

1. HENRY v. YANG, ET AL., 24CV2422

Amended Application for *Pro Hac Vice* for Phillip D. Dorin

To date, there is no proof of payment of the application fee to the State Bar (Cal. Rules of Ct., Rule 9.40, subd. (e)) in the court's file.

TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, MARCH 14, 2025, IN DEPARTMENT FOUR.

2. HUTCHINSON v. EL DORADO COUNTY HEALTH & HUMAN SERVICES, 24CV2269**(A) Demurrer****(B) Second Amended Petition for Writ of Administrative Mandate**

On February 7, 2025, respondent filed a demurrer to petitioner's first amended petition (said demurrer is presently before the court). On February 28, 2025, respondent filed a second demurrer to petitioner's second amended petition (a hearing date is currently set for April 11, 2025.) Respondent's second demurrer moots the instant demurrer to the first amended petition. Therefore, the instant demurrer is dropped from the calendar.

TENTATIVE RULING # 2: RESPONDENT'S DEMURRER TO PETITIONER'S FIRST AMENDED PETITION IS DROPPED FROM THE CALENDAR AS MOOT. THE HEARING ON PETITIONER'S SECOND AMENDED PETITION IS CONTINUED TO 1:30 P.M., FRIDAY, APRIL 11, 2025, IN DEPARTMENT FOUR. THE HEARING ON RESPONDENT'S DEMURRER TO PETITIONER'S SECOND AMENDED PETITION IS ALSO CONFIRMED FOR APRIL 11, 2025.

3. HAMILTON v. THE VAIL CORP., ET AL., SC20210148

Case Management Conference

**TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY,
MARCH 14, 2025, IN DEPARTMENT FOUR.**

4. CALLAHAN v. POTTS, ET AL., 23CV0236**(A) Motion to Stay Discovery****(B) Ex Parte Application to Continue MSJ Hearing Date and Related Dates**Motion to Stay Discovery

Defendants Craig Potts and Potts Properties, LLC (collectively, “defendants”) move to stay discovery pending the determination of their motion for summary judgment, which currently has a hearing set for April 25, 2025. Defendants claim their motion for summary judgment—which is based on the affirmative defense that plaintiff failed to exhaust his administrative remedies under the parties’ Memorandum of Understanding (“MOU”)—can be decided without any discovery. According to defendants, granting the requested stay will not prejudice plaintiff and will promote judicial economy.

The Discovery Act declares that “the court shall restrict the frequency or extent of use of a discovery method” if it determines that “[t]he selected method of discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation.” (Code Civ. Proc., § 2019.030, subd. (a)(2).)

It is also well established that a court “ ‘has inherent power, in its discretion, to stay proceedings when such a stay will accommodate the ends of justice.’ [Citation.] ... ‘[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.’ ” (*OTO, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 141; *Conn v. Superior Court* (1987) 196 Cal.App.3d 774, 785 [“the court has the inherent power to control the proceedings before it and to make orders which prevent the frustration, abuse, or disregard of the court’s processes”].)

Plaintiff opposes the instant motion on the grounds that: (1) plaintiff is entitled to discovery to oppose defendants’ motion for summary judgment; (2) defendants’ motion

for summary judgment lacks merit; and (3) “the doctrine of laches applies as it is likely the statute of limitations has passed.”

Plaintiff does not identify any specific discovery he seeks to include in his opposition to defendant’s motion for summary judgment. Additionally, the court notes that defendants filed the instant motion to stay discovery on January 28, 2025 (the same day defendants filed their motion for summary judgment). There is no indication that plaintiff has propounded any discovery since defendants filed the motion. At this point, any discovery request not yet served would be ineffective to support plaintiff’s opposition to the motion for summary judgment, which is due April 4, 2025. (Code Civ. Proc., § 437c, subd. (b)(2).)

Whether defendants will prevail on their motion for summary judgment is a determination to be made when said motion is before the court. It has little bearing on whether the court should grant the instant motion to stay discovery.

Lastly, plaintiff’s laches argument is misplaced. “Laches is an equitable, affirmative defense which requires a showing of both an unreasonable delay by the plaintiff in bringing suit, ‘ ‘plus either acquiescence in the act about which plaintiff complains or prejudice to the defendant resulting from the delay.” ’ ” (*Highland Springs Conference & Training Center v. City of Banning* (2016) 244 Cal.App.4th 267, 282.) Plaintiff’s laches argument is based on the ground that defendants delayed asserting the ADR requirement. If anything, that is an argument directed to defendants’ motion for summary judgment, not the instant motion to stay discovery.

In view of the total circumstances, the court exercises its discretion to grant a temporary stay of discovery proceedings pending the outcome of defendants’ motion for summary judgment.

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Ex Parte Application to Continue MSJ Hearing Date and Related Dates

Appearances are required.

TENTATIVE RULING # 4: THE MOTION TO STAY DISCOVERY PENDING THE DETERMINATION OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT IS GRANTED. NO HEARING ON THE MOTION TO STAY DISCOVERY 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.

APPEARANCES ARE REQUIRED AS TO PLAINTIFF'S EX PARTE APPLICATION AT 1:30 P.M., FRIDAY, MARCH 14, 2025, IN DEPARTMENT FOUR.

