

**TENTATIVE RULINGS****DEPT W15****JUDGE RICHARD Y. LEE**

Date: July 03, 2025

**Civil Court Reporters:** The Court does not provide court reporters for law and motion hearings. Please see the Court's [website](#) for rules and procedures for court reporters obtained by the Parties.

**Submitting on the Tentative Ruling:** If ALL counsel intend to submit on the tentative ruling and do not wish oral argument, please advise the Court's clerk or courtroom attendant by calling (657) 622-5915. If all sides submit on the tentative ruling and so advise the Court, the tentative ruling shall become the Court's final ruling and the prevailing party shall give Notice of Ruling and prepare an Order for the Court's signature if appropriate under CRC 3.1312. **Do not call the unless ALL parties submit on the tentative ruling.**

**Non-Appearances:** If no one appears for the hearing and the Court has not been notified that all parties submit on the tentative ruling, the Court shall determine whether the matter is taken off calendar or whether the tentative ruling shall become the final ruling. The Court interprets a party's failure to appear at the hearing as a waiver of oral argument.

**Remote Appearances:** Department W15 permits non-evidentiary proceedings, including law and motion, to be conducted remotely. *If you are appearing remotely:* (1) all counsel and self-represented parties appearing for such hearings **must**, prior to 1:30 p.m. on Thursday, check-in online via the Court's civil video appearance website ([link here](#)); and (2) participants will then be prompted to join the courtroom's Zoom hearing session.

**Local Rule 375(c):** Attorneys **shall** comply with Local Rule 375(c) which governs "Decorum for In-Person and Remote Court Appearances." ([Local Rule 375\(c\)](#)) Specifically, the video and audio must be turned on and functioning during the hearing; and attorneys are expected to wear appropriate business attire.

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100	BRHE Group vs. Bates 24-01379502	Plaintiff BRHE Group ("Plaintiff") filed two motions to strike. Plaintiff moves pursuant to California Rules of Court, rule 3.1700(a) for an order striking (1) Nonparty Defendant Jeffrey Reiss CPA/MST's Memorandum of Costs and (2) Nonparty David Bates CPA/AVA's Memorandum of Costs. David Bates CPA/AVA and Jeffrey Reiss CPA/MST did not oppose the motions.  California Rules of Court, rule 3.1700(a)(1) states:

