

Tentative Rulings

Law & Motion and Family Law Calendar for April 22, 2019

April 18, 2019, 4:00 p.m.

Department Two

To request a hearing on any matter on this calendar, you must call the Court at 530-283-6305 by 12:00 noon, April 19, 2019. Notice of the intention to appear must also be given to all other parties. If the clerk is not notified of a party's intention to appear, there will be no hearing and the tentative ruling becomes the order of the court.

If you appear and want the matter reported by a court reporter in unlimited civil, family law or probate, you must contract with and provide your own court reporter. The Court does not provide an official reporter for these calendars.

Probate – 9:00 a.m.

Case No. PR19-00006 Conservatorship of Cummings, Juanita

Tentative Ruling: **Appearance required.** The Court finds that notice has been given as required by law and the Court has received and reviewed the Investigator' Report.

Case No. PR17-00012 Conservatorship of Johns, Bruce

Tentative Ruling: **Appearance required.** The Court will discuss the issue of the reappointment of conservator.

Case No. PR18-00058 Conservatorship of Lake, Susan

Tentative Ruling: **Appearance required.** The Court finds that notice has been given as required by law and the Court has received and reviewed the Court Investigator report and Capacity Declaration.

Case No. PR19-00008 Guardianship of Gilmer, Angela Renee

Tentative Ruling: **No appearance required.** The Court finds that notice has been given as required by law, however the Court has not yet received the investigative report. The hearing will be continued to May 29, 2019, at 9 a.m., for receipt of the report. All prior orders will remain in full force and effect to the next hearing date.

Case no. PR18-00065 Guardianship of Meza, Avia Ann and Wanless, Teylyn Storm

Tentative Ruling: **Appearance required.** The Court finds that notice has been given as required by law, however the Court has not yet received the investigative report

Case No. PR12-00021 Guardianship of Potts, Nathaniel

Tentative Ruling: **No appearance required.** The Court has received and reviewed the confidential guardianship status report. The Court finds it is in the minor's best interests to

continue the guardianship. The Court will set the annual review hearing for April 27, 2020, at 9:00 a.m. The clerk is reminded to send notice to the guardian one month prior to that date, informing the guardian of the duty to file a confidential status report prior to that review hearing.

Case No. PR14-00057 Guardianship of Taylor, Alistair James

Tentative Ruling: **Appearance required.** The Court has received and reviewed the confidential guardianship status report and finds it is the minor's best interests to continue the guardianship. The Court will set the annual review hearing for April 27, 2020, at 9:00 a.m. The clerk is reminded to send notice to the guardian one month prior to that date, informing the guardian of the duty to file a confidential status report prior to that review hearing. The Court has not received an updated report from the child's counselor and will discuss the Father's request for family members to attend his visits.

Case No. PR17-00045 Estate of Maddalena, Dean

Tentative Ruling: **No appearance required.** The Court finds that notice has been given as required by law and Waivers of Accounting were filed by Antonio and Meg Maddalena. There has been no opposition to the Petition filed by Larry Maddalena, Donald Maddalena or Michelle DeBerg. The Court will grant the Order Approving the Waiver of Accounting and sign the proposed Order.

Civil Law and Motion – 9:30 a. m.

Case No. CV19-00042 Petition of Ellis, Robert Vincent

Tentative Ruling: **No appearance required.** The Court finds the Petition has been published as required by law and no opposition has been filed. The Court will sign the proposed Decree.

Case No. CV18-00217 Peterson, Richard vs. Shasta-Siskiyou Transport, el

Tentative Ruling: **Appearance required.** This case is on calendar for a case management conference and discovery motions. The Court has not received a case management statement from Plaintiff.

Defendants' Motion to Compel Plaintiff's Further Responses to General Form Interrogatories, Set One, and monetary sanctions.

The motion of Defendants Shasta-Siskiyou Transport dba SST Oil, and Matthew Lee Martin ("Defendants") pursuant to Code of Civil Procedure section 2030.300 to compel Plaintiff Richard Peterson ("Plaintiff") to provide further verified responses to Defendants' Form Interrogatories ("Rog"), Set One, Nos. 2.3, 2.5, 2.6, 2.7, 2.12, 4.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 7.1, 7.2, 7.3, 8.1, 8.2, 8.3, 8.5, 8.6, 8.7, 8.8, 9.1, 10.1, 10.2, 10.3, 12.1, 12.2, 12.3, 12.4, 12.6, 14.1, 14.2, 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, 20.7, 20.8 and 20.11 is granted as set forth below.

Defendants' concurrent motion for monetary sanctions against Plaintiff's counsel, Daniel D. Geoulla, pursuant to Code of Civil Procedure section 2030.300 in the amount of \$650 is granted as set forth below.

