

**1. HITCHCOCK, ET AL. v. CITY OF S. LAKE TAHOE, ET AL., 22CV1691**

**Status Conference Re: Service, Response, Administrative Record, Briefing**

**TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JANUARY 6, 2023, IN DEPARTMENT FOUR. PARTIES MAY APPEAR IN PERSON AT THE HEARING. IF ANY PARTY WISHES TO APPEAR REMOTELY THEY MUST APPEAR BY ZOOM.**

**2. REYES, ET AL. v. CAL. DEP'T OF TRANSPORTATION, ET AL., SC20200027****Defendants' Motion to Compel Compliance With Court Order**

Pending is defendants' motion to compel plaintiff Maria Reyes's ("plaintiff") compliance with the court's September 30, 2022, order. Defendants also request an additional \$1,326 in sanctions for having to bring the instant motion.

By way of background, on September 30, 2022, the court ordered plaintiff to serve defendants with (1) her verification to defendant CalTrans's Demand for Supplemental Discovery (Set Two), and (2) verified responses, without objections, to defendant Nicholas Hudspeth's Form Interrogatories (Set One), Special Interrogatories (Set One), Request for Production of Documents (Set One), and Request for Admissions (Set One). Plaintiff, along with co-plaintiff Fernando Gonzalez,<sup>1</sup> was also ordered to pay defendants \$3,456 as a sanction pursuant to the Discovery Act. The court directed plaintiff to serve the verification, the verified responses, and pay sanctions no later than 30 days from the date of service of the notice of entry of order. The Notice of Entry of Order was served on November 1, 2022. (Mot., Decl. of David M. Trent, ¶ 4 & Ex. B.)

On November 16, 2022, defense counsel sent a reminder letter to plaintiff's counsel about the upcoming deadline to respond and informed counsel of defendants' intent to move to compel if timely responses were not received. (*Id.*, ¶ 5 & Ex. C.) On December 8, 2022, plaintiff's counsel called defense counsel about another issue in the case. (*Id.*, ¶ 6.) During that conversation counsel discussed the matter of plaintiff's overdue verification and verified responses. Defense counsel promised not to file a motion to compel until the week of December 12. (*Ibid.*) On December 14, having received no documents, defense counsel sent a final meet and confer letter. (*Id.*, ¶ 7 & Ex. D.) As of the signing date of the motion, December 15, no response was received from plaintiff's counsel to the meet and confer letters and no documents were received. (*Id.*, ¶ 8.)

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<sup>1</sup> Counsel for Ms. Reyes no longer represents Mr. Gonzalez.

In opposition to the motion, plaintiff argues that she should have been given additional time to comply with the order because she has been sick and dealing with other personal issues and trial is not until November 2023. Further, that counsel is informed that plaintiff's verification was mailed on December 16, and therefore the instant motion will be moot prior to this hearing. Plaintiff's counsel also contends that sanctions are not warranted, but if sanctions are ordered they should be assessed against plaintiff only, not counsel, and the amount should be reduced.

Defendants' motion is well taken. Plaintiff does not dispute that her verification and verified responses were not served by the deadline. If plaintiff's counsel was having difficulty communicating with his client and obtaining documents, then counsel could have requested additional time to comply with the court's order. Counsel did not provide any evidence he made such request, either to defense counsel or the court. Defendants' reply brief was filed on December 28, 2022. As of the date of the reply, defendants still had not received either plaintiff's verification or verified responses.

Good cause appearing, defendants' motion is granted. Having reviewed and considered defense counsel's declaration, the court finds that \$660 is a reasonable sanction under the Discovery Act. Plaintiff Maria Reyes and plaintiff's counsel are jointly and severally liable for payment of the sanction. The sanction may be paid by plaintiff and/or plaintiff's counsel at the end of this case, either from a judgment rendered in plaintiff's favor or from any settlement agreement, or, if defendants prevail, the amount will be included in any judgment in favor of defendants.

**TENTATIVE RULING # 2: DEFENDANTS' MOTION TO COMPEL COMPLIANCE WITH THE COURT'S SEPTEMBER 30, 2022, ORDER IS GRANTED. PLAINTIFF MARIA REYES MUST FULLY COMPLY WITH THE COURT'S SEPTEMBER 30, 2022, ORDER NO LATER THAN 30 DAYS FROM THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER. PLAINTIFF REYES AND/OR PLAINTIFF'S COUNSEL MUST PAY**

SANCTIONS IN THE AMOUNT OF \$660, AS SET FORTH IN THE FULL TEXT OF THE TENTATIVE RULING. 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. PARTIES MAY APPEAR IN PERSON AT THE HEARING. IF ANY PARTY WISHES TO APPEAR REMOTELY THEY MUST APPEAR BY ZOOM.