

**TENTATIVE RULINGS
DEPARTMENT C13 - LAW AND MOTION CALENDAR**

Judge Jonathan Fish

June 30, 2025

LAW AND MOTION IS HEARD ON MONDAYS AT 1:30 P.M.

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. If a party desires a record of a law and motion proceeding, it must provide a court reporter. Parties must comply with the Court's policy on the use of privately-retained court reporters, which can be found at:

- [Civil Court Reporter Pooling](#);
- Please see the Court's website at [Court Reporter Interpreter Services](#) for additional information regarding the availability of court reporters.

Tentative Rulings: The Court endeavors to post tentative rulings on the Court's website by 5 p.m. on the preceding Friday. Do NOT call the Department for a tentative ruling if none is posted. Tentative rulings may not be posted on every case – or may be posted the morning of the hearing – due to the Court's other commitments or the nature of a particular motion. **The Court will NOT entertain a request for continuance or the filing of further documents once a tentative ruling has been posted.**

Submitting on tentative rulings: If all counsel intend to submit on the tentative ruling and do not desire oral argument, please advise the Courtroom Clerk or Courtroom Attendant by calling (657) 622-5213. Please do not call the Department unless all parties submit on the tentative ruling. 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 the ruling and prepare an order for the Court's signature, if appropriate under Cal. R. Ct. 3.1312.

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 the tentative ruling becomes the final ruling. The Court also might make a different order at the hearing. (*Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442, fn. 1.)

Appearances: Remote and In-Person Proceedings. Parties are referred to the Court's "Appearance Procedures and Information – Civil Unlimited and Complex" and "Guidelines for Remote Appearances" available on the Public Website.

#	Case Name	
1	Bastani vs. Khatami 2022-01291818	1. Motion to Compel Further Responses to Form Interrogatories 2. Motion to Compel Further Responses to Special Interrogatories 3. Motion to Compel Production 4. Motion to Compel Response to Requests for Admissions Off Calendar
2	Biocorr, Inc. vs. VDM Biochemicals, Inc. 2021-01195606	1. Motion to Quash Service of Summons 2. Motion to Quash Service of Summons There is no tentative. Court will hear from counsel.
3	Doe vs. Assif 2024-013728020	Motion to Compel Further Responses to Special Interrogatories Continued to 12/15/2025
4	Elizarraraz vs. Padron 2021-01187466	Motion to Tax Costs Off Calendar
5	Grace vs. CBRE Capital Markets, Inc 2023-01314705	Motion for Summary Judgment and/or Adjudication There is no tentative. Court will hear from counsel.
6	Jahneke vs. State of California 2024-01370884	Motion to Set Aside/Vacate Dismissal On plaintiff Wesley Jahneke's motion to vacate the dismissal entered as to the entire action, the court will vacate the dismissal. The court does so, however, on its own motion and pursuant to Code Civ. Proc. §473(d) and its inherent power to correct clerical error. On 1/5/24, Plaintiff Wesley Jahneke filed a Complaint against the State of California, Transportation Corridor Agencies (TCA), and the County of Orange (as well as Does 1-20) for: <ol style="list-style-type: none"> 1. Negligence (Bodily and Personal Injury); 2. Premises liability; and 3. Dangerous conditions of public property (G.C. §§ 830 and 835).

Defendant the County of Orange answered on 3/1/24. [ROA #17.]

Defendant Foothill/Eastern Transportation Agency erroneously sued as Transportation Corridor Agencies (“TCA”) demurred and moved to strike. [ROA ## 25, 29.] This demurrer was sustained without leave to amend on 7/22/25. In the same order, the court granted Plaintiff additional 60 days to serve The State of California. [ROA #63.] At Plaintiff’s request, the court also dismissed the County of Orange without prejudice. [*Id.*]

Judgment for TCA, and only TCA, was entered on 8/28/25. [ROA #66.] Notice of entry of that judgment was served by mail on 8/30/25. [ROA #72.] The clerk also served notice of judgment by mail as of 9/3/25. [ROA #70.]

On 8/28/24, the clerk entered a dismissal of the case. [ROA #68.] Then, on 8/30/24, the clerk entered that the complaint was disposed of. [ROA #67.]