Defendants' request for judicial notice is granted.

This action arises from a motor vehicle accident occurring in March 2017. Plaintiff commenced the action against Defendants in October 2018, alleging personal injury by motor vehicle general negligence. Defendants answered the Complaint and asserted contributory negligence.

On November 28, 2018, Defendants served form interrogatories upon Plaintiff. On or about January 14, 2019, Defendants received Plaintiff's responses to the interrogatories. The proof of service indicates service by mail on January 7, 2019.

On January 25, 2019, Defendants' counsel sent a meet and confer letter to Plaintiff's counsel objecting to the Plaintiff's responses to form interrogatories listed above. Defendants requested that Plaintiff provide amended verified response by February 1, 2019. Defendants' counsel emailed a follow up inquiry to Plaintiff's counsel on February 4, 2019. Plaintiff's counsel did not respond, and the pending motion was filed February 21, 2019.

The Defendants have properly set forth the subject interrogatories, Plaintiff's related responses, and Defendants' arguments justifying further responses in Defendants' separate statement, so that voluminous material will not be reproduced in this ruling.

Plaintiff opposes the motion arguing: (1) he has now provided further responses that cure any of the concerns that the Defendants may have; (2) his responses (original or amended is not specified) are adequate and "code compliant"; and (3) Defendants' counsel failed to meet and confer in good faith, and has refused to continue the pending motion to allow time for meaningful meet and confer.

Plaintiff does not ostensibly attempt to justify any of his initial responses or objections to the form interrogatories in question.

The Court preliminarily notes that Defendants' motion is directed to Plaintiff's initial responses dated January 7, 2019. The motion does not and could not address the unverified amended interrogatory responses provided by Plaintiff after the motion to compel was filed. Service of amended responses after a motion to compel has been filed does not moot the motion, and this is particularly the case if the moving party continues to have objections to responses even after amendment. (See, Cal. Rules Ct., Rule 3.1348(a).) Instead, the Court's review is intended to be directed by the moving parties' separate statement as described and required pursuant to California Rules of Court, rule 3.1345(c), as will be the case here.

Likewise, although several of the policies underlying the Discovery Act would encourage further efforts between the parties to resolve discovery disputes even after a discovery motion is filed, typically the relevant meet and confer process for purposes of the motion is that which took place before the motion was filed. (*Clement v. Alegre* (2009) 177 Cal. App. 4th 1277, 1291-1292; *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431.) However, in this instance at the time the initial hearing on these motions was continued, in its tentative ruling, the Court directed the parties to further meet and confer prior to this hearing date to see if a resolution of the discovery disputes could be reached. Defendants' counsel has submitted a declaration indicating the subsequent meet and confer discussions were unsuccessful.

Meet and Confer

The first question is whether Defendants' meet and confer efforts were sufficient and made in good faith so as to satisfy Code of Civil Procedure section 2016.040 and Pursuant to Code of

Civil Procedure section 2031.310(b)(2) pervade the motion. The Court finds that Defendants' efforts were sufficient and made in good faith.

Section 2016.040 states that a meet and confer declaration in support of a motion shall state facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The record demonstrates that 10 days after receiving Plaintiff's written responses, Defendants' sent a meet and confer letter to Plaintiff's counsel on January 25, 2019. Defendants requested amended responses by February 1, 2019. The letter was emailed to Plaintiff's counsel of record Daniel Geoulla, who signed the Plaintiff's response to the RPD dated January 7, 2019. The counsel of record for Plaintiff in the pending action, are Daniel Geoulla and Michael Geoula, of B&D Law Group, APLC. Defendants counsel received no response, so on February 4, 2019, Defendants' counsel sent a follow-up email to Mr. Geoulla. Defendants' counsel received no response as of February 19, 2019, before filing the instant motion.

After receiving Defendants' motion to compel, Plaintiff's counsel contended that the meet and confer emails sent to his email address remained unread, and that Defendants' counsel had caused the problem by sending the emails to the wrong attorney in the law firm. Plaintiff's counsel indicated that Mr. Hakhamzadeh was the "handling attorney" and that Defendants' counsel should have known to direct the meet and confer letters to him instead of Mr. Geoulla. Defendants' counsel responded that the meet and confer letter was sent to Mr. Geoulla because he was Plaintiff's counsel of record listed on the complaint, that he was the attorney who signed the responses/objections, and Mr. Hakhamzadeh had not be identified to Defendants' counsel as being involved in the Plaintiff's representation at the time. Moreover, in Defendants' counsel's reply declaration he points out that Mr. Geoulla was also the attorney who authored Plaintiff's February 1, 2019, meet and confer letter regarding Plaintiff's own discovery to Defendants.