	<p>"A prevailing party who claims costs must serve and file a memorandum of costs within 15 days after the date of service of the notice of entry of judgment or dismissal by the clerk under Code of Civil Procedure section 664.5 or the date of service of written notice of entry of judgment or dismissal, or within 180 days after entry of judgment, whichever is first. The memorandum of costs must be verified by a statement of the party, attorney, or agent that to the best of his or her knowledge the items of cost are correct and were necessarily incurred in the case."</p> <p>Importantly. "[t]he time provisions relating to the filing of a memorandum of costs, while not jurisdictional, are mandatory." (<i>Hydratec, Inc. v. Sun Valley 260 Orchard &amp; Vineyard Co.</i> (1990) 223 Cal.App.3d 924, 929.)</p> <p>Here, Plaintiff served and filed the Request for Dismissal without prejudice as to the first and second causes of action against David Bates CPA/AVA and Jeffrey Reiss CPA/MST on December 17, 2024. (ROA 155.) On December 20, 2024, Plaintiff served notice that "Bates and Reiss have been dismissed in this action without prejudice." (ROA 159.)</p> <p>Accordingly, David Bates CPA/AVA and Jeffrey Reiss CPA/MST were to file their memorandums of costs within 15 days of December 20, 2024. 15 days after December 20, 2024 is Saturday, January 4, 2025. However, David Bates CPA/AVA and Jeffrey Reiss CPA/MST filed and served their respective memorandums of costs on January 21, 2025, making the memorandum of costs untimely pursuant to California Rules of Court, rule 3.1700(a)(1). (ROAs 169, 171, 173, 175, and 177.)</p> <p>David Bates CPA/AVA and Jeffrey Reiss CPA/MST failed to oppose the motions and therefore have not proffered any arguments or evidence establishing that their memorandums of costs were timely or that they are entitled to the costs sought therein.</p> <p>Accordingly, the Motions are GRANTED. Nonparty Defendant Jeffrey Reiss CPA/MST's Memorandum of Costs and Nonparty David</p>
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		<p>Bates CPA/AVA's Memorandum of Costs are STRICKEN.</p> <p><i>Plaintiff to give notice.</i></p>
101	<p>Mirabal vs. Showtime Dance Inc. 24-01377413</p>	<p>The unopposed motion of attorney Cynthia Craig of Kubota &amp; Craig, P.C. to be relieved as counsel for Plaintiff Samantha Mirabal is GRANTED.</p> <p>Service on the client and on all other parties who have appeared in the case was proper and all required forms containing the requisite information were filed pursuant to California Rules of Court, rule 3.1362.</p> <p>The order will take effect once moving attorney files proof of service of the signed order (MC-053) on the client.</p> <p>The Default Prove Up Hearing is continued to August 28, 2025 at 1:30 p.m.</p> <p><i>Moving attorney to provide notice.</i></p>
102	<p>Negrete vs. Holiday Skate Center 23-01327279</p>	<p>Plaintiff, MIGUEL NEGRETE (hereinafter referred to as "Plaintiff") applies to the Court to reconsider its January 16, 2025, ruling to impose sanctions against the Plaintiff.</p> <p>Initially, on January 16, 2025 this Court ruled as follows:  "Hearing held, all participants appearing remotely. The tentative ruling was issued and posted on the internet. The Court hears oral argument and confirms the tentative ruling. The tentative ruling becomes the final order of the Court as follows: Defendant Holiday Skate Center, LLC moves for an order compelling responses from plaintiff MIGUEL NEGRETE to the Form Interrogatories-General, Set One, and for sanctions in the amount of \$480.00 against plaintiff and his attorneys of record, the Law Offices of James P. Segall-Gutierrez. Defendant Holiday Skate Center, LLC also moves for an order compelling responses from plaintiff MIGUEL NEGRETE to the Requests for Production of Documents, Set One, and for sanctions in the amount of \$375.00 against plaintiff and his attorneys of record, the Law Offices of James P. Segall-Gutierrez. CCP §2031.300(b) provides, "The party making the demand may move for an order compelling response to the demand." Similarly, CCP</p>

	<p>§2030.290(b), provides, “The party propounding the interrogatories may move for an order compelling response to the interrogatories.” Production, Set One, by electronic mail on January 29, 2024. (Declaration of Mann ¶12.) Despite responses being due by March 1, 2024, to date, no responses have been provided. (Id. ¶13) Therefore, the unopposed motions are GRANTED. Plaintiff to provided responses, without objections, within 15 days of service of the Court’s ruling. Sanctions against Plaintiff and his attorneys of record in the requested amounts, as properly noticed, are GRANTED as both reasonable and warranted. Sanctions to be paid within 30 days of service of the Court’s ruling. (CCP §§ 2030.290(c), 2023.010(d), 2031.300(c).) Defendant to give notice.” [ROA 49.]</p> <p>Moving Party cites to Code Civ. Proc. §1006(c) as the moving authority for the relief herein.</p> <p>Code Civ. Proc. §1006(c) provides, “If a court at any time determines that there has been a change of law that warrants it to reconsider a prior order it entered, it may do so on its own motion and enter a different order.”</p> <p>Here, Plaintiff essentially argues that no sanctions were warranted because Defendant failed to meet and confer pursuant to Code Civ. Proc. § 2016.040 prior to bringing the motion.</p> <p>However, Code Civ. Proc. §2016.040 is not a new law and there has been no change in the law which became effective on 7/1/2005. Therefore, Code Civ. Proc. §1008(c) is not the correct moving authority for the requested relief.</p> <p>Also, to the extent Plaintiff believed Code Civ. Proc. §2016.040 acted as a bar to Defendant’s sanctions request, Plaintiff should have either a) made that argument in a timely filed opposition; or b) made that argument at oral argument. Plaintiff fails to establish why those arguments were not raised previously.</p> <p>As such, the Court opts not to reconsider its previous ruling. Moving Party has not met the initial requirements to show the applicability of</p>
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		<p>either Code Civ. Proc. §1008(c) or section 1008 generally.</p> <p>Even if the Court were to reconsider its previous ruling, it would not change. Defendant was not required to show a “reasonable and good faith attempt” to resolve the matter informally with opposing counsel before filing the motion. [See Code Civ. Proc. § 2030.290.]</p> <p>Therefore, the Motion is DENIED.</p> <p><i>Defendant to give notice.</i></p>
103	Simons vs. Trader Joe's Company 23-01326857	<p>Defendant Trader Joe’s Company seeks an Order Compelling Plaintiff Karen Chantale Aguirre Simons to respond to Defendant’s request for production of documents, set three. Defendant also seeks sanctions against Plaintiff and/or her counsel of record, in the amount of \$960.</p> <p>Pursuant to Code Civ. Proc. §2031.300, “If a party to whom a demand for inspection, copying, testing, or sampling is directed fails to serve a timely response to it...(b) The party making the demand may move for an order compelling response to the demand.” [Code Civ. Proc. §2031.300(b).]</p> <p>Additionally, “the court shall impose a monetary sanction... against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to a demand for inspection, copying, testing, or sampling, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.” [Code Civ. Proc. §2031.300(c).]</p> <p>Here, on September 4, 2024, Defendant served Plaintiff’s counsel with a request for production of documents, set three. (See Li Decl. ¶ 2). The responses were due on October 8, 2024. (See Li Decl. ¶ 3). Defendant re-served the request for production of documents, set three on November 20, 2024. (Id.¶7.) However, Plaintiff never responded to the discovery requests. (See Li Decl. ¶¶ 4, 8).</p> <p>As such, the unopposed Motion is GRANTED. Plaintiff is ordered to provide responses,</p>

