIED**. Petitioner is ordered to serve notice of ruling.
1	Aaron - Trust (2025 – 01483366)	**MOTION FOR SANCTIONS** Petitioner Ryan Williams (Petitioner) asks this court to award monetary sanctions of $9,435.00 and issue nonmonetary sanctions against Respondent Scot Williams (Respondent). The motion is made pursuant to Code of Civil Procedure section 128.7 (Section 128.7) on the ground Respondent has filed numerous frivolous motions and pleadings, refused to participate in discovery, and refused to cooperate in the court-ordered *Breslin* mediation process. Section 128.7 authorizes the court to impose sanctions when a party files "a pleading, petition, written notice of motion, or other similar paper" that is frivolous or presented for an improper purpose. It does not authorize the imposition of sanctions for failure to participate in discovery or refusal to cooperate in a court-ordered mediation. Accordingly, the court does not consider that alleged conduct in connection with this motion. (The court recognizes Petitioner also invoked the court's inherent authority to "control the conduct of its ministerial officers and ensure the integrity of judicial proceedings" but there are specific procedures for imposing sanctions for discovery misconduct and failure to follow court orders that have not been invoked in this motion.) "Under Code of Civil Procedure section 128.7, a court may impose sanctions for filing a pleading if the court concludes the pleading was filed for an improper purpose or was indisputably without merit, either legally or factually. . . A claim is factually frivolous if it is not well grounded in fact and it is legally frivolous if it is not warranted by existing law or a good faith

		argument for the extension, modification, or reversal of existing law. In either case, to obtain sanctions, the moving party must show the party's conduct in asserting the claim was objectively unreasonable. A claim is objectively unreasonable if any reasonable attorney would agree that [it] is totally and completely without merit." (*Peake v. Underwood* (2014) 227 Cal.App.4th 428, 440, citations and internal quotation marks omitted.) "A sanction imposed for violation of subdivision (b) shall be limited to what is sufficient to deter repetition of this conduct or comparable conduct by others similarly situated. Subject to the limitations in paragraphs (1) and (2), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney's fees and other expenses incurred as a direct result of the violation." (§ 128.7(d).) "The primary purpose of the statute is deterrence of filing abuses, not to provide compensation for those impacted by those abuses. While section 128.7 does allow for reimbursement of expenses, including attorney fees, its primary purpose is to deter filing abuses, not to compensate those affected by them." (*Optimal Markets, Inc. v. Salant* (2013) 221 Cal.App.4th 912, 920-921.) Section 128.7 includes a "safe harbor" provision requiring the party moving for sanctions to serve the proposed motion on the allegedly offending party at least 21 days before the motion is filed: "Notice of motion shall be served as provided in Section 1010, but shall not be filed with or presented to the court unless, within 21 days after service of the motion, or any other period as the court may prescribe, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected." Code of Civil Procedure section 1010 (Section 1010) requires a notice of motion to "state when" a motion will be made, i.e. must include a hearing date, time, and location. Failure to provide the required 21-day safe harbor period precludes any award of sanctions. (*Martorana v. Marlin & Saltzman* (2009) 175 Cal.App.4th 685, 698-699.) The party moving for sanctions has the burden of establishing that the procedural requirements of § 128.7 have been complied with, including the safe harbor provision. (*Li v. Majestic Industry Hills, LLC* (2009) 177 Cal.App.4th 585, 594.) Petitioner served Respondent with the motion on April 17, 2026, showing a hearing date of June 24, 2026. (ROA 344) At the time the motion was filed, the Probate Court reservation system required a party to file moving papers within 24 hours of reserving a hearing date, which meant a party could not comply with the 21-day safe harbor provision by serving the

		motion with a specified hearing date and then filing the motion 21 days later. (The Probate Court reservation system has now been updated so a party can reserve a hearing date and then delay filing a motion for sanctions under Section 128.7 for the required 21-day period.) Accordingly, Petitioner withdrew the initial motion (ROA 350) and, on April 21, 2026, re-served Respondent with the same motion, this time with the hearing date removed. On May 14, 2026—more than 21 days after the motion was re-served, Petitioner re-filed the motion as ROA 375. The re-filed motion, which was also served on Respondent, showed a hearing date of September 9, 2026. Although the service did not strictly comply with the language of Sections 128.7 and 1010, the fault lies—at least in part—with the court's procedures. Further, Petitioner was given more than 21 days in which to withdraw the filings addressed by the motion for sanctions. Respondent argues the motion for sanctions should be denied because the motion served on April 21, 2026 did not reflect a hearing date and was not, therefore, in compliance with Code of Civil Procedure section 1010, so that the 21-day safe harbor period never began to run. The court acknowledges there is currently a split of authority as to whether sanctions are available under Section 128.7 in a situation like the one here. In *J.N. v. Goldberg* (2026) 120 Cal.App.5th 544, the Section District, Division Five, addressing a similar reservation system used by the Los Angeles Superior Court, held the moving party was required to file an ex parte application seeking relief from the limitations imposed by court's motion reservation system, and failure to do so meant the court was without authority to issue sanctions, even though the allegedly offending party had more than 21 days between service of the motion and the hearing date in which to withdraw the allegedly offending complaint. Just three and one-half months later, the First District, Division Four disagreed with that outcome in *Ari Law, P.C. v. Autonation.com, Inc.* (2026) 122 Cal.App.5th 898 (*Ari Law*). There, the moving party served a motion for sanctions on December 17, 2024, with a January 17, 2025 hearing date. The party filed their motion with the court after the 21 days had passed, but the hearing date was changed to March 18, 2025. The court found the later hearing date on the filed motion did not "eviscerate strict compliance with the safe harbor provisions" and affirmed the sanctions order. (*Ari Law*, 122 Cal.App.5th at pp. 905–906.) As the court explained: "we believe that a failure to include when the sanctions motion will in fact be heard does not render a notice of motion under section 1010 'fatally defective.' We agree that sections 128.7's

