

TENTATIVE RULINGS

DEPT C21

LAW AND MOTION CALENDAR

Judge Deborah C. Servino

Date: April 19, 2024

Please read the applicable rules carefully. Do not call the department unless submitting on the tentative.

The court will endeavor to post tentative rulings on the Court's website by 3 p.m. on the preceding Thursday. However, ongoing proceedings may prevent posting by that time. Do not call the department for tentative rulings if none are posted. The court will not entertain a request for continuance once a ruling has been posted and no additional papers will be considered once a ruling has been posted.

If you wish to submit on the tentative and do not want to appear, please inform the clerk by calling **(657) 622-5221**, and inform opposing counsel.

The Law and Motion Calendar is heard on Fridays at 10 a.m. All arguments will be heard at that time. Unless otherwise indicated in the tentative ruling, the prevailing party will give Notice of Ruling. If no one appears for the hearing, the court shall determine whether the matter is taken off calendar or whether the tentative ruling shall become the final ruling.

APPEARANCES: The Court offers remote appearances for the Law and Motion Calendar via Zoom. All counsel and self-represented parties appearing remotely for the Law and Motion Calendar must check-in online through the Court's website at <https://www.occourts.org/media-relations/civil.html>, then click on the gold ribbon that states "Click here to appear/check-in for civil small claims/limited/unlimited/complex remote proceedings", and then click on Department C21 (to check-in). However, counsel and self-represented parties preferring to appear in-person may do so. The Court's "Appearance Procedures and Information - Civil Unlimited," "Guidelines for Remote Appearances," remote video appearance instructions, Orange County Superior Court Local Rule 375 on Remote and In-Person Proceedings in Civil, Administrative Order No. 23/06 (Updated Remote Appearance Guidelines for Civil and Probate), and an instructional video are also available through the Court's website at [The Superior Court of California - County of Orange \(occourts.org\)](https://www.occourts.org). If you encounter difficulty checking-in online or connecting remotely, please call Department C21 for assistance at (657) 622-5221.

COURT REPORTERS: Official court reporters (i.e. court reporters employed by the Court) are NOT typically provided for law and motion matters in this department. Please see the Court's website for further information. The Court's policy on privately-retained court reporters is available on the Court's website at: [Privately-Retained Court Reporter Policy](#).

No filming, broadcasting, photography, or electronic recording is permitted of the video session pursuant to California Rules of Court, rule 1.150 and Orange County Superior Court rule 180.

#	Case Name	Tentative
50	Maxwell v. THC-Orange County LLC DBA Kindred Hospital Westminster, et al. 30-2023-01358302	Hearing on motion to quash off-calendar. Notice of withdrawal filed 4/15/2024. CASE MANAGEMENT CONFERENCE
51	Mena v. Tenet Physician Resources, LLC 30-2023-01363755	NO TENTATIVE RULING
52	National Funding, Inc. v. Ernest E. Hostetter Trucking, LLC, et al. 30-2023-01321231	NO TENTATIVE RULING
53	Nissani, et al. v. Galardi Group Franchise Corp., et al. 30-2019-01115068	Hearing on motion to compel answers to form interrogatories continued to 9/6/2024 per 4/12/2024 Order.
54	Ohadi, et al. v. Pacific Specialty Insurance Company 30-2022-01286483	<p>Defendant Pacific Specialty Insurance Company moves to compel Plaintiffs Reza Ohadi and Shahine Fatemeh Ohadi to provide responses to: (1) form interrogatories, set one; (2) form interrogatories, set two; (3) special interrogatories, set one; and (4) requests for production of documents, set one. Defendant also moves to deem admitted the requests for admissions, set one, as to each Plaintiff.</p> <p><u>Legal Standard</u></p> <p>A propounding party may move for an order compelling responses to interrogatories at any time “[i]f a party to whom interrogatories are directed fails to serve a timely response.” (Code Civ. Proc., § 2030.290, subd. (b).) By failing to serve timely responses, Plaintiffs waived “any right to exercise the option to produce writings under Section 2030.230, as well as any objection to the interrogatories, including one based on privilege or on the protection for work product.” (Code Civ. Proc., § 2030.290, subd. (a).)</p> <p>A propounding party may move for an order compelling responses to a demand for inspection at any time “[i]f a party to whom a demand for inspection, copying, testing, or sampling is directed fails to serve a timely response.” (Code Civ. Proc., § 2031.300, subd. (b).) By failing to serve timely responses, Plaintiffs waived “any objection to the demand, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010).” (Code Civ. Proc., § 2031.300, subd. (a).)</p> <p>A propounding party may move for an order to deem the truth of any matters specified in the requests be deemed</p>

admitted “[i]f a party to whom requests for admission are directed fails to serve a timely response.” (Code Civ. Proc., § 2033.280, subd. (b).) By failing to serve timely responses, the party to whom requests are directed “waive[s] any objection to the requests, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010).” (Code Civ. Proc., § 2033.280, subd. (a).)

Merits

On October 16, 2023, Defendant properly served on Plaintiffs form interrogatories, sets one and two. On October 30, 2023, Defendant properly served the remaining discovery at issue. Plaintiffs failed to serve timely responses. Their counsel acknowledged receipt of the discovery and asked for more time to respond because Plaintiffs were out of the country. Defense counsel agreed to an extension until December 18, 2023 for Plaintiffs to serve responses without objections. At the time that the motions were filed, no responses had been served. No oppositions were filed to these motions. After the motions were filed, defense counsel inquired whether Plaintiffs would be serving objection-free responses. However, at the time that notices of non-opposition were filed, Plaintiffs' counsel did not respond.

