

**1. BUGAISKI v. SONNY'S BARBEQUE SHACK, ET AL., SC20190161**

**Final Account of Settlement**

**TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY,  
JULY 11, 2025, IN DEPARTMENT FOUR.**

**2. PODUSKA, ET AL. v. YBENV, INC., ET AL., 25CV1530****Petition to Release Property from Mechanic's Lien**

The court grants the petition to release property from the mechanics lien (El Dorado County Records, Instrument No. 2024-0033424).

Petitioners also request attorney fees in the total amount of \$2,500 incurred in bringing and prosecuting this petition. Code of Civil Procedure section 1032 provides that the prevailing party in an action is entitled to recover its costs. (Code Civ. Proc., § 1032, subd. (b).) Among the items recoverable as costs under Code of Civil Procedure section 1032 are “(10) Attorney fees, when authorized by any of the following: [¶] (A) Contract. [¶] (B) Statute. [¶] (C) Law.” (Code Civ. Proc., § 1033.5, subd. (a)(10).)

Petitioner has not cited any legal authority for an award of attorney fees in this case. Therefore, the request for attorney fees is denied without prejudice.

**TENTATIVE RULING # 2 (AMENDED): THE PETITION TO RELEASE PROPERTY FROM MECHANICS LIEN IS GRANTED. THE REQUEST FOR ATTORNEY FEES IS DENIED WITHOUT PREJUDICE. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT’S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.**

**3. CROW, ET AL. v. CHILD, ET AL., 24CV1535****Motion for Terminating and/or Monetary Sanctions**

Pursuant to Code of Civil Procedure section 2023.010, et seq., defendant Specialty Care (“defendant”) moves for terminating and/or monetary sanctions<sup>1</sup> against plaintiff John Crow (“plaintiff”) on the grounds that plaintiff has failed to serve his verified response to Special Interrogatories (Set One) and Request for Production (Set One), as ordered by this court on March 24, 2025.<sup>2</sup>

Defendant electronically served notice of entry of the order on April 1, 2025, making plaintiff’s verified responses due May 5, 2025 (30 calendar days plus two court days for electronic service).

Plaintiff filed no opposition to the instant motion.

Where, as here, a party fails to obey an order compelling a response, “the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction .... in lieu of or in addition to this sanction, this court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).” (Code Civ. Proc., §§ 2030.290, subd. (c) [interrogatories], 2031.300, subd. (c) [document production].)

Defendant argues that terminating sanctions are appropriate in this case. The court disagrees. “Discovery sanctions “should be appropriate to the dereliction, and should

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<sup>1</sup> Defendant’s notice of motion requests a monetary sanction of \$1,985. However, defendant’s memorandum of points and authorities requests a total sum of \$2,105, representing seven hours of attorney work at \$275 per hour plus \$180 in filing fees. (Mtn. at 6:7—9.)

<sup>2</sup> It is the court’s understanding that the instant motion is brought against plaintiff John Crow only. On March 24, 2025, the court granted defendant’s motion to compel both plaintiffs’ verified responses to Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Production (Set One). Defendant’s motion states that, “[a]s of the date of the filing of the instant motion, Plaintiff John Steven Crow has provided no responses to Special Interrogatories, Set One and no responses to Request for Production of Documents, Set One.” (Mtn. at 3:10–12.)

not exceed that which is required to protect the interests of the party entitled to but denied discovery.” ’ [Citation.] If a lesser sanction fails to curb abuse, a greater sanction is warranted: continuing misuses of the discovery process warrant incrementally harsher sanctions until the sanction is reached that will cure the abuse. ‘A decision to order terminating sanctions should not be made lightly. But where a violation is willful, preceded by a history of abuse, and the evidence shows that less severe sanctions would not produce compliance with discovery rules, the trial court is justified in imposing the ultimate sanction.’ ” (*Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967, 992.)

Here, although plaintiff failed to comply with the court’s March 24, 2025, order, which is an abuse of the discovery process, the court is unaware of any prior discovery abuses by plaintiff in this case. Additionally, the court notes that defendant did not request, and the court did not impose, a monetary sanction when it granted defendant’s motion to compel.

As such, the court will re-order plaintiff to serve his verified response to defendant’s Special Interrogatories (Set One) and Request for Production (Set One) within 30 days of the date of service of the notice of entry of order, and impose a monetary sanction. Having read and considered the declaration from defense counsel, the court finds that \$1,160 is an appropriate sanction under the Civil Discovery Act (four hours of attorney work at \$275 per hour plus the \$60 filing fee).