5. PEOPLE v. FRAGRANICE, INC., 24CV2330

Petition for Order to Abate Substandard Building and Appoint Receiver

**TENTATIVE RULING # 5: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY,
MARCH 14, 2025, IN DEPARTMENT FOUR.**

6. CROW, ET AL. v. CHILD, 24CV1535**(A) Motion to Compel Response to Form Interrogatories (Set One)****(B) Motion to Compel Response to Special Interrogatories (Set One)****(C) Motion to Compel Response to Request for Production (Set One)**

Defendant Specialty Care (“defendant”) moves to compel plaintiffs John Crow’s and Janet Crow’s verified responses to Form Interrogatories (Set One), Special Interrogatories (Set One), and Request for Production (Set One). Defendant does not request any monetary sanction. Plaintiffs filed no opposition to the motions.

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 responses. (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 November 26, 2024, defendant electronically served the form interrogatories, special interrogatories, and request for production on plaintiffs John Crow and Janet Crow. Accordingly, the deadline for plaintiffs to submit their verified responses was December 30, 2024. (Code Civ. Proc., §§ 1013, subd. (e), 2030.260, subd. (a) [interrogatories], 2031.260, subd. (a) [request for production].) To date, neither plaintiff has served any verified response. Therefore, the motions to compel are granted.

TENTATIVE RULING # 6: THE MOTIONS TO COMPEL ARE GRANTED AS TO BOTH PLAINTIFFS. PLAINTIFFS SHALL EACH SERVE THEIR VERIFIED RESPONSE, WITHOUT OBJECTION, TO DEFENDANT SPECIALTY CARE’S FORM INTERROGATORIES (SET ONE), SPECIAL INTERROGATORIES (SET ONE), AND REQUEST FOR PRODUCTION (SET ONE)

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. WAGNER v. FIRSTPV, INC., ET AL., 23CV0893**(A) Plaintiff's Motion to Compel Response to Special Interrogatories****(B) Plaintiff's Motion to Compel Response to Request for Production****(C) Plaintiff's Motion to Deem Matters Admitted**

On February 14, 2025, plaintiff filed motions to: (1) compel defendant FirstPV, Inc.'s ("defendant") verified response to Special Interrogatories (Set Two); (2) compel defendant's verified response to Request for Production (Set Two); and (3) deem as admitted the matters stated in Request for Admissions (Set Two) propounded upon defendant. Plaintiff seeks monetary sanctions against defendant in the total amount of \$11,100, comprised of the following: (1) \$3,300 for the special interrogatories; (2) \$4,220 for the request for production; and (3) \$3,580 for the request for admission.

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 responses and a monetary sanction. (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.) Where a verification is required, an unverified response is the equivalent of no response at all. (See *Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, 636.)

Plaintiff contends defendant failed to serve properly verified responses to the discovery requests where defendant's verifications: (1) do not include the title of the documents for which the verifications are provided (instead, the title is in the footer of the verification forms and, according to plaintiff, arguably outside the scope of the verifications); (2) certify "the foregoing answers," rather than "the foregoing" contents

of the declaration; (3) do not certify the signer's position with defendant FirstPV or his authority to sign the verifications on behalf of defendant; and (4) do not state that the signer knows the responses are true of his own knowledge or otherwise describe reasonable efforts to review the accuracy of the responses.

Code of Civil Procedure section 2015.5 provides in relevant part: "Whenever, under any law of this state or under any rule, regulation, order or requirement made pursuant to the law of this state, any matter is required or permitted to be supported evidenced, established, or proved by the sworn statement, declaration, verification, certificate, oath, or affidavit, in writing of the person making the same..., such matter may with like force and effect be supported, evidenced, established or proved by the unsworn statement, declaration, verification, or certificate, in writing of such person which recites that it is certified or declared by him or her to be true under penalty of perjury, is subscribed by him or her, and (1), if executed within this state, states the date and place of execution, or (2), if executed at any place, within or without this state, states the date of execution and that it is so certified or declared under the laws of the State of California."

"[T]he language of Code of Civil Procedure section 2015.5 indicates that unsworn declarations used in lieu of affidavits or other sworn statements may follow the format appearing in exemplars (a) and (b). Exemplar (a), which is limited to declarations executed 'within' California, shows that the document is signed, dated, and made under penalty of perjury at a particular place. Exemplar (b) more broadly covers declarations signed 'within or without' this state, including those not showing a place of execution in California and those showing they were signed in other states. As to each sample declaration, section 2015.5 allows the prescribed contents to appear in 'substantially' the same 'form' on the printed page." (*Kulshrestha v. First Union Commercial Corp.* (2004) 33 Cal.4th 601, 611.)

In this case, each of defendant's verification forms state, "I, Ivan La Frinere-Sandoval, am the Chief Executive Officer of FirstPV Inc., a Defendant in this matter, and I am authorized to sign this verification on its behalf. I have reviewed the foregoing responses and I declare under penalty of perjury under the laws of the State of California that the foregoing answers are true and correct." The title of each document the verification forms refer to is noted in the footer section. Additionally, the responses and respective verifications exist as a single document with continuous numbering.

The court finds that defendant's verifications satisfy Code of Civil Procedure section 2015.5. Therefore, plaintiff's motions are denied.

TENTATIVE RULING # 7: PLAINTIFF'S MOTIONS ARE DENIED. 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.