Tentative Rulings for March 20, 2025
Department 503

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)

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.***

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

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

Begin at the next page

(03)

Tentative Ruling

Re: ***Ponce v. Balanced Comfort, Inc.***
Case No. 23CECG00573

Hearing Date: March 20, 2025 (Dept. 503)

Motion: Plaintiff's Motion for Preliminary Approval of Class Action Settlement

Tentative Ruling:

To deny plaintiff's motion for preliminary approval of the class action and PAGA settlement, without prejudice.

Explanation:

1. Class Certification

a. Standards

"Class certification requires proof (1) of a sufficiently numerous, ascertainable class, (2) of a well-defined community of interest, and (3) that certification will provide substantial benefits to litigants and the courts, i.e., that proceeding as a class is superior to other methods. In turn, the community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class." (*In re Tobacco II Cases* (2009) 46 Cal. 4th 298, 313.)

b. Numerosity and Ascertainability

"Ascertainability is achieved by defining the class in terms of objective characteristics and common transactional facts making the ultimate identification of class members possible when that identification becomes necessary. While often it is said that class members are ascertainable where they may be readily identified without unreasonable expense or time by reference to official records, that statement must be considered in light of the purpose of the ascertainability requirement. Ascertainability is required in order to give notice to putative class members as to whom the judgment in the action will be res judicata." (*Nicodemus v. Saint Francis Memorial Hospital* (2016) 3 Cal.App.5th 1200, 1212, internal citations and quote marks omitted.)

Here, the class appears to be ascertainable, as defendants' personnel records should be sufficient to allow the parties to identify the class members. The class is also sufficiently numerous to justify certification, as plaintiff's counsel claims that there are approximately 305 class members who worked for defendant during the class period. Therefore, the court intends to find that the class is sufficiently numerous and ascertainable for certification.

c. Community of Interest

"[T]he 'community of interest requirement embodies three factors: (1) predominant common questions of law or fact; (2) class representatives with claims or defenses typical of the class; and (3) class representatives who can adequately represent the class.'" (*Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021, internal citations omitted.) "The focus of the typicality requirement entails inquiry as to whether the plaintiff's individual circumstances are markedly different or whether the legal theory upon which the claims are based differ from that upon which the claims of the other class members will be based." (*Classen v. Weller* (1983) 145 Cal. App. 3d 27, 46.) "[T]he adequacy inquiry should focus on the abilities of the class representative's counsel and the existence of conflicts between the representative and other class members." (*Caro v. Procter & Gamble Co.* (1993) 18 Cal. App. 4th 644, 669.)

Here, it does appear that there are common questions of law and fact, as all of the proposed class members worked for the same defendant and allegedly suffered the same type of Labor Code violations. Therefore, the proposed class involves common issues of law and fact.

With regard to the requirement of typicality of the representative's claims, it does appear that Mr. Ponce's claims are typical of the rest of the class and that he seeks the same relief as the other class members based on his allegations and prayer for relief in the complaint. There is no evidence that he has any conflicts between his interests and the interests of the other class members that would make him unsuitable to represent their interests. Therefore, plaintiffs have shown that Mr. Ponce has claims typical of the other class members.

Plaintiff's counsel has submitted a supplemental declaration in an effort to establish that she is experienced and qualified to represent the class. Counsel's declaration discusses her background, education, and experience in class action litigation. She states that she has been a licensed attorney since November of 2008, and that she has worked as counsel in four class action cases. (Lovegren-Tipton decl., ¶¶ 4, 6.) She was defense counsel in two cases, and plaintiff's counsel in the other two cases. (*Id*. at ¶ 6.) She is working on a contingent fee basis. (*Id*. at ¶ 5.) Therefore, the declaration provides sufficient evidence to support counsel's assertion that she is experienced and qualified to represent plaintiff and the other class members here.

d. Superiority of Class Certification

It does appear that certifying the class would be superior to any other available means of resolving the disputes between the parties. Absent class certification, each employee of defendants would have to litigate their claims individually, which would result in wasted time and resources relitigating the same issues and presenting the same testimony and evidence. Class certification will allow the employees' claims to be resolved in a relatively efficient and fair manner. (*Sav-On Drugs Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 340.) Therefore, it does appear that class certification is the superior means of resolving the plaintiff's claims.

Conclusion: The court intends to grant certification of the class for the purpose of settlement.