**TENTATIVE RULING # 3: DEFENDANT SPECIALTY CARE’S MOTION IS GRANTED IN PART AND DENIED IN PART. PLAINTIFF JOHN STEVEN CROW IS RE-ORDERED TO SERVE HIS VERIFIED RESPONSE TO DEFENDANT’S SPECIAL INTERROGATORIES (SET ONE) AND REQUEST FOR PRODUCTION (SET ONE) AND PAY DEFENDANT A MONETARY SANCTION OF \$1,160 WITHIN 30 DAYS OF THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT***

(1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

**4. NIZOLEK v. GORMAN, 23CV0267****Motion for Order Requiring Plaintiff to File Undertaking**

Pursuant to Code of Civil Procedure section 1030, defendant moves for an order requiring plaintiff Kevin Nizolek ("plaintiff") to post an undertaking in the amount of \$35,000 on the grounds that he is an out-of-state litigant and there is a reasonable possibility defendant will obtain judgment in the action. (Code Civ. Proc., § 1030, subd. (a).)

Plaintiff did not file an opposition to the motion.

Code of Civil Procedure section 1030, subdivision (a) provides in relevant part, "When the plaintiff in an action or special proceeding resides out of the state ... the defendant may at any time apply to the court by noticed motion for an order requiring the plaintiff to file an undertaking to secure an award of costs and attorney's fees which may be awarded in the action or special proceeding." (*Ibid.*) "The motion shall be made on the grounds that the plaintiff resides out of the state ... and that there is a reasonable possibility that the moving defendant will obtain judgment in the action or special proceeding.... The affidavit shall set forth the nature and amount of the costs and attorney's fees the defendant has incurred and expects to incur by the conclusion of the action or special proceeding." (*Id.*, subd. (b).) "If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff file the undertaking in an amount specified in the court's order as security for costs and attorney's fees." (*Id.*, subd. (c).)

This is a premises liability action arising from a slip and fall incident on an icy driveway. Defendant has submitted evidence showing that plaintiff is a resident of the state of Connecticut. At deposition, plaintiff testified that he observed the ice hazard before exiting his vehicle, the ice was "obvious," and a warning sign was present.

Based on the above, the court finds defendant has established that plaintiff is an out-of-state litigant and there is a reasonable possibility that defendant will obtain

judgment in the action. Defense counsel estimates defendant will incur \$35,000 in defending this action. (Islas Decl., ¶ 4.)

The motion is granted. Plaintiff shall file an undertaking in the amount of \$35,000 within 30 days of the date of service of the notice of entry of order.

**TENTATIVE RULING # 4: THE MOTION IS GRANTED. PLAINTIFF SHALL FILE AN UNDERTAKING IN THE AMOUNT OF \$35,000 WITHIN 30 DAYS OF THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT’S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.**

**5. NAME CHANGE OF NIESKENS, 25CV1389**

**OSC Re: Name Change**

**TENTATIVE RULING # 5: PETITION IS GRANTED.**

**6. ROFF v. CENLAR CAPITAL CORP., 24CV0450****(A) Motion to Deem Matters Admitted****(B) Motion to Compel Responses to Written Discovery**

This matter was continued from May 23, 2025. Plaintiff appeared in court at the last hearing, despite not having requested oral argument pursuant to the court's tentative ruling system and the Local Rules. Plaintiff stated to the court that he was looking for new counsel and did not know about the tentative ruling system. The court granted a continuance and admonished plaintiff about the tentative ruling system and that he must timely request oral argument if he disagrees with the court's tentative ruling. To date, there is no substitution of attorney in the court's file.

**Motion to Deem Matters Admitted**

Defendant moves under Code of Civil Procedure section 2033.280 to deem matters admitted. Plaintiff filed no opposition to the motion.

A party served with request for admission must serve a response within 30 days. (Code Civ. Proc., § 2033.250.) Failure to serve a response entitles the requesting party, on motion, to obtain an order that the genuineness of all documents and the truth of all matters specified in the requests for admission be deemed admitted. (Code Civ. Proc., § 2033.280, subd. (b).) When such a motion is made, the court must grant the motion and deem the requests admitted unless it finds that prior to the hearing, the party to whom the requests for admission were directed has served a proposed response that is in substantial compliance with the provisions governing responses. (Code Civ. Proc., § 2033.280, subd. (c); *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 776, 778; see also *Demyer v. Costa Mesa Mobile Home Estates* (1995) 36 Cal.App.4th 393, 395–396 [“two strikes and you’re out”].)