Plaintiff's counsel does not address the asserted misdirection of the meet and confer letter in a declaration supporting the opposition. Mr. Geoulla does not repeat the source of the miscommunication in his declaration, or explain that the failure to respond to Defendants' meet and confer letter was due to his failure to open the meet and confer email sent to his email address as provided on his client's complaint. Instead, in one sentence in the conclusion of the opposition, Plaintiff's counsel states that the "delay in providing the answers was purely a result of mistake, inadvertence, and excusable neglect." However, no evidence has been submitted to support that statement. (*Clement v. Alegre* (2009) 177 Cal. App. 4th 1277, 1291-1292; *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431.)

Form Interrogatories

Code of Civil Procedure section 2030.210 provides in relevant part that the responding party "shall respond in writing under oath separately to each interrogatory by any of the following: (1) An answer containing the information sought to be discovered; (2) An exercise of the party's option to produce writings; or (3) An objection to the particular interrogatory."

Code of Civil Procedure section 2030.220 provides in relevant part that each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits. If an interrogatory cannot be answered completely, the responding party must answer it to the extent possible. If a responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party must state that fact plainly in the response. However, the responding party must also make a reasonable

and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party.

Code of Civil Procedure section 2030.240 provides that if only a part of an interrogatory is objectionable, the remainder of the interrogatory shall be answered. And, if an objection is made to an interrogatory or to a part of an interrogatory, the specific ground for the objection shall be set forth clearly in the response. Further, if an objection is based on a claim of privilege, the particular privilege invoked must be clearly stated, including the work product protection which also must be expressly asserted.

Code of Civil Procedure section 2030.300 provides in relevant part that after receiving a response a propounding party may move for an order compelling a further response if the propounding party deems that any of the following apply: (1) an answer to a particular interrogatory is evasive or incomplete; (2) an exercise of the option to produce documents under Section 2030.230 is unwarranted or the required specification of those documents is inadequate; or (3) an objection to an interrogatory is without merit or too general.

If the propounding party's position is determined to be correct by the court, the initial available remedy provided under Section 2030.230 is twofold. The court first resolves the disputed questions as to whether the response was evasive, incomplete, unwarranted, inadequate, or asserts an objection that is meritless or too general. The court then orders the responding party to provide a "further response" in complete accordance with its resolution of those disputed questions.

The obvious importance of ordering and obtaining a further response which is not evasive, incomplete, unwarranted, inadequate, or contains an objection that is meritless or too general, arises from the fact that interrogatory responses may be ultimately be used as evidence at trial and similar proceedings. (Code Civ.Proc. §2030.410.) Responses that contain meritless objections, are factually devoid, or fail to aver the responding party's lack of responsive evidence, have no value at trial.

In light of these provisions, the Court finds that all of the Defendants' argued bases for compelling further responses to all of the listed form interrogatories have merit. This includes the Plaintiff's objections to Rogs 12.1-3. Plaintiff's objections are overruled.

Plaintiff shall provide further responses to Defendants' Form Interrogatories ("Rog"), Set One, Nos. 2.3, 2.5, 2.6, 2.7, 2.12, 4.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 7.1, 7.2, 7.3, 8.1, 8.2, 8.3, 8.5, 8.6, 8.7, 8.8, 9.1, 10.1, 10.2, 10.3, 12.1, 12.2, 12.3, 12.4, 12.6, 14.1, 14.2, 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, 20.7, 20.8 and 20.11. Plaintiff's response shall not reassert the objections overruled by this ruling, or variations thereof. Plaintiff's response shall not contain any General Objections not stated specifically within the separate response to each form interrogatory. Plaintiff's further response shall comply with Code of Civil Procedure section 2030.210, 2030.220, 2030.230, and 2030.240 as applicable. Any assertion of privilege shall be accompanied by a privilege log.

Sanctions

Pursuant to Code of Civil Procedure section 2030.300(d) the court is required to impose a monetary sanction against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response to form interrogatories, 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.

The Court does not find that Plaintiff's objections that are overruled in this motion, or Plaintiff's opposition to the motion, were substantially justified. Although the motion is not addressed to Plaintiff's amended interrogatory responses served after this motion was commenced, the Court did review them while considering the issue of sanctions in this matter. In that respect, the Court notes that Plaintiff's amended responses do not provide responses to 2.3, do not provide factual responses addressing the Defendants' valid criticisms, and continue to assert the meritless objections addressed by Defendants' motion but not defended in Plaintiff's opposition. The Court also notes that while additional meet and confer sessions were undertaken at the Court's direction, Plaintiff's counsel continued to assert the previous objections to Form Interrogatories, which are presumed to be relevant to this action.