Accordingly, the court grants the motions to compel Plaintiffs to provide responses to: form interrogatories, set one; form interrogatories, set two; special interrogatories, set one; and requests for production of documents, set one. Plaintiffs are ordered to provide Code-compliant, verified responses, without objections, to this discovery within 20 days of the notice of rulings.

Unless Plaintiffs serve Code-compliant responses to Defendant's first sets of requests for admissions, prior to this hearing, the truth of the matters specified in the requests for admissions, set one, are deemed admitted. (Code Civ. Proc., § 2033.280, subd. (c) [the court shall deem the matters admitted “unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220”]; see also *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 782 [actual compliance not required where the proposed response is facially a good-faith effort to respond to requests for admission in a manner that is substantially code-compliant].)

Defendant is awarded total sanctions of \$1,550 against Plaintiff Rez Ohadi. Defendant is awarded total sanctions of \$1,550 against Plaintiff Shahine Fatemeh Ohadi. Within 30

		<p>days of the notice of the ruling, Plaintiffs shall pay the ordered sanctions to Burton Kelley, LLP.</p> <p>Defendant shall give notice of the rulings.</p>
55	<p>R & R Life is Amazing LLC, et al. v. Daher, et al. 30-2022-01264056</p>	<p>Plaintiffs R & R Life is Amazing LLC and Joseph Dib's motion to compel Defendant Doran Andry to produce documents requested in the deposition and to appear for a second session of his deposition, is granted in part.</p> <p><u>Evidentiary Objections</u></p> <p>Andry's evidentiary objections to Joseph Dib's declaration nos. 1 through 16 are sustained.</p> <p>Andry's evidentiary objections to Monica Dib's declaration nos. 1 through 3 are sustained. Evidentiary objections nos. 4 through 6 are overruled.</p> <p><u>Evidence Submitted With Reply</u></p> <p>The court exercises its discretion to consider the evidence submitted with Plaintiffs' reply. Andry may address the evidence during the hearing. (<i>Jay v. Mahaffey</i> (2013) 218 Cal.App.4th 1522, 1537-1538.)</p> <p><u>Merits</u></p> <p>Plaintiffs served Andry with a notice of taking a remote deposition and requests for production of documents at deposition. The notice listed 64 categories of documents to be produced at the deposition. (M. Dib Decl., Exh. 2.) The parties do not dispute that prior to the deposition, Andry did not serve any objections to the notice. He did not produce any documents at the deposition.</p> <p>The parties dispute whether Andry had reviewed the requests for production before his deposition. Andry and his former counsel state in their declarations that prior to the deposition, he had reviewed the requests and believed that he did not have any responsive documents in his possession, custody, or control. (Andry Decl., at ¶ 3; Rowlett Decl., at ¶ 3.) On the other hand, Plaintiffs point to Andry's deposition transcript. (Mot., at p. 3.) The deposition testimony, however, is vague. It does not necessarily support Plaintiffs' assertion. Counsel asked Andry: "You said you've never seen [the deposition notice] before?" To this question, Andry answered: "No." Plaintiffs' counsel did not clarify if Andry was denying that statement or if Andry was denying that he had ever seen the deposition notice. (M. Dib Decl., Exh. 3, at pp. 148-149.) In addition, the following colloquy occurred:</p> <p>BY MS. DIB:</p>

		<p>Q I'm entitled to ask you questions about the documents you are producing. Since you are not producing any documents and you haven't reviewed your deposition notice, I have the right to ask you to come back for your deposition --</p> <p>MS. ROWLETT: That is inaccurate.</p> <p>(M. Dib Decl., Exh. 3, at p. 150.) Andry's counsel objected based upon privilege as to any questions regarding discussions between counsel and Andry. (M. Dib Decl., Exh. 3, at p. 151.)</p> <p>In any event, Andry agreed to "come back for a second session of deposition if you have any documents in response to any of the requests for production of documents in this notice". (M. Dib. Decl., Exh. 3, at p. 153.) In February and March 2024, he produced some documents and served privilege logs and a response that included objections to the document requested (in March). (Cueto Decl., Exhs. B & C.) He withheld documents on the basis of attorney-client privilege, third party privacy, attorney work product, and proprietary/confidential third party business information. (M. Dib Decl., Exh. B.) Having not objected during his deposition, Andry has waived the privilege and work product objections. (Code Civ. Proc., § 2025.460, subd. (a).) The privacy rights, however, were not necessarily waived. (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2021) ¶ 8:726.5.)</p> <p>Accordingly, with the exception of documents withheld based upon privacy rights and proprietary/confidential third party business information, Andry is ordered to produce all responsive documents without objection upon resumption of his deposition. (Code Civ. Proc., § 2025.480, subd. (i).)</p> <p>Andry offered two dates for his deposition, but Plaintiffs' counsel refused to proceed with those dates until obtaining a ruling from the court on the instant motion. Andry is ordered to appear for a second session of his deposition, within 30 days of the notice of ruling, unless Plaintiffs agree to a later date.</p> <p>Andry shall pay monetary sanctions in the amount of \$3,260 to Law Office of Monica D. Dib, within 30 days of the notice of ruling. (Code Civ. Proc., § 2025.480, subd. (j).)</p> <p>Plaintiffs shall give notice of the ruling.</p>
56	Unkovich v. City of Huntington Beach 30-2022-01297077	<p>NO TENTATIVE RULING</p> <p>Counsel should be prepared to address Defendant's request for judicial notice filed with its reply. (ROA 89.)</p>