2. Settlement

a. Legal Standards

"When, as here, a class settlement is negotiated prior to formal class certification, there is an increased risk that the named plaintiffs and class counsel will breach the fiduciary obligations they owe to the absent class members. As a result, such agreements must withstand an even higher level of scrutiny for evidence of collusion or other conflicts of interest than is ordinarily required under Rule 23(e) before securing the court's approval as fair." (*Koby v. ARS National Services, Inc.* (9th Cir. 2017) 846 F. 3d 1071, 1079.)

"[I]n the final analysis it is the Court that bears the responsibility to ensure that the recovery represents a reasonable compromise, given the magnitude and apparent merit of the claims being released, discounted by the risks and expenses of attempting to establish and collect on those claims by pursuing litigation. The court has a fiduciary responsibility as guardians of the rights of the absentee class members when deciding whether to approve a settlement agreement . . . The courts are supposed to be the guardians of the class." (*Kullar v. Foot Locker Retail, Inc*. (2008) 168 Cal. App. 4th 116, 129.)

"[T]o protect the interests of absent class members, the court must independently and objectively analyze the evidence and circumstances before it in order to determine whether the settlement is in the best interests of those whose claims will be extinguished . . . [therefore] the factual record must be before the … court must be sufficiently developed." (*Id*. at p. 130.) The court must be leery of a situation where "there was nothing before the court to establish the sufficiency of class counsel's investigation other than their assurance that they had seen what they needed to see." (*Id*. at p. 129.)

b. Fairness and Reasonableness of the Settlement

"In determining whether a class settlement is fair, adequate and reasonable, the trial court should consider relevant factors, such as 'the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement.' The list of factors is not exclusive and the court is free to engage in a balancing and weighing of factors depending on the circumstances of each case." (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 244–245, internal citations omitted, disapproved of on other grounds by *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260.)

Here, plaintiff's counsel has not presented a sufficient discussion of the strength of the case if it went to trial, the risks, complexity, and duration of further litigation, and an explanation of why the settlement is fair and reasonable in light of the risks of taking the case to trial. Plaintiff's counsel fails to provide a detailed explanation of the claims and

defenses raised by the parties, and the problems and risks inherent in plaintiff's case. She simply makes vague statements about the risks of going to trial, defendant's defenses, and the delays and uncertainties inherent in the case. She also expresses a concern that, even though plaintiff has a high likelihood of prevailing at trial, defendant's financial status is such that there is a high risk that if a jury awarded a verdict in favor of plaintiff, defendant would go out of business and there would be no funds from which to pay an award, as defendant's funds would have been expended in attorney's fees after an anticipated 12-18 months of litigation. She also states that she was given a chance to review defendant's financial statements and bank balances during mediation, which led her to conclude the present settlement amount is the best settlement that could be obtained under the circumstances. Otherwise, class members would receive a judgment that is worth no more than the paper on which it is written.

However, plaintiff's counsel still has not given any specific information or analysis about the unique strengths of this particular plaintiff's case, the defenses raised by the defendant here, or why it was reasonable for plaintiff to settle his claims for $60,000. Plaintiff's counsel states that she was given a chance to review defendant's financial status, which led her to conclude that $60,000 was the best amount she could obtain and that defendant was not likely to be able to pay a full judgment after a lengthy litigation and trial. Yet she does not state how much the case was potentially worth, or why she believes that defendant would not be able to pay a potential judgment here. Most applications for approval of a class settlement include a discussion of what penalties and damages might be imposed and why it would be reasonable to accept less than that amount in settlement. Here, plaintiff's counsel has only vaguely stated that she saw defendant's financial accounts and that she does not believe it could afford to pay a full judgment. Without more detailed information about what plaintiff believes that the case is potentially worth and what the strengths and weaknesses of the case are, such a statement is not particularly helpful.

Therefore, plaintiff has not shown that the settlement is fair, reasonable, or adequate in light of the unique facts and legal issues raised by the plaintiff's case.

c. Proposed Class Notice

The proposed notice appears to be generally adequate, although it does have some problems. The notices will provide the class members with information regarding their time to opt out or object, the nature and amount of the settlement, the impact on class members if they do not opt out, the amount of attorney's fees and costs, and the service award to the named class representatives.