In light of the foregoing, and based upon the entire record, the Court awards Defendants monetary sanctions against Plaintiff's counsel Daniel D. Geoulla in the amount of \$650.00.

Response Date

Plaintiff shall serve, in accordance with this ruling, his amended verified responses to Defendants' Form Interrogatories Set One, Nos. 2.3, 2.5, 2.6, 2.7, 2.12, 4.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 7.1, 7.2, 7.3, 8.1, 8.2, 8.3, 8.5, 8.6, 8.7, 8.8, 9.1, 10.1, 10.2, 10.3, 12.1, 12.2, 12.3, 12.4, 12.6, 14.1, 14.2, 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, 20.7, 20.8 and 20.11, on or before May 22, 2019.

Defendants' counsel shall prepare the proposed Order.

Defendant's Motion to Compel Plaintiff's Further Response to Request for Production, Set One, and monetary sanctions.

The motion of Defendants Shasta-Siskiyou Transport dba SST Oil, and Matthew Lee Martin ("Defendants") pursuant to Code of Civil Procedure section 2031.310(b)(2) to compel Plaintiff Richard Peterson ("Plaintiff") to provide further verified responses to Defendants' Request for Production of Documents ("RPD", Set One, Nos. 3, 11, 12 and 13, is granted as set forth below. Defendants' concurrent motion for monetary sanctions against Plaintiff's counsel, Daniel D. Geoulla, pursuant to Code of Civil Procedure section 2031.310 in the amount of \$650 is granted as set forth below.

This action arises from a motor vehicle accident occurring in March 2017. Plaintiff commenced the action against Defendants in October 2018, alleging personal injury by motor vehicle general negligence. Defendants answered the complaint, and asserted contributory negligence.

On November 28, 2018, Defendants propounded their first set of requests for production of documents upon Plaintiff. Plaintiff served his verified written responses dated January 7, 2019. Defendants' counsel declares that he received the responses on or about January 14, 2019. (Finn Dec., ¶ 7.) The responses dated January 7, 2019 that are Exhibit B to the Finn Declaration are not accompanied by a proof of service. On January 25, 2019, Defendants' counsel sent Plaintiff's counsel a meet and confer letter regarding Plaintiff's discovery responses, including his responses to RPD, set one, Nos. 3, 11, 12 and 13. Defendants requested amended responses in accordance with their meet and confer points by close of business February 1, 2019. On February 4, 2019, Defendants' counsel attempted to follow up with Plaintiff's counsel. Receiving no response, Defendants filed the present motion on February 21, 2019.

Defendants' request for judicial notice of the complaint and answer in this action is granted.

Plaintiff opposes the motion arguing that: (1) after the motion to compel was filed, Plaintiff has now provided further responses to RPD 3, 11, 12, and 13, that cure Defendant's objections; (2) Plaintiff's prior responses are adequate and Code compliant; and (3) Defense counsel failed to meet and confer in good faith, and refuses to continue the present motion to allow more time to meet and confer over the subject discovery.

The Court preliminarily notes that Defendants' motion is directed to Plaintiff's initial responses dated January 7, 2019. The motion does not and could not address the unverified amended responses provided by Plaintiff after the motion to compel was filed. Service of amended responses after a motion to compel has been filed does not moot the motion, and this is particularly the case if the moving party continues to have objections to responses even after amendment. (See, Cal. Rules Ct., Rule 3.1348(a).) Instead, the Court's review is intended to be directed by the moving parties' separate statement as described and required pursuant to California Rules of Court, rule 3.1345(c), as will be the case here.

Likewise, although several of the policies underlying the Discovery Act would encourage further efforts between the parties to resolve discovery disputes even after a discovery motion is filed, initially the relevant meet and confer process for purposes of the motion is that which took place before the motion was filed. (*Clement v. Alegre* (2009) 177 Cal. App. 4th 1277, 1291-1292; *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431.) However, in this instance, at the time the initial hearing date for these motions was continued, in its tentative ruling, the Court directed the parties to further meet and confer prior to this hearing date to see if a resolution of the discovery disputes could be reached. Defendants' counsel has submitted a declaration indicating the subsequent meet and confer discussions were unsuccessful.

Pursuant to Code of Civil Procedure section 2031.210 (a), Plaintiff was required to respond to Defendants' RPD separately as to each request by any of the following: (1) a statement that the Plaintiff will comply with the particular demand for inspection, copying, testing, or sampling by the date set for the inspection, copying, testing, or sampling pursuant to paragraph (2) of subdivision (c) of Section 2031.030 and any related activities; (2) a representation that the Plaintiff lacks the ability to comply with the demand for inspection, copying, testing, or sampling of a particular item or category of item; and/or (3) an objection to the particular demand for inspection, copying, etc.

