

TENTATIVE RULINGS

FOR: March 10, 2020

The Court may exercise its discretion to **disregard** a late filed paper in law and motion matters. (Cal. Rules of Court, rule 3.1300(d).)

Unlawful Detainer Cases – Pursuant to the restrictions in Code of Civil Procedure section 1161.2, no tentative rulings are posted for unlawful detainer cases and appearances are required.

Court Reporting Services – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. Parties are responsible for either making the appropriate request in advance or arranging for their own private court reporter. Go to <http://napacountybar.org/court-reporting-services/> for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

PROBATE CALENDAR – Hon. Victoria Wood, Dept. A (Historic Courthouse) at 8:30 a.m.

In the Matter of Angelica Oram

19PR000234

HEARING TO CONFIRM DEPOSIT OF MONEY INTO BLOCKED ACCOUNT

APPEARANCE REQUIRED. On January 31, 2020, the Court entered its Order Approving Minor’s Compromise of Disputed Claim in this matter (Order). The Order directed Petitioner, to deposit, within 48 hours of receipt, the check or draft for the balance in the amount of \$6,388.00. (See Order at ¶ 8(a).) The Order further directed Petitioner to file, with this Court, a copy of the receipt of deposit within 15 days. On February 19, 2020, the Court held a follow up hearing and, again, ordered Petitioner to file the receipt of deposit “forthwith.” No such receipt appears in the file.

The court admonishes petitioner for failing to comply with the Court’s order. However, in light of the fact the minor will be turning 18 years old in April, the matter will simply be dismissed at this time. Should the minor (soon to be adult) have somehow been deprived of her funds, she may seek legal recourse through the Court.

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Conservatorship of Yasmin Estrada

20PR000016

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR OF THE PERSON AND ESTATE

APPEARANCE REQUIRED

CIVIL LAW & MOTION CALENDAR – Hon. Victoria Wood, Dept. A (Historic Courthouse) at 8:30 a.m.

**Rang Dong Joint Stock Co. dba Rang Dong Winery
v. Angelena Checchi**

18CV000214

MOTION FOR IMPOSITION OF CONDITIONS ON SETTING ASIDE THE ENTRIES OF DEFAULTS

TENTATIVE RULING: Plaintiff/cross-defendant Rang Dong Joint Stock Company’s (RD Winery) motion for imposition of conditions on setting aside the entries of default against defendants Angelena Checchi and Mia Sayles is GRANTED. Plaintiff requests it be awarded its attorney’s fees and costs incurred in preparing and appearing for the default prove-up trial, which did not occur due to defendants’ dilatory requests to set aside their defaults, and for attending the trial management conference. Attorney’s fees and costs are warranted as a condition of setting aside the entries of default. Code of Civil Procedure section 473 “allows the court to impose just conditions in setting aside a default. Such conditions might include the attorney fees and costs incurred by the plaintiff in obtaining the default judgment and a maximum of \$ 1,000 in sanctions.” (*Rogalski v. Nabers Cadillac* (1992) 11 Cal.App.4th 816, 822.)

Plaintiff incurred \$5,534.49 in attorney’s fees and costs. (Tran Decl., ¶ 11.) The amount is based on plaintiff’s attorneys work and travel time (2.8 hours of travel time to Napa, 1.8 hours preparing for and attending the trial management conference, 2.4 hours preparing the witness for the prove up trial, and 3.5 hours returning to Orange County) at \$450 per hour plus \$551.96 for the cost of the flight to/from Orange County and \$257.53 for the cost of preparing trial exhibit binders. (*Id.*, ¶¶ 6-10.) The fees and hourly rates are reasonable.

Defendants shall each pay their half of the \$5,534.49 to plaintiff’s counsel within 20 calendar days of service of notice of entry of order.

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Oakville Produce Partners, LLC v. Dean & Deluca Markets, LLC **19CV000278**

MOTION FOR AN ORDER (1) COMPELLING DISCOVERY RESPONSES, (2) COMPELLING PRODUCTION OF DOCUMENTS, (3) DEEMING THE TRUTH OF MATTERS SPECIFIED IN THE REQUEST FOR ADMISSIONS AS ADMITTED, AND (4) IMPOSING MONETARY SANCTIONS AGAINST DEAN & DELUCA MARKETS, LLC

TENTATIVE RULING: Plaintiff’s motion is GRANTED IN PART.

The notice of motion does not provide notice of the Court’s tentative ruling system as required by Local Rule 2.9. Moving party/counsel is directed to contact the opposing party/ies forthwith and advise of Local Rule 2.9 and the Court’s tentative ruling procedure. Notwithstanding the procedures set forth in Local Rule 2.9, the moving party/counsel shall appear at the hearing, in person or by CourtCall, unless it is confirmed that no party requests oral argument.

Plaintiff's motion for monetary sanctions is DENIED. Neither the Notice of Motion, Motion, nor moving papers identifies the particular statutory provisions under which sanctions are sought. Code of Civil Procedure section 2023.030 only permits the Court to impose sanctions "[t]o the extent authorized by the chapter governing any particular discovery method or any other provision of this title. . . ." Because Plaintiff's papers are silent regarding the specific grounds on which they seek monetary sanctions, Defendant was not provided proper notice of the request. (See Code Civ. Proc. § 1010; Rules of Court, Rule 3.1110, subd. (a).)