		<p>without objections within 20 days of service of the notice of ruling. Plaintiff and/or counsel of record to pay \$960 in sanctions within 20 days.</p> <p><i>Defendant to give notice.</i></p>
104	NESSARY vs. KIA AMERICA, INC. 24-01420700	<p>Plaintiff Hamid Nessary ("Plaintiff") moves to compel Defendant Kia America, Inc. ("Defendant") to serve further responses to Plaintiff's first set of Requests for Production and Inspection, Nos. 30 and 31.</p> <p>Request No. 30 seeks other customer complaints that are substantially similar to the complaints made by Plaintiff in other 2023 Kia Sorento vehicles. Request No. 31 seeks documents that refer or relate to any Field Service Action issued, or in the process of being issued, in response to complaints experienced by Plaintiff as described in Defendant's warranty history/summary and within the line items of the repair orders created at Defendant's authorized repair facility. Defendant served responses with objections only to both requests.</p> <p>Plaintiff sent a meet and confer letter to Defendant on December 3, 2024 addressing the claimed deficiencies of Defendant's responses to Nos. 30 and 31, among other requests. Defendant's response dated December 23, 2024 informed Plaintiff that Defendant would conduct a search for customer complaints using search terms taken from the repair orders in this case and produce a compilation of the results. Instead of responding to the December 23 letter, Plaintiff filed this Motion to Compel.</p> <p>Defendant was engaging in the meet and confer process in good face as to Request No. 30 and Plaintiff ignored Defendant's efforts. The Court finds that Plaintiff failed to make a reasonable and good faith attempt at an informal resolution of the issues relative to Request No. 30. Accordingly, the Motion is DENIED as to that request. (Code Civ. Proc., §§ 2016.040, 2031.310(b)(2).)</p> <p>As to Request. No. 31, Plaintiff offers no evidence or argument as to what a "Field Service Action" is or how documents referring</p>