		plain language clearly incorporates and requires compliance with section 1010. We disagree, however, that the legislative history and case law interpreting section 128.7 require strict compliance with the notice provisions of section 1010, particularly where the trial court's procedure for scheduling hearings makes strict compliance with section 1010 impossible in the absence of an ex parte request to obtain a hearing date before filing the motion. [¶] As identified above, section 128.7's safe harbor provision's central purpose is to provide an adequate opportunity for withdrawal of the complained of pleading without penalty, with the additional purpose of reducing the volume of sanctions litigation, formalizing due process concerns, and reducing the chilling effect of potential sanctions awards." (*Ari Law*, 122 Cal.App.5th at p. 911.) After review of the relevant statute, its legislative history, and case law interpreting it, the court finds *Ari Law* to be the better reasoned approach and, following its guidance, finds Petitioner satisfactorily complied with the 21-day safe harbor provision. Further, "'[i]t is well settled that the appearance of a party at the hearing of a motion and his or her opposition to the motion on its merits is a waiver of any defects or irregularities in the notice of motion. [Citations.] This rule applies even when no notice was given at all. [Citations.] Accordingly, a party who appears and contests a motion in the court below cannot object on appeal or by seeking extraordinary relief in the appellate court that he had no notice of the motion or that the notice was insufficient or defective.'" (*Ari Law,* 122 Cal.App.5th at p. 912.) Thus, by his opposition, Respondent waived any procedural defect in the safe harbor period. In his motion, Petitioner focuses on four specific motions served/filed by Respondent in the early months of this year: (1) a motion for protective order served March 6, 2026; (2) a motion to compel a joint accounting filed March 11, 2026 (ROA 262); (3) a motion to strike filed March 11, 2026 (ROA 292); and (4) an amended motion for joinder of necessary party filed April 17, 2026 (ROA 335). He asks the motions be stricken. He also asks that Respondent be admonished regarding improper filings and abuse of the judicial process. The motion to compel a joint accounting and motion to strike were denied on May 13, 2026 (ROA 371). In its ruling, the court did not find either motion frivolous. Rather, the court noted that the issues raised by the motions could be appropriate as objections but were not proper for a motion. Thus, the motion was not legally frivolous and there is no showing it was filed for an improper purpose. (*Peake v. Underwood, supra,* 227 Cal.App.4th at p. 440.)

		It appears a hearing date on the amended motion for joinder of necessary party was never properly reserved, so the motion was never heard or determined. The motion for protective order served March 6, 2026 had not been filed with the court at the time the motion for sanctions was filed. Rather, it was filed on June 3, 2026 (ROA 397) and was heard and denied on October 14, 2026 at 1:30 p.m. in Department CM07. In its ruling on that motion, the court specifically found "Respondent did not file the motion for protective order with substantial justification" and awarded $4,435.00 in sanctions. Thus, sanctions have already been awarded on that motion, and a further award of sanctions would exceed the limitations imposed by Section 128.7. (*Optimal Markets, Inc. v. Salant, supra,* 221 Cal.App.4th at pp. 920-921 ["The primary purpose of the statute is deterrence of filing abuses, not to provide compensation for those impacted by those abuses. While section 128.7 does allow for reimbursement of expenses, including attorney fees, its primary purpose is to deter filing abuses, not to compensate those affected by them"].) If sanctions had not already been awarded, the court would have granted the motion as to Respondent's motion for protective order. Although this motion did not result in additional sanctions, the court cautions Respondent that "mere self-representation is not a ground for exceptionally lenient treatment. Except when a particular rule provides otherwise, the rules of civil procedure must apply equally to parties represented by counsel and those who forgo attorney representation." (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984–985.) Petitioner is directed to give notice.