On January 30, 2025, defendant served Requests for Admission (Set One) on plaintiff by mail to plaintiff's address in Reno, Nevada. (Learned Decl., Exs. 1 & 5.) Accordingly, the deadline for plaintiff to serve his verified response was March 13, 2025 (30 days plus 10

calendar days for mail service to address outside the State of California but within the United States). (Code Civ. Proc., §§ 1013, subd. (a), 2033.250, subd. (a).) To date, however, plaintiff has served no response. (Learned Decl., ¶ 8.)

The motion to deem matters admitted is granted.

**Motion to Compel Response to Interrogatories and Request for Production**

Defendant moves to compel plaintiff's verified response to Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Production (Set One). Additionally, defendant requests \$2,310.00 in monetary sanctions against plaintiff to reimburse defendant for fees and costs incurred in bringing this motion to compel, as well as the motion to deem matters admitted.<sup>3</sup> Plaintiff filed no opposition to the motion.

If a party to whom interrogatories or request for production were directed fails to serve a timely response, the propounding party may move for an order compelling response. (Code Civ. Proc., §§ 2030.290, subd. (b) [interrogatories], 2031.300 [request for production]; see *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404.) All that need be shown in the moving papers is that a set of interrogatories or request for production was properly served on the opposing party, that the time to respond has expired, and that no response of any kind has been served. (See *Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 905–906.)

On January 30, 2025, defendant served Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Production (Set One) on plaintiff by mail to plaintiff's address in Reno, Nevada. (Learned Decl., Exs. 2–5.) Accordingly, the deadline for plaintiff to serve his verified responses was March 13, 2025 (30 days plus 10 calendar days for mail service to address outside the State of California but within the United States). (Code Civ. Proc., §§ 1013, subd. (a), 2030.260, subd. (a) [interrogatories],

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<sup>3</sup> Code of Civil Procedure section 2033.280 requires the court to impose a monetary sanction on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated the motion. (Code Civ. Proc., § 2033.280, subd. (c).)

2031.260, subd. (a) [request for production].) To date, plaintiff has served no verified response. (Learned Decl., ¶ 8.) Therefore, the motion to compel is granted.

Having reviewed and considered the declaration from defense counsel, the court finds that the total sum of \$990.00 is a reasonable sanction against plaintiff for both motions. Counsel declares his current hourly rate is \$330.00, he spent 1.6 hours preparing the motion to deem matters admitted, and he spent 1.4 hours preparing the motion to compel. (Learned Decl., ¶ 9.) Counsel declares that he anticipates spending an additional four hours reviewing and responding to plaintiff's oppositions; however, plaintiff filed no opposition.

**TENTATIVE RULING # 6: THE MOTIONS ARE GRANTED. THE COURT DEEMS THE MATTERS IN REQUESTS FOR ADMISSION (SET ONE) NUMBERS 1 THROUGH 17 ADMITTED (THE PROPOUNDED REQUESTS FOR ADMISSION REPEAT NUMBER 15, WHICH IS ACTUALLY NUMBER 17). PLAINTIFF SHALL SERVE HIS VERIFIED RESPONSE, WITHOUT OBJECTION, TO DEFENDANT'S FORM INTERROGATORIES (SET ONE), SPECIAL INTERROGATORIES (SET ONE), AND REQUEST FOR PRODUCTION (SET ONE), AND PAY DEFENDANT \$990.00 IN MONETARY SANCTIONS WITHIN 30 DAYS AFTER THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.**

**7. WELLS FARGO BANK, N.A. v. SYSOCK, 23CV1085**

**OSC Re: Dismissal**

This action was filed on July 5, 2023. To date, there is no proof of service of summons in the court's file.

Under Code of Civil Procedure section 583.420, the court may dismiss an action for delay in prosecution where service is not made within two years after the action is commenced against the defendant. (*Id.*, subd. (a)(1).)

**TENTATIVE RULING # 7: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JULY 11, 2025, IN DEPARTMENT FOUR.**