However, the amount of the service award is incorrectly stated in the notice as being $3,500, when it is actually $6,000. This is a fairly substantial difference, and could potentially affect a class member's decision as to whether to oppose or opt out of the settlement. Therefore, this issue needs to be fixed before the court should approve the notice. As a result, the court intends to find that the proposed class notice is not adequate at this time.

3. Attorney's Fees and Costs

Plaintiff's counsel seeks attorney's fees of $20,000. Plaintiff's counsel has now provided a new declaration to describe her education, skill, and experience, as well as the challenges presented in the litigation. She states that she was admitted to the California Bar in November of 2008, and that she has worked as counsel in four class actions, two as defense counsel and two as plaintiff's counsel. She also states that her firm took the case on a contingent basis, which supports the requested fees due to the risk that she would receive nothing if she were unsuccessful. She states that she has incurred $20,022.50 in fees and costs of $3,553.74. Her hourly rate is $375 per hour in non-class cases and $475 per hour for class cases. Her associate charges $250 per hour for non-class cases and $300 per hour for class cases. She claims that these rates are comparable to the rates charged by other attorneys in specialty practice areas in California. Her fees do not include a lodestar enhancement, although she would normally seek a multiplier based on the difficulty and risks associated with class actions.

Therefore, plaintiff's counsel has provided the court with enough information to assess the reasonableness of her fees. It appears that the requested fees of $20,000 in the settlement are fair and reasonable, especially in light of the fact that counsel incurred about the same amount of fees to litigate the case. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 504.) As a result, the court intends to grant preliminary approval of the requested fees.

In addition, counsel also seeks an award of up to $3,500 in costs. Plaintiff's counsel states that she incurred $3,553.74 in costs to litigate the case, so the court intends to find that the request for an award of $3,500 is fair and reasonable.

4. Payment to Class Representative

Plaintiff seeks preliminary approval of a $6,000 service award to the named plaintiff/class representative, Mr. Ponce. Mr. Ponce has provided a declaration which supports the request for a service award, as he states that he worked closely with plaintiff's counsel, provided documents, answered questions, and participated in meetings about the case with counsel. Therefore, plaintiff has shown that the incentive award to the named plaintiff is fair, adequate, and reasonable.

5. Payment to Class Administrator

Plaintiff's counsel has provided a declaration stating that the class administrator, ILYM Group, will receive $7,000 to administer the settlement. This amount is actually slightly less than the amount ILYM requested in its original estimate in April of 2024. (Exhibit A to Lovegren-Tipton decl. re: Class Administrator Fees.) Therefore, the court intends to find that the class administrator fees are fair and reasonable.

6. PAGA Settlement

Plaintiff proposes to allocate $5,000 of the settlement to the PAGA claims, with 75% of that amount being paid to the LWDA as required by law and the other 25% being paid

out to the aggrieved employees.[1] Plaintiff's counsel now states that she gave notice of the settlement to the LWDA on February 24,2025. If any response is received, counsel will file an updated declaration before the hearing. Therefore, plaintiff's counsel has now shown that she complied with PAGA's requirement to give notice of the settlement to the LWDA. (See Labor Code, § 2699, subd. (s)(2).)

Plaintiff's counsel also states that she believed that paying $5,000 to settle the PAGA claim is fair, reasonable and adequate, given that she has alleged several other causes of action for wage and hour violations with equal or greater values in damages. She also notes that the PAGA portion of the settlement is 12% of the total settlement.

While this statement is somewhat confusing, it appears that counsel is saying that the PAGA allocation is fair, reasonable and adequate because it represents a substantial percentage of the total settlement, and the other claims are likely worth more than the PAGA claim. However, she has not explained what the potential value of the other Labor Code claims is, or how much the PAGA claim is worth. Thus, her vague statement that the other claims are worth more than the PAGA claim and thus $5,000 is a reasonable amount to accept in settlement of the PAGA claim is not well supported. As a result, the court intends to find that plaintiff has not adequately shown that the PAGA settlement is fair, adequate, and reasonable.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: JS on 3/10/2025.
(Judge's initials) (Date)

[1] Again, the motion and counsel's declaration incorrectly state that the amount paid to the LWDA for the PAGA penalties will be $5,000. In fact, the settlement agreement provides that the total PAGA settlement allocation is $5,000, with $3,750 paid to the LWDA and the other $1,250 paid to the aggrieved employees. (See Settlement Agreement, ¶ 3.2.4.)