Pursuant to Code of Civil Procedure section 2031.220, if the Plaintiff made a statement that it will comply with the particular demand, Plaintiff was required to state that the production, inspection, copying demanded will be allowed either in whole or in part, and that all documents or things in the demanded category that are in the Plaintiff's possession, custody, or control and to which no objection is being made will be included in the production.

Pursuant to Code of Civil Procedure section 2031.230, if the Plaintiff made a representation of inability to comply with the particular demand for inspection, Plaintiff was required to affirm that a diligent search and a reasonable inquiry had been made in an effort to comply with the demand, and was also required to specify whether the inability to comply is because the particular item or category of requested document has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement of inability must also set forth the name and address of any natural person or organization known or believed by the Plaintiff to have possession, custody, or control of that item or category of item.

Pursuant to Code of Civil Procedure section 2031.240, if the Plaintiff asserts that only part of an item or category of item in a demand for inspection is objectionable, the response shall contain a statement of compliance, or a representation of inability to comply with respect to the remainder as to the portion to which no objection is asserted. If the Plaintiff objected to the demand for inspection of an item or category of item, the Plaintiff's response was also required to do both of the following: (1) identify with particularity any document, tangible thing, land, or electronically stored information falling within any category of item in the demand to which the objection is being made; and (2) set forth clearly the extent of, and the specific ground for, the objection. If the Plaintiff asserted an objection based on a claim of privilege, Plaintiff was required to state the particular privilege invoked. If Plaintiff based an objection on a claim that the information sought is protected work product under Chapter 4 (commencing with Section 2018.010), that claim had to be expressly asserted as well.

Pursuant to Code of Civil Procedure section 2031.240(c)(1), if the Plaintiff asserted an objection based on a claim of privilege or a claim that the information sought is protected work product, the Plaintiff's response was required to provide sufficient factual information for the Defendants to evaluate the merits of that claim, including, if necessary, a privilege log.

Pursuant to Code of Civil Procedure section 2031.310, on receipt of Plaintiff's verified responses, the Defendants had the option to move for an order compelling further response to the demand if Defendants deemed that any of the following applied: (1) a statement of compliance with the demand by Plaintiff is incomplete; (2) a representation of inability to comply by Plaintiff is inadequate, incomplete, or evasive; (3) an objection in the response is without merit or is too general.

Pursuant to Code of Civil Procedure section 2031.310(b), if the Defendants bring the motion to compel further responses, (1) the motion must set forth specific facts showing good cause justifying the discovery sought by the demand, and (2) the motion must be accompanied by a meet and confer declaration under Section 2016.040.

To be timely, notice of such a motion must be given within 45 days of the service of the verified response, or any supplemental verified response, or on or before any specific later date to which the demanding party and the responding party have agreed in writing. If the motion is not timely noticed, the demanding party waives any right to compel a further response to the demand.

Pursuant to Code of Civil Procedure section 2031.310(h) the court is required to impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response to a demand, 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.

Meet and Confer

The first question is whether Defendants' meet and confer efforts were sufficient and made in good faith so as to satisfy Code of Civil Procedure section 2016.040 and pursuant to Code of Civil Procedure section 2031.310(b)(2). The Court finds that Defendants' efforts were sufficient and made in good faith.

Section 2016.040 states that a meet and confer declaration in support of a motion shall state facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The record demonstrates that 10 days after receiving Plaintiff's written responses, Defendants' sent a meet and confer letter to Plaintiff's counsel on January 25, 2019. Defendants' requested amended responses by February 1, 2019. The letter was emailed to Plaintiff's counsel of record Daniel Geoulla, who signed the Plaintiff's response to the RPD dated January 7, 2019. The counsel of record for Plaintiff in the pending action, are Daniel Geoulla and Michael Geoola, of B&D Law Group, APLC. Defendants counsel received no response, so on February 4, 2019, Defendants' counsel sent a follow-up email to Mr. Geoulla. Defendants' counsel received no response as of February 19, 2019, before filing the instant motion.

After receiving Defendants' motion to compel, Plaintiff's counsel contended that the meet and confer emails sent to his email address remained unread, and that Defendants' counsel had caused the problem by sending the emails to the wrong attorney in the law firm. Plaintiff's counsel indicated that Mr. Hakhamzadeh was the "handling attorney" and that Defendants' counsel should have known to direct the meet and confer letters to him instead of Mr. Geoulla. Defendants' counsel responded that the meet and confer letter was sent to Mr. Geoulla because he was Plaintiff's counsel of record listed on the Complaint, that he was the attorney who signed the responses/objections, and Mr. Hakhamzadeh had not been identified to Defendants' counsel as being involved in the Plaintiff's representation at the time. Moreover, in Defendants' counsel's reply declaration he points out that Mr. Geoulla was also the attorney who authored Plaintiff's February 1, 2019, meet and confer letter regarding Plaintiff's own discovery to Defendants.