Thereafter, both Plaintiff and the State of California filed CMC statements. [ROA ## 74, 76.]

But when the State of California attempted to file an answer to the complaint, the clerk rejected the answer on the ground that the entire case was dismissed with “with disposition of Court-ordered dismissal on 08/28/24.” [ROA #77.]

The same happened when Plaintiff attempted to file an amended complaint on 10/14/24. [ROA #78.]

On 3/18/25, Plaintiff filed the pending motion to vacate the dismissal of the entire action pursuant to Code Civ. Proc. §663. [ROA #81.]

Code Civ. Proc. §663a provides the timing for when to file a notice of intent to move to vacate a judgment under section 663. The notice must be filed the earlier of within 15 days of notice of entry of the judgment or 180 days from entry. Code Civ. Proc. §663a(a). Further, the court only has 75 days from notice of intent to move to vacate to grant a motion to vacate under section 663. Code Civ. Proc. § 663a(b).

Defendant State of California argues that Plaintiff’s motion is untimely because it was not filed within 15 days of notice of entry of judgment. As Plaintiff notes, the notice of entry of judgment in favor of TCA did not give any notice of entry of dismissal of the entire

action so it did not trigger the 15 day limit. But Plaintiff's motion was not filed within 180 days of the entry of dismissal either.

But Code Civ. Proc. §473(d) applies here.

The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed, and may, on motion of either party after notice to the other party, set aside any void judgment or order.

Code Civ. Proc., § 473(d).

The court also has inherent power to correct its judgment. *In re Tobias* (1989) 208 Cal.App.3d 1031, 1034 (noting inherent power to correct clerical error in judgment).

Clerical error is correctable at any time. *Marriage of Kaufman*, 101 Cal.App.3d at 151. Where clerical error is shown, the judgment is corrected nunc pro tunc. *Ames v. Paley* (2001) 89 Cal.App.4th 668, 673.

“A clerical error in the judgment includes inadvertent errors made by the court ‘which cannot reasonably be attributed to the exercise of judicial consideration or discretion.’ [Citations.] ‘Clerical error ... is to be distinguished from judicial error which cannot be corrected by amendment. The distinction between clerical error and judicial error is “whether the error was made in rendering the judgment, or in recording the judgment rendered.” [Citation.] Any attempt by a court, under the guise of correcting clerical error, to “revise its deliberately exercised judicial discretion” is not permitted. [Citation.]’ [Citation.] A judicial error is the deliberate result of judicial reasoning and determination.” *Conservatorship of Tobias* (1989) 208 Cal.App.3d 1031, 1034–1035. “ ‘The term “clerical error” covers all errors, mistakes, or omissions which are not the result of the exercise of the judicial function. If an error, mistake, or omission is the result of inadvertence, but for which a different judgment would have been rendered, the error is clerical and the judgment may be corrected’ ” *Id.* at 1035.

		<p>In <i>Estate of Douglas</i> (2022) 83 CA5th 690, the court found that is clerical, rather than legal, error when a judgment renewal was entered as to the debtor in her individual capacity rather than in her capacity as Administrator.</p> <p>“The original judgment identifies the judgment debtor as Audrey Douglas, in her capacity as administrator. Respondent did not apply to the court via motion or application to change or alter that judgment in any way. Instead, respondent applied to the clerk to renew that existing judgment using the Judicial Council form and failed to include the capacity of the judgment debtor. The clerk's entry of the renewal based on that application was ministerial, not judicial (<i>Rubin v. Ross</i> (2021) 65 Cal.App.5th 153, 165 [279 Cal.Rptr.3d 385]), and created no new or separate judgment, but merely extended the time in which the original judgment could be enforced (<i>Jonathan Neil & Associates, Inc. v. Jones, supra</i>, 138 Cal.App.4th at p. 1489). As such, there was no exercise of judicial discretion, judicial reasoning, or judicial determination connected to this application. The trial court did not abuse its discretion in determining this was a clerical error.” <i>Estate of Douglas</i> (2022) 83 Cal.App.5th 690, 696, 697 (Here, the entry of the judgment was accomplished when the original judgment was issued by the trial court in 2008. The clerk's [action] was a clerical error.”).</p> <p>Here, the judgment entered disposed of Plaintiff's claims against TCA only and did not purport to dispose of Plaintiff's claims against the State of California. The clerk's entry of dismissal as to <i>all</i> of Plaintiff's claims, including those against the State of California, was clerical error. “[T]here was no exercise of judicial discretion, judicial reasoning, or judicial determination connected” with it. <i>Estate of Douglas</i>, 83 Cal.App.5th at 696.</p> <p>Accordingly, the court will vacate the dismissal of the entire case pursuant to Code Civ. Proc. §473(d) and its inherent powers.</p>
7	<p>Nguyen vs. Phan</p> <p>2023-01339172</p>	<ol style="list-style-type: none"> 1. Motion to Compel Answers to Special Interrogatories 2. Motion to Compel Production <p>Defendant Minh Phan's unopposed motions to compel responses from Defendant Victoria Nguyen to his special interrogatories, set one, and requests for production of documents, set one, are granted.</p>