(35)

Tentative Ruling

Re: ***Valyria LLC dba Transpac v. Cherrywood Ventures, LLC***
Superior Court Case No. 23CECG04400

Hearing Date: March 20, 2025 (Dept. 503)

Motion: By Plaintiff for Default Judgment

Tentative Ruling:

To deny. The court sua sponte directs the clerk to strike the entry of default dated May 17, 2024 as to defendant Cherrywood Ventures, LLC.

Explanation:

As was indicated on April 8, 2024 denying the entry of default against defendant Cherrywood Ventures, LLC ("Defendant"), the proof of service of summons is defective. It appears that Defendant is a business entity. Service may be effected on a business entity through, among others, its identified agent for service of process. (*E.g.*, Code Civ. Proc. § 416.40, subd. (b).) Service may be through, among other methods, personal service (*id.*, § 415.10), or substitute service (*id.*, § 415.20). Where substitute service occurs, a copy of the pertinent papers may be left at the office during usual office hours, and thereafter mailed by first-class mail to the place where the copy was left. (*Id.*, § 415.20, subd. (a).)

Here, the proof of service of summons, filed April 8, 2024, indicates that Jon Olson is the agent for service of process for Defendant, at an address on Monroe Avenue, Fresno California. However, personal service was not effected on Jon Olson. Rather, substitute service was effected by leaving a copy of the service of summons and complaint with "John Doe – Occupant." Fatally, Item 5(b)(4) is not checked, indicating that in addition to leaving a copy with John Doe, the documents were thereafter mailed by first-class mail. Neither does the declaration of due diligence indicate that the documents were later mailed to the Monroe address.

In spite of the above, entry of default was improvidently entered on May 17, 2024. The court sua sponte strikes the entry of default entered May 17, 2024, and the application for default judgment is denied.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: JS 3/17/2025.
(Judge's initials) (Date)

(34)

Tentative Ruling

Re: ***Mata v. Hamdan Dental Corporation***
Superior Court Case No. 24CECG03334

Hearing Date: March 20, 2025 (Dept. 503)

Motion: by Defendant for an Order Compelling Plaintiff's Responses to Discovery and an Order Deeming Requests for Admissions Admitted

Tentative Ruling:

To grant Defendant Hadi Daoud Hamdan Dental Corporation's motions to compel Plaintiff Oscar Mata to provide responses to Form Interrogatories, Set One, Special Interrogatories, Set one, and Request for Production of Documents, Set One. (Code Civ. Proc. §§ 2030.290, subd. (b); 2031.300, subd. (b).) Plaintiff is ordered to serve complete verified responses to the discovery set forth above, without objection, within 20 days of the clerk's service of the minute order.

To deem Defendant's Request for Admissions, Set One, admitted by Plaintiff Oscar Mata, unless defendant serves, before the hearing, a proposed response to the requests for admission that is in substantial compliance with Code of Civil Procedure, section 2033.220. (Code Civ. Proc. §2033.280, subd. (b) and (c).)

To impose monetary sanctions in favor of Defendant and against Plaintiff Oscar Mata. (Code Civ. Proc. §§ 2023.010, subd. (d), 2030.290, subd. (c), 2031.300, subd. (c), 2033.280, subd. (c).) Plaintiff is ordered to pay $1,181.90 in sanctions to Harris Law Firm, PC within 30 days of the clerk's service of the minute order.

Explanation:

A party that fails to serve a timely response to a discovery request waives "any objection" to the request. (Code Civ. Proc. §§ 2030.290(a), 2031.300 (a), 2033.280(a).) The propounding party may move for an order compelling a party to respond to the discovery request. (Code Civ. Proc. §§ 2030.290(b), 2031.300(b).) In the case of requests for admission, the propounding party may move for an order that the truth of any matters specified in the requests be deemed admitted. (Code Civ. Proc. § 2033.280(b).)

Where responses are served after the motion is filed, the motion to compel may still properly be heard. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 409.) Unless the propounding party takes the matter off calendar, the court may determine whether the responses are legally sufficient, and award sanctions for the failure to respond on time. (*Ibid*.)