Plaintiff's counsel does not address the asserted misdirection of the meet and confer letter in a declaration supporting the opposition. Mr. Geoulla does not repeat the source of the miscommunication in his declaration, or explain that the failure to respond to Defendants' meet and confer letter was due to his failure to open the meet and confer email sent to his email address as provided on his client's complaint. Instead, in one sentence in the conclusion of the opposition, Plaintiff states that the "delay in providing the answers was purely a result of mistake, inadvertence, and excusable neglect." However, there is no evidence to support that statement. (*Clement v. Alegre* (2009) 177 Cal. App. 4th 1277, 1291-1292; *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431.)

RPD 3.

Defendants' RPD 3 requested Plaintiff to produce all medical records and report for injuries the Plaintiff suffered during the 5 years preceding the accident "which involve the same areas" of Plaintiff's body that he contends were injured as a result of the accident.

Plaintiff's response objected to this request upon the ground that it "seeks to obtain information as to Plaintiff's personal physicians (if any) who are completely unrelated to this matter. Requesting the identities to any physician ... seen by Plaintiff for any reason, regardless of whether it was for related injuries is a complete and utmost invasion of Plaintiff's right to privacy, irrelevant, vague, ambiguous, overbroad and not reasonably calculated to lead to the discovery of admissible evidence." Plaintiff further stated that everything the Defendants were entitled to know related to Plaintiff's past and present medical conditions was answered by Plaintiff in his response to Form Interrogatories 10.1 to 10.3. [Form Interrogatory 10.1 request whether Plaintiff complaints or injuries before the accident that involved the same part of his body he claimed was injured in the accident. Plaintiff asserts several objections, and then stated No. 10.2 asks Plaintiff to list all physical, mental, and emotional disabilities he had immediately before the accident. Plaintiff asserted objections, and then stated none. And, 10.3 asks Plaintiff whether he sustained any injuries of the kind for which he is claiming damages in this action.

Plaintiff asserts several objections and stated “No”.] In short, as to the RPD, Plaintiff interjected only objections, and made no limited statement of compliance.

Defendants argue that this response is inadequate and/or the objection is too general, on the ground that the request limited its scope to the areas of the Plaintiff’s body that he claimed were injured in the accident, and was limited as to time by the five years preceding the accident. Defendants argue that the information requested is not set forth in Plaintiff’s responses to form interrogatories 10.1-3, and even if it was, Defendants argue they are entitled to a complete answer to the RPD as well.

Defendants argue that Plaintiff has put his medical treatment at issue in the case which essentially waives privacy interests in related medical information.

The Court finds that the Plaintiff’s objections are not justified. Initially, Plaintiff misconstrues the scope of the request to encompass medical information about Plaintiff entirely unrelated to the parts of Plaintiff’s body that he claims were injured in the accident. Prior injuries to the same area of Plaintiff’s body are not irrelevant. The request is neither ambiguous, vague nor overbroad. Plaintiff has placed at issue his prior medical history related to the parts of his body injured in the accident, and has waived a general privilege of privacy in that limited respect. Further, Plaintiff’s effort to incorporate by reference his responses to form interrogatories 10.1-3 is ineffectual. If Plaintiff suffered no prior injuries to the parts of his body that he claims were injured in the accident, then no documents responsive to Defendants’ RPD 3 would exist. The proper response would be a statement of inability to produce responsive documents because, after a diligent search, no such documents have ever existed pursuant to Code of Civil Procedure section 2031.230.

Plaintiff shall serve further verified responses to RPD 3 on the date specified below. Plaintiff’s response shall not reassert the objections overruled by this ruling, or variations thereof. Plaintiff’s response shall not contain any General Objections not stated specifically within the separate response to RPD 3. Plaintiff’s further response shall comply with Code of Civil Procedure section 2031.210, 2031.220, 2031.230, and 2031.240 as applicable. Any assertion of privilege shall be accompanied by a privilege log.

RPD 11.

Defendants’ RPD 11 requested Plaintiff to produce all documents that refer to, relate to, or evidence Plaintiff’s claim for general damages.

Plaintiff objected on the ground that general damages are a matter determined by the trier of fact, and request called for disclosure of Plaintiff’s legal theories and case strategy. Plaintiff also objected that the request was overbroad, calling for a narrative that would include all of the evidence Plaintiff would present at trial.

