

**Tentative Rulings for March 12, 2025**  
**Department 502**

**For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)**

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There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) *The above rule also applies to cases listed in this "must appear" section.*

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The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

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(Tentative Rulings begin at the next page)

# **Tentative Rulings for Department 502**

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(36)

**Tentative Ruling**

Re: **Sonya Marie Daniels v. Obaida Batal, M.D.**  
Superior Court Case No. 24CECG01698

Hearing Date: March 12, 2025 (Dept. 502)

Motion: by defendants Obaida Batal, M.D. and Batal Medical, Inc.,  
erroneously sued as Body by Batal Cosmetic Surgery Center  
to Quash Service of Summons

**Tentative Ruling:**

To grant. (Code Civ. Proc., § 418.10.)

**Explanation:**

Plaintiff filed her complaint on April 29, 2024, and her First Amended Complaint on June 12, 2024. A proof of service against Dr. Batal was filed on August 27, 2024.<sup>1</sup> That proof of service indicated that Dr. Batal was served by personal service on July 17, 2024, at 1:35 p.m. at 1423 2nd Street, Suite B, Santa Monica, CA 90401. The person who served the papers was an individual named Marcus Cato, who identifies himself as a person who is not a registered California process server. (See the August 27, 2024 Proof of Service.) Defendants move to quash the service of summons purported by this proof of service.

“When a defendant challenges the court's personal jurisdiction on the ground of improper service of process ‘the burden is on the plaintiff to prove the existence of jurisdiction by proving, inter alia, the facts requisite to an effective service.’” (*Summers v. McClanahan* (2006) 140 Cal.App.4th 403, 413 citing *Dill v. Berquist Construction Co.* (1994) 24 Cal.App.4th 1426, 1440.) “[T]he filing of a proof of service creates a rebuttable presumption that the service was proper. [Citations.]” (*Id.*, at pp. 1441-1442, citations omitted. “However, that presumption arises only if the proof of service complies with the statutory requirements regarding such proofs.” (*Id.*, at p. 1442.) Evidence Code section 647 provides that a registered process server’s declaration of service establishes a presumption that the facts stated in the declaration are true. (Evid. Code, § 647.)

Here, since Mr. Cato is not a California registered process server, there is no presumption that the service was proper. Defendants submit the declaration of Obaida Batal, M.D., wherein he indicates that he, along with all of his staff, only worked at his office in Long Beach on July 17, 2024. Neither Dr. Batal, nor any of staff or persons authorized to accept service on his behalf were at the Santa Monica office location on that day. (Batal Decl., ¶ 7.) Plaintiff does not submit any evidence to establish that Dr. Batal was served with the summons and operative complaint. Nor does plaintiff provide why such evidence could not be supplied, i.e., a declaration by Mr. Cato. Plaintiff’s evidence establishing that Dr. Batal had actual knowledge of the proceedings is

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<sup>1</sup> The challenge to the proofs of service that were rejected are not discussed.





(35)

**Tentative Ruling**

Re: **Ronald Carter v. Paul Vial**  
Superior Court Case No. 22CECG02025

Hearing Date: March 12, 2025 (Dept. 502)

Motion: By Defendant Paul Vial to Compel Further Responses; and  
Request for Sanctions

**Tentative Ruling:**

To grant, in full, each of the motions to compel further responses to Special Interrogatories, Set Two; Request for Production of Documents, Set One; and Request for Admissions, Set Two.

Plaintiffs Richard Gaestel and Cindee Gaestel Lopez as Successor Co-Trustees of the Robert J. and Bette C. Gaestel Family Revocable Trust are directed to serve verified responses to these requests, and produce all relevant documents within 10 days of service of the order by the clerk. For all documents subject to a claimed privilege, Plaintiffs Richard Gaestel and Cindee Gaestel Lopez as Successor Co-Trustees of the Robert J. and Bette C. Gaestel Family Revocable Trust shall produce a privilege log.

To grant the request for sanctions and impose monetary sanctions in the combined, reduced amount of \$2,700.00 in favor of Defendant Paul Vial and against Plaintiffs Richard Gaestel and Cindee Gaestel Lopez as Successor Co-Trustees of the Robert J. and Bette C. Gaestel Family Revocable Trust, payable within 30 days of service of the order by the clerk to counsel for Defendant Paul Vial.

To set an order to show cause for April 16, 2025, 3:30 p.m., Department 502, as to why further sanctions pursuant to Code of Civil Procedure section 2023.030 should not be imposed against Plaintiffs Richard Gaestel and Cindee Gaestel Lopez as Successor Co-Trustees of the Robert J. and Bette C. Gaestel Family Revocable Trust for noncompliance with the court's July 24, 2024, order of monetary sanctions.

**Explanation:**

At issue are disputes arising out of a partnership and its written agreement to own and operate a private duck club. Plaintiffs Ronald Carter, and Richard Gaestel and Cindee Gaestel Lopez as Successor Co-Trustees of the Robert J. and Bette C. Gaestel Family Revocable Trust (together "Plaintiff"), filed the instant action for four causes of action: (1) breach of fiduciary duty; (2) breach of partnership agreement; (3) accounting; and (4) as to plaintiff Ronald Carter only, financial elder abuse. The action is brought against, among others, defendant Paul Vial ("Defendant").<sup>1</sup>

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<sup>1</sup> Defendant's Request for Judicial Notice as to each motion is granted to the extent that such records exist. (*Steed v. Dept. of Consumer Affairs* (2012) 204 Cal.App.4th 112, 120-121.)