The discovery at issue was served on plaintiff Oscar Mata on December 11, 2024. (Harris Decl., ¶ 3, Exh. A.) As of February 18, 2025, plaintiff had failed to serve any responses. (*Id*. at ¶ 4.) Therefore, defendant is entitled to an order compelling plaintiff to

respond to the discovery, including Form Interrogatories, Set One, Special Interrogatories, Set One, and Request for Production of Documents, Set One. (Code Civ. Proc. § 2030.290, subd. (b), 2031.300, subd. (b).) Defendant is likewise entitled to an order deeming Requests for Admission, Set One, admitted by plaintiff Oscar Mata unless plaintiff serves, before the hearing, a proposed response to the requests for admission that is in substantial compliance with Code of Civil Procedure, Section 2033.220. (Code Civ. Proc. § 2033.280, subd. (b) and (c).)

In addition, since plaintiff did not respond to the discovery in a timely manner, he has waived all objections. (Code Civ. Proc. §§ 2030.290, subd. (a), 2031.300, subd. (a), 2033.280, subd. (a).)

Sanctions

The court may award sanctions against a party that fails to provide discovery responses. (Code Civ. Proc. § 2023.010(d), (h).) The court must impose a monetary sanction against the party or attorney, or both, whose failure to respond necessitated the motion to deem matters admitted. (Code Civ. Proc. §2033.280(c).)

Where responding party provided the requested discovery after the motion to compel was filed, the court is authorized to award sanctions. (Cal. Rules of Court, rule 3.1348(a).)

Defendant's request for sanctions in connection with the motions at bench is granted. The court finds it reasonable to award sanctions for two hours of attorney time preparing the motions to compel and motion to deem admissions admitted at counsel's hourly rate of $465 as well as the filing fees associated with each of the four motions. (Harris Decl., ¶¶ 6-9.) Defendant is ordered to pay $1,181.90 in sanctions to Harris Law Firm, PC within 30 days of the clerk's service of the minute order.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: JS on 3/17/2025.
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Frank Cruz v. Oscar Bibiano***
Superior Court Case No. 24CECG03603

Hearing Date: March 20, 2025 (Dept. 503)

Motion: by Defendant Oscar Bibiano to Compel Further Discovery Responses to Request for Production of Documents, Set One, and for Monetary Sanctions

Tentative Ruling:

To grant defendant Oscar Bibiano's requests for judicial notice. (Evid. Code, § 452 subd. (d).)

To grant defendant Oscar Bibiano's motion to compel further responses from plaintiff Frank Cruz, aka Francisco de la Cruz, to document requests, set one, numbers 1, 2, 4, 6, 7, 8, 14, and 15. (Code Civ. Proc. § 2031.310.) Plaintiff shall serve the responsive documents within 20 days of the date of service of this order.

To impose monetary sanctions in the amount of $1,972.40 in favor of defendant Oscar Bibiano against plaintiff Frank Cruz, aka Francisco de la Cruz. (Code Civ. Proc. § 2031.310, subd. (h).) Plaintiff is ordered to pay $1,972.40 in sanctions to counsel for the defendant, Proper Defense Law Corporation, within 30 days of the clerk's service of the minute order.

Explanation:

Timeliness (of all papers)

45-day Deadline for Motion to Compel

"Unless notice of this motion is given within 45 days of the service of the verified response, or any supplemental verified response, or on or before any specific later date to which the demanding party and the responding party have agreed in writing, the demanding party waives any right to compel a further response to the demand." (Code Civ. Proc., § 2031.310 subd. (c).) Pursuant to Fresno County Superior Court Local Rules, rule 2.1.17, "[f]iling a request for a Pretrial Discovery Conference tolls the time for filing a motion to compel discovery on the disputed issues for the number of days *between the filing of the request and issuance by the Court of a subsequent order* pertaining to the discovery dispute. The Court's order will specify the number of days the time for filing a motion is tolled." (emphasis added.)

Plaintiff Frank Cruz, aka Francisco de la Cruz ("plaintiff"), served verified responses to the requests for production of documents propounded by defendant Oscar Bibiano ("defendant") on October 1, 2024. (Vecchiarelli Decl., ¶ 4, Exh. B.) These were served

by mail, thus extending the time to respond by 5 days. Defendant filed his first request for a pre-trial discovery conference ("PTDC") on November 6, 2024. The court denied the request on November 20, 2024, and tolled the time for filing by 14 days. Defendant filed his second request for PTDC on November 26, 2024. The court denied the request on December 10, 2024, and tolled the time for filing by 14 days (erroneously written on the Order Denying as one (1) day; calculations demonstrate that the time between filing the request and issuance of the court order was 14 days). Defendant filed his third request for PTDC on December 17, 2024. The court denied the request on January 6, 2025, and tolled the time for filing by 20 days. On January 6, 2025, the court granted defendant permission to file this motion, pursuant to Local Rules, rule 2.1.17. Service of each court order by mail extended the time to file by 5 days each, thus an additional 15 days. Based on these calculations, the motion was timely filed.