The Court finds that the Plaintiff’s objections are not justified. The request does not require the Plaintiff to assert a specific dollar figure for his claimed general damages, and it does not seek a disclosure of Plaintiff’s legal theories or case strategy, except to the limited extent Plaintiff’s response may indicate that he either does or does not intend to seek general damages for his claimed injuries at trial.

Plaintiff shall serve further verified responses to RPD 11 on the date specified below. Plaintiff’s response shall not reassert the objections overruled by this ruling, or variations thereof. Plaintiff’s response shall not contain any General Objections not stated specifically within the

separate response to RPD 3. Plaintiff's further response shall comply with Code of Civil Procedure section 2031.210, 2031.220, 2031.230, and 2031.240 as applicable. Any assertion of privilege shall be accompanied by a privilege log.

RPD 12.

Defendants' RPD 12 requested Plaintiff to produce all documents that refer to, relate to, or evidence Plaintiff's claim for property damage and loss of use of property.

Plaintiff objected to this request upon the grounds that it called for an expert opinion, and was overbroad calling for a narrative that would include all the evidence that plaintiff may present at trial. Plaintiff also claimed that the request sought information already produced to the Defendants, or already in their possession. However, Plaintiff does not describe or identify what information those representations refer to.

The Court finds that the Plaintiff's objections are not justified. The request does not require the Plaintiff to provide an expert opinion regarding his claimed property damages, and it does not seek require a narrative of Plaintiff entire evidence.

Plaintiff shall serve further verified responses to RPD 12 on the date specified below. Plaintiff's response shall not reassert the objections overruled by this ruling, or variations thereof. Plaintiff's response shall not contain any General Objections not stated specifically within the separate response to RPD 3. Plaintiff's further response shall comply with Code of Civil Procedure section 2031.210, 2031.220, 2031.230, and 2031.240 as applicable. Any assertion of privilege shall be accompanied by a privilege log.

RPD 13.

Defendants' RPD 13 requested Plaintiff to produce all documents that refer to, relate to, or evidence Plaintiff's claim for wage loss.

Plaintiff objected to this request upon the ground that it encompassed his privileged tax returns, W-2 and 1099 forms.

Defendants concede that they do not request Plaintiff's tax returns, and they made that concession in their initial meet and confer letter in January. Instead, they argue that many forms of alternative documentation that is not subject to a tax return privilege are relevant to Plaintiff's lost wage claim and are discoverable, including pay stubs, pay checks, and employment contracts. The Court agrees.

The Court finds that the Plaintiff's objections are not justified, except Plaintiff's objection to producing his tax returns is sustained. Plaintiff shall serve further verified responses to RPD 13 on the date specified below. Plaintiff's response shall not reassert the objections overruled by this ruling, or variations thereof. Plaintiff's response shall not contain any General Objections not stated specifically within the separate response to RPD 3. Plaintiff's further response shall comply with Code of Civil Procedure section 2031.210, 2031.220, 2031.230, and 2031.240 as applicable. Any assertion of privilege shall be accompanied by a privilege log.

Sanctions

Pursuant to Code of Civil Procedure section 2031.310(h) the court is required to impose a monetary sanction against any party, person, or attorney who unsuccessfully makes or opposes a

motion to compel further response to a demand, 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.

The Court does not find that Plaintiff's objections that are overruled in this motion, or Plaintiff's opposition to the motion, were substantially justified. Although the motion is not addressed to Plaintiff's amended responses served after this motion was commenced, the Court did review them in considering the issue of sanctions in this matter. In that respect, the Court notes that Plaintiff's amended responses to RPD 3, 11, 12, and 13, continue to assert the meritless objections raised by Defendants' motion. The amended responses in some instance added only an incomplete statement of inability to produce, stating that "neither the responding party nor **her** attorney of record are in possession of any such documents and/or items which are responsive " to the request. However, the statement fails to comply with 2031.230 to the extent Plaintiff does not verify that no such documents are in his custody or control, nor does it state the name and address of any natural person or organization known or believed by the Plaintiff to have possession, custody, or control of that item or category of item. The amended response to RPD 11 referenced an attached Exhibit "A" that was to include medical records and bills, but such documents did not accompany the amended response. Lastly, the amended response was not verified.

In light of the foregoing, and based upon the entire record, the Court awards Defendants monetary sanctions against Plaintiff's counsel in the amount of \$650.00.

Response Date

Plaintiff shall serve his amended verified responses to RPD 3, 11, 12, and 13, in accordance with this ruling on or before May 22, 2019.

Defendants' counsel shall prepare the proposed Order.