		<p>or relating to the same are relevant to this action. Therefore, the Court finds that Plaintiff has failed to establish good cause justifying the discovery sought. Accordingly, the Motion is DENIED as to Request No. 31 as well. (Code Civ. Proc., § 2031.310(b)(1).)</p> <p><i>Plaintiff to give notice.</i></p>
105	SGS Research, LLC vs. Wild West Lift Trucks 24-01414297	<p>Plaintiff SGS Research, LLC ("Plaintiff") moves for an order: (1) compelling Defendant Cody Arneson to serve responses to Plaintiff's first set of Form Interrogatories and Requests for Production of Documents and (2) imposing monetary sanctions. The motions are unopposed.</p> <p>Code of Civil Procedure sections 2030.290 and 2031.300 state that if a party to whom interrogatories or a demand for inspection "fails to serve a timely response to it," the party waives any and all objections and the propounding party may move for an order compelling responses to the interrogatory or demand. (Code Civ. Proc., §§ 2030.290(a)-(b), 2031.300(a)-(b).) These sections also state "the court shall impose a monetary sanction . . . against any party, person or attorney who unsuccessfully makes or opposes a motion . . . unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." (Code Civ. Proc., §§ 2030.290(c), 2031.300(c).)</p> <p>Plaintiff served the written discovery on Defendant on November 22, 2024 via mail, from an Arizona address. (Debenon Decls. ¶15, Exh. A). As such, the responses were due on January 2, 2025. Defendant failed to serve any responses. (Debenon Decls. ¶16).</p> <p>In light of the above, Plaintiff's unopposed motions are GRANTED. Defendant is ORDERED to serve verified responses, without objections, within 20 days.</p> <p>The Court finds no substantial justification for Defendant's failure to serve responses. Thus, the Court GRANTS Plaintiff monetary sanctions against Defendant in the amount of \$900.00.</p> <p><i>Plaintiff to give notice.</i></p>

106	Huebner vs. Guo 23-01322748	<p>Defendant Ziwei Guo moves to compel Plaintiffs David Kincaid and Alyssa Huebner to attend an independent medical examination by an orthopedic surgeon in Orange County, California.</p> <p>"In any case in which a plaintiff is seeking recovery for personal injuries, any defendant may demand one physical examination of the plaintiff, if both of the following conditions are satisfied: (1) The examination does not include any diagnostic test or procedure that is painful, protracted, or intrusive [and] (2) The examination is conducted at a location within 75 miles of the residence of the examinee." (Code Civ. Proc., § 2032.220, subd. (a).)</p> <p>"If any party desires to obtain discovery by a physical examination other than that described in" Section 2032.220, that party must obtain leave of court. (Code Civ. Proc., 2032.310, subd. (a).) The motion "shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the person or persons who will perform the examination. The motion shall be accompanied by a meet and confer declaration under Section 2016.040." (Id., § 2023.310, subd. (b).)</p> <p>"The court shall grant a motion for a physical... examination under Section 2032.310 only for good cause shown." (Code Civ. Proc., § 2032.320, subd. (a).) "An order granting a physical or mental examination shall specify the person or persons who may perform the examination, as well as the time, place, manner, diagnostic tests and procedures, conditions, scope, and nature of the examination." (Id., § 2023.320, subd. (d).) "If the place of the examination is more than 75 miles from the residence of the person to be examined, an order to submit to it shall be entered only if both of the following conditions are satisfied: (1) The court determines that there is good cause for the travel involved. (2) The order is conditioned on the advancement by the moving party of the reasonable expenses and costs to the examinee for travel to the place of examination." (Id., § 2023.320, subd. (e).)</p>
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	<p>Plaintiffs now reside in Arizona. Defendant seeks to have Plaintiffs travel to the forum venue for an IME with an orthopedist. Plaintiffs have not opposed the motion, but Defendant's counsel states they are unwilling to travel to Orange County. Defendant has offered to pay the reasonable costs of travel and lodging.</p> <p>Defendant's motion cannot be granted because it does not comply with the requirements set forth in Code of Civil Procedure section 2023.310, subd. (b). Defendant has not specified "the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the person or persons who will perform the examination." (Code Civ. Proc., 2032.310, subd. (b).)</p> <p>Accordingly, the motion is DENIED without prejudice.</p> <p>To aid the parties in any future meet and confer efforts regarding this issue, the Court notes that but for the technical deficiencies in complying with the statute, the Court would find good cause to require Plaintiffs to appear in the venue county for their examinations. As a further aid, leave is granted to re-file the motion to correct the deficiencies and any future sanction request may include the amounts incurred in bringing this instant motion and a future re-filed motion.</p> <p><i>Defendant to give notice.</i></p>
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