		<p>Defendant Nguyen is ordered to serve verified responses without objection to Defendant Phan’s discovery requests within 15 days of the notice of the ruling.</p> <p>Defendant Phan propounded special interrogatories, set one, and requests for production of documents, set one on Defendant Nguyen on 12/10/24. Responses were due on 1/9/25. Defense counsel sent emails on January 21st, January 29th and February 4th but no responses were forthcoming. (Tran Decl., ¶¶ 2-6.)</p> <p>Defendant Nguyen has not opposed these motions.</p> <p>Because Defendant Phan demonstrated that the discovery requests were served, the deadline has passed, and no responses were served or have been served as of the date of the hearing, orders compelling responses and production are appropriate. (See Code Civ. Proc., §§ 2030.290, 2031.300.)</p> <p>The Court awards sanctions against Defendant Nguyen in the amount of \$1,600.00 to be paid to Defendant Phan within 30 days. (Code Civ. Proc., §§ 2023.010, 2030.290(c), 2031.300(c).)</p> <p>Defendant Phan shall give notice of the ruling.</p>
8	Pacifica Center of Huntington Beach, Inc. vs. Rume Medical Group, Inc. 2024-01411881	1. Motion to Compel Further Responses to Special Interrogatories 2. Motion to Compel Production Continued to 09/15/2025
9	Melton vs. Cardona 2023-01338799	1. Motion to Compel Answers to Form Interrogatories 2. Motion to Compel Answers to Form Interrogatories 3. Motion to Compel Production 4. Motion to Compel Production 5. Order to Show Cause RE: Default Defendant and Cross-Defendant Luis Alcantar’s motions to compel responses by defendant and cross-complainant Ezequiel Cardona to form interrogatories, set one, and requests for production, set one, are denied without prejudice. Cross-Defendant Alcantar has not shown that the discovery itself was properly served on Cross-Complainant Cardona. . [Kazachki Decl. (ROA ##119, 125), ¶ 3 and Ex. 1.] The discovery is attached as

exhibits to counsel's declaration, but no proofs of service are attached to them. Nor does counsel's declaration say how the discovery was served or to what address.

Cross-Defendant Alcantar's motion to compel defendant and cross-complainant Martha Ibarra to provide responses to form interrogatories, set one, is substantively moot as Cross-Complainant Ibarra served responses after the motion was filed. Cross-Defendant Alcantar is awarded sanctions of \$761.25 against Cross-Complainant Ibarra and her counsel, Law Office of Brian P. Smith and Associates to be paid to Arbat, a Law Corporation no later than July 25, 2025.

Cross-Defendant Alcantar's motion to compel defendant and cross-complainant Martha Ibarra to provide responses to requests for production, set one, is substantively moot as Cross-Complainant Ibarra served responses after the motion was filed. Cross-Defendant Alcantar is awarded sanctions of \$761.25 against Cross-Complainant Ibarra and her counsel, Law Office of Brian P. Smith and Associates to be paid to Arbat, a Law Corporation no later than July 25, 2025.