Case No. CV19-00048 Petition of Kemmer, Kurt William

Tentative Ruling: **No appearance required.** The Court finds the Petition has been published as required by law and no opposition has been filed. The Court will sign the proposed Decree.

Family Law – 10:30 a.m.

Case No. FL16-00135 Burgueno, Joanne vs. Sweeney, Bret

Tentative Ruling: **No appearance required.** Based upon the multiple Requests for Order filed by the Petitioner, this Court date was previously set for this date before the issues of custody and visitation were set for a contested hearing on April 25, 2019, at 1:30 p.m. The Court will hear all Petitioner's requests and Respondent's response on that date.

Case No. FL16-00174 Cuccia, Jade Elizabeth vs. Gomez, Martin Macias, Jr.

Tentative Ruling: **Appearance required.** The Court will discuss the results of the mediation.

Case No. FL18-00049 England, Patricia vs. Biggers, Glenn

Tentative Ruling: **Appearance required.** This case was continued for filing of Judgment based upon settlement on March 5, 2019. No Judgment has been submitted.

Case No. FL17-00166 Ewing, Jessica vs. Johnson, Branden

Tentative Ruling: **Appearance required.** The Court has received and reviewed a Sentencing Memorandum from Respondent's counsel and will proceed with the sentencing hearing.

Case No. FL19-00007 McCormick, Tasha vs. Widberg, Kevin

Tentative Ruling: **Appearance required.** There is no proof of service in the file or results of mediation.

Case No. FL15-00152 Mulhall, Taomi vs. Mulhall, John

Tentative Ruling: **Appearance required.** The Court will be discussing the results of mediation.

Case No. FL10-00264 Patterson, Larkin vs. Patterson, Robert

Tentative Ruling: **Appearance required.** This Stipulation and Order incorporating the agreement of the parties has not been filed to date.

Case No. FL16-00170 Strand, Cassandra vs. Strand, Nathan

Tentative Ruling: **Appearance required.** The Court will be discussing the results of mediation and the Mother's request for visitations supervised by paternal grandparents.

Case No. FL19-00009 Wagner, Tiffany vs. Wagner, Troy

Tentative Ruling: **Appearance required.** The Court will discuss the results of mediation.

Case No. FL17-00174 White, Tommy Alan Jr vs. Nelson, Melissa Karen

Tentative Ruling: **Appearance required.** The Court will discuss the status of supervised visitation.

Case No. FL14-00136 Wolf, Jessica vs. Wolf, Zachary

Tentative Ruling:

Case No. FL07-27484 Wright, Kerry vs. Woolery, Mathew

Tentative Ruling: **Appearance required.** The Court will discuss the status of mediation agreement.

CASE MANAGEMENT CONFERENCE TENTATIVE RULINGS

Case No. LC18-00224 Barclays Bank Delaware vs. Parker, Angela D.

Tentative Ruling: **Appearance required.** Plaintiff has not timely served the Defendant in violation of Rule of Court 3.740(e) and has not timely filed a Case Management Statement. This matter will be set for an order to show cause why monetary sanctions should not be imposed for May 27, 2019, at 1:30 p.m.

Case No. LC18-00061 Cavalry SPV I, LLC vs. Kory Felker

Tentative Ruling: **No appearance required.** The Court has received a conditional Notice of Settlement of Entire Case indicating the case will be dismissed by June 15, 2019. The Case Management Conference will be continued to June 24, 2019, for entry of dismissal. If the dismissal has been entered before that date, counsel does not have to appear. The Court dismisses the Order to Show Cause re: sanctions.

Case No. LC18-00126 Credit Corp Solutions Inc. vs. Werstler, Eden

Tentative Ruling: **Appearance required.** At the previous CMC counsel indicated the Judgment would be entered, however no judgment has been received by the Court.

Case No. CV18-00096 Forefront Wellness, et al vs. L.L. Capital, et al

Tentative Ruling: **Appearance required.** No Case Management Statements have been timely filed. The Court will address the imposition of sanctions for violation of Rule of Court 3.725.

Case No. PR17-00028 Guardianship of Barton, Mary Jolene

Tentative Ruling: **Appearance required.** The Court will discuss status of guardianship and visitation.

Case No. CV18-00152 Swartz, Gail vs. County of Plumas, et al

Tentative Ruling: **Appearance required.** The Court will discuss the status of discovery and possible ADR options.

Case No. CV18-00166 U.S. Bank National Association vs. The Unknown Successor Trust

Tentative Ruling: **No appearance required.** Based upon counsel's indication that the default judgment will be entered in 60 days, the Court will continue the Case Management Conference to June 24, 2019, at 1:30 p.m. If Judgment has been entered by that hearing date, counsel does not have to appear and the CMC will be taken off-calendar.