Plaintiff's motion is GRANTED in all other respects. Defendant shall serve full and complete responses to plaintiff's Form Interrogatories and Requests for Production of Documents, Set One, without objection, by no later than March 24, 2020. Defendant shall produce, for inspection and copying, all documents in its possession, custody, or control, which are responsive to any of Plaintiff's Requests for Production of Documents, Set One, no later than March 24, 2020. The matters stated in Plaintiff's Request for Admissions, Set One are deemed admitted. While the Court is mindful of limits imposed by Code of Civil Procedure section 2033.030, subdivision (a), it finds that Defendant failed, pursuant to subdivision (b) to object to the balance and waived any such objection by failing to serve any response to the requests. (See Code Civ. Proc. § 2033.280, subd. (a).)

**CIVIL LAW & MOTION CALENDAR – Hon. Monique Langhorne, Dept. B
(Historic Courthouse) at 8:30 a.m.**

George Fielding Weiss v. Russell Earl Ellis

18CV000653

(1) MOTION TO COMPEL VERIFIED RESPONSES TO REQUEST FOR ADMISSIONS

TENTATIVE RULING: Plaintiff George Fielding Weiss' motion to compel verified initial responses to request for admissions (set one) is GRANTED. An unverified response is equivalent to no response at all. (*Appleton v. Super. Ct.* (1988) 206 Cal.App.3d 632, 635-36.) Defendant Russel Earl Ellis did not oppose the motion. All objections are deemed waived. Ellis shall serve verified code-compliant initial responses, without objections, within 10 calendar days of service of notice of entry of order.

Plaintiff's request for monetary sanctions is DENIED. The request is not code-compliant. Plaintiff did not cite in the notice of motion a specific code section authorizing sanctions. (Code Civ. Proc., §§ 2023.030-2023.040; see Weil & Brown, Cal. Practice Guide: Civil Proc. Before Trial (Rutter Group 2018) at § 8:2000 ["The notice of motion must contain a request for sanctions and must: . . . Cite the *authority* for such sanctions."].) Although monetary sanctions are mandatory for failure to serve a timely response to requests for admissions, a prerequisite to obtaining monetary sanctions is proper notice.

(2) MOTION TO COMPEL VERIFIED RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS

TENTATIVE RULING: Plaintiff George Fielding Weiss’ motion to compel to compel verified initial responses to request for production of documents (set one) is GRANTED. An unverified response is equivalent to no response at all. (*Appleton v. Super. Ct.* (1988) 206 Cal.App.3d 632, 635-36.) Defendant Russel Earl Ellis did not oppose the motion. All objections are deemed waived. Ellis shall serve verified code-compliant initial responses, without objections, within 10 calendar days of service of notice of entry of order.

Plaintiff’s request for monetary sanctions is DENIED. The request is not code-compliant. Plaintiff did not cite in the notice of motion a specific code section authorizing sanctions. (Code Civ. Proc., §§ 2023.030-2023.040; see Weil & Brown, Cal. Practice Guide: Civil Proc. Before Trial (Rutter Group 2018) at § 8:2000 [“The notice of motion must contain a request for sanctions and must: . . . Cite the *authority* for such sanctions.”].)

(3) MOTION TO COMPEL VERIFIED RESPONSES TO FORM INTERROGATORIES

TENTATIVE RULING: Plaintiff George Fielding Weiss’ motion to compel verified initial responses to form interrogatories (set one) is GRANTED. An unverified response is equivalent to no response at all. (*Appleton v. Super. Ct.* (1988) 206 Cal.App.3d 632, 635-36.) Defendant Russel Earl Ellis did not oppose the motion. All objections are deemed waived. Ellis shall serve verified code-compliant initial responses, without objections, within 10 calendar days of service of notice of entry of order.

Plaintiff’s request for monetary sanctions is DENIED. The request is not code-compliant. Plaintiff did not cite in the notice of motion a specific code section authorizing sanctions. (Code Civ. Proc., §§ 2023.030-2023.040; see Weil & Brown, Cal. Practice Guide: Civil Proc. Before Trial (Rutter Group 2018) at § 8:2000 [“The notice of motion must contain a request for sanctions and must: . . . Cite the *authority* for such sanctions.”].)

(4) MOTION TO COMPEL INITIAL RESPONSES TO SPECIAL INTERROGATORIES

TENTATIVE RULING: Plaintiff George Fielding Weiss’ motion to compel initial responses to special interrogatories (set one) is GRANTED. Defendant Russel Earl Ellis did not oppose the motion. All objections are deemed waived. Ellis shall serve verified code-compliant initial responses, without objections, within 10 calendar days of service of notice of entry of order.

Plaintiff’s request for monetary sanctions is DENIED. The request is not code-compliant. Plaintiff did not cite in the notice of motion a specific code section authorizing sanctions. (Code Civ. Proc., §§ 2023.030-2023.040; see Weil & Brown, Cal. Practice Guide: Civil Proc. Before Trial (Rutter Group 2018) at § 8:2000 [“The notice of motion must contain a request for sanctions and must: . . . Cite the *authority* for such sanctions.”].)