Defendant now seeks to compel further responses to various written discovery from Plaintiff.

*Special Interrogatories, Set Two*

At issue are Special Interrogatories, No. 6 through 13. Special Interrogatories No. 6 through 8 seek, in effect, the same information, of identifying documents that show, relate or pertain to the trust obtaining an interest in the partnership. Plaintiff objected on the grounds of attorney-client privilege, attorney work product, and seeking private tax returns, and offered to produce non-privileged documents. Though Defendant suggests that doing so is evasive, the production of documents is a proper response to an interrogatory. (Code Civ. Proc. § 2030.210, subd. (a).) However, in responding to an interrogatory with document production, the responding party is to cite to Code of Civil Procedure section 2030.230, and specify the writings from which the answer to the interrogatory may be derived or ascertained. (*Id.*, § 2030.230A party has no right to refuse to identify documents in response to interrogatories, even if the party may properly refuse to produce these documents later based on a claim of privilege. (*Best Products, Inc. v. Superior Court* (2004) 119 Cal.App.4th 1181, 1190 ["If an interrogatory asks the responding party to identify a document, an adequate response must include a description of the document. Consequently, a privilege log is unnecessary with regard to answering interrogatories seeking the identification of documents."])[internal citations omitted].)

Special Interrogatories No. 9 through 12 seek identification of documents that show notice to, consent by, and acknowledgement from the partners of the partnership to transfer interest to the trust, as well as documents that otherwise demonstrate ownership. As with above, Plaintiff elected to respond with a production of documents. As with above, the statement that documents will be produced, by itself, is an insufficient response to an interrogatory.

Special Interrogatory No. 13 seeks information regarding communications between Robert Gaestel and the partners regarding the transfer of interest to the trust. Plaintiff, in response, objected that the interrogatory called for speculation, and responded that after a diligent inquiry, there were no documents to produce. The objection of speculation is overruled. The response itself is styled to responding to demand inspections and is not a complete response to an interrogatory. (Code Civ. Proc. § 2030.220.)

In spite of the exercise of production of documents as responses to interrogatories, Defendant submits that Plaintiff has failed to produce any documents, with or without proper specification. In opposition, Plaintiff contends that production already occurred to a prior round of discovery. (*Gilmore Decl.*, ¶ 4.) This is further reason why a description must attach to the interrogatory response.

For the above reasons, Plaintiff's responses are wholly deficient, and the motion is granted as to Special Interrogatories, No. 6 through 13.<sup>2</sup> Should Plaintiff continue to seek

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<sup>2</sup> Defendant further argues issues against the raising of privacy objections. Aside from the objection to production of tax documents, which Plaintiff has not clearly identified as responsive to the interrogatory, no objections were raised as to privacy on any of the Special Interrogatories

to respond to these interrogatories with a production of documents, Plaintiff must specify how the documents answer the interrogatory, and where there is a privilege asserted, facts justifying the assertion of the privilege. (Code Civ. Proc. § 2030.230; *Best Products, Inc. v. Superior Court, supra*, 119 Cal.App.4th at pp. 1190-1191.)

### *Requests for Production*

At issue are Requests for Production No. 1 through 8. However, each request is to produce the documents identified through Special Interrogatories No. 6 through 13. As the motion is granted to the interrogatories, the motion is granted as to Requests for Production No. 1 through 8.

### *Request for Admission*

At issue are Requests for Admission No. 28 through 35. These requests seek admissions that, in effect, no documentation exists to demonstrate that the trust obtained an ownership interest in the partnership, or otherwise references such ownership, with some requests making specific admissions that tax documents do not reference ownership in the partnership. As to each request at issue, Plaintiff objected on the grounds of relevance, right of privacy, and as to the tax requests, tax privacy. The relevance objection lodged to every request at issue is overruled. Admitting whether documents exists does not, as Plaintiff suggests in opposition, tend to reveal private aspects of the estate plan, aside from what is at issue in this action: whether the trust obtained an interest in the partnership.

Similarly, the admission or denial of whether the partnership was included in tax returns does not, in and of itself, reveal sensitive tax information. This court previously acknowledged that tax returns are subject to privilege, including the contents therein. However, this is not a demand for inspection. An admission or denial as to whether the trust reported an ownership in the partnership is directly relevant to, as Defendant argues, its ability to challenge the standing of the trust as a plaintiff in this action.

As the objections are overruled, the motion is granted as to Requests for Admissions No. 28 through 35. To the extent responses result in a denial, the motion is further granted as to an additional order that Plaintiff shall provide further responses to the reported concurrently served Form Interrogatories, No. 17.1.

### *Sanctions*

Defendant seeks monetary sanctions under Code of Civil Procedure sections 2023.010, 2031.310, and 2033.280, the former providing for permissive monetary sanctions (Code Civ. Proc. § 2023.030, subd. (a)), and the latter, mandatory (Code Civ. Proc. § 2031.310, subd. (h)).

In each set of moving papers, both sides argued matters outside of the scope of the discovery requests, and the corresponding responses. The arguments submitted

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at issue. As discussed throughout, the issue of tax privacy does not excuse Plaintiff from identifying documents responsive to the interrogatory.