Untimely Opposition

It is undisputed that defendant's opposition to the motion was untimely, pursuant to Code of Civil Procedure section 1005 subdivision (b). However, defendant in his reply addressed the merits of plaintiff's opposition (i.e. the timeliness of the motion), therefore any untimeliness in the service of the opposition is therefore waived. (*Alliance Bank v. Murray* (1984) 161 Cal.App.3d 1, 7.)

Meet and Confer

The motion to compel further responses must be accompanied by a declaration showing "a reasonable and good faith attempt" to resolve the issues outside of court. (Code Civ. Proc., § 2031.310 subd. (b)(2).) Defendant Bibiano complied with the meet and confer requirement.

Judicial Notice

The court grants defendant's request for judicial notice, pursuant to Evidence Code section 452 subdivision (d), as the items sought to be judicially noticed are records of this court.

Motion to Compel Further

Laws

Discovery requests are generally afforded liberal construction. (See Code of Civ. Proc., § 2017.010; *Williams v. Superior Court* (2017) 3 Cal.5th 531, 541.) A motion to compel further responses must "set forth specific facts showing good cause justifying the discovery sought by the inspection demand." (Code Civ. Proc., § 2031.310 subd. (b)(1).) Absent a privilege issue or claim of attorney work product, that burden is met simply by a fact-specific showing of relevance. (*Glenfed Dev. Corp. v. Superior Court* (1997) 53 Cal.App.4th 1113, 1117.) If "good cause" is shown by the moving party, the burden is then on the responding party to justify any objections made to document disclosure. (*Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98.) Declarations are generally used to show the requisite "good cause" for an order to compel inspection. The declarations

must contain "specific facts" rather than mere conclusions. (*Fireman's Fund Ins. Co. v. Superior Court* (1991) 233 Cal.App.3d 1138, 1141.)

Good Cause

In the present action, the documents sought are for the purpose of prosecuting defendant's claims against plaintiff and defending against the plaintiff's allegations in the complaint. (Memo. P&A, 6:21-23.) Though the declaration filed in support of the motion alone does not establish good cause, sufficient factual information is set forth in plaintiff's separate statement to demonstrate good cause.

The documents sought by defendant include communications between plaintiff and various persons with a role in the dispute, and documents pertaining to the property at issue including its purchase and any related payments. As this action centralizes on the ownership of the subject property and the acquisition of ownership, defendant has demonstrated there is good cause for the production of the requested documents and the burden is shifted to plaintiff to justify any objections made to document disclosure. (*Kirkland, supra*, 95 Cal.App.4th at p. 98.)

Requests for Production of Documents

In this case, plaintiff has not objected to any of the requests for production at issue. At issue are request nos. 1, 2, 4, 6, 7, 8, 14, and 15, for which plaintiff agreed to produce documents yet failed to do so. (Vecchiarelli Decl., ¶ 5, Exh. B.) All of the plaintiff's responses indicate that "[t]he production demand…will be allowed in whole." (*Ibid.*) Plaintiff raised no objections. In his opposition, plaintiff provides no justification for not producing the requested documents.

Therefore, the court should grant the motion to compel further responses to Request Nos. 1, 2, 4, 6, 7, 8, 14, and 15. In the event the parties encounter any genuine confusion over what documents are within the scope of the requests, it can be resolved through additional meet and confer efforts.

Monetary Sanctions

Unless the one subject to the sanction acted with substantial justification or other circumstances make the imposition of the sanction unjust, sanctions are mandatory. (Code Civ. Proc. § 2031.310 subd. (h).)

There has been significant delay in producing the documents that plaintiff agreed to provide and to which he did not object. To date, defendant states these have not been provided, and plaintiff has not demonstrated otherwise. Sanctions are warranted here, and the requested amount of $1,972.40 is reasonable.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: JS on 3/18/2025.
(Judge's initials) (Date)