

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

Department 6

Honorable Evette D. Pennypacker, Presiding

David Criswell, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: (408) 882-2160

DATE: September 12, 2023 TIME: 9:00 A.M.

TO REQUEST ORAL ARGUMENT: Before 4:00 PM today you must notify the:

- (1) Court by calling (408) 808-6856 and
 - (2) Other side by phone or email that you plan to appear at the hearing to contest the ruling
- (California Rule of Court 3.1308(a)(1) and Local Rule 8.E.)

IN PERSON HEARINGS: The Court strongly prefers in person appearances for contested law and motion matters. We are open and look forward to seeing you in person again.

VIRTUAL HEARINGS: Whenever feasible, please use video when appearing for your hearing virtually through Microsoft Teams. To attend virtually, click or copy and paste this link into your internet browser, and scroll down to Department 6: https://www.sccourt.org/general_info/ra_teams/video_hearings_teams.shtml

TO HAVE YOUR HEARING REPORTED: The Court does **not** provide official court reporters. If you want a court reporter to report your hearing, you must submit the appropriate form, which can be found here: https://www.sccourt.org/general_info/court_reporters.shtml

LINE	CASE NO.	CASE TITLE	TENTATIVE RULING
<u>1</u>	18CV332043	CREDITORS ADJUSTMENT BUREAU, INC. vs SILICON VALLEY TAXI DRIVERS INC. et al	The parties are ordered to appear for the examination
<u>2</u>	18CV332043	CREDITORS ADJUSTMENT BUREAU, INC. vs SILICON VALLEY TAXI DRIVERS INC. et al	Defendant is ordered to appear and show cause why a \$2,000 bench warrant should not issue for his failure to appear at his continued examination or to produce documents.
<u>3</u>	23CV412192	Ralph Jackson vs County of Santa Clara	Per parties' stipulation, the County's Demurrer is Continued to October 26, 2023 at 9 a.m. in Department 6.

<u>4</u>	19CV356353	Jean Kim vs Pets' Rx, Inc. et al	Kim's Motion to Compel is DENIED. Kim again fails to comply with the California Rules of Court. Kim also fails to identify what she believes is missing from Defendants' responses that she wants the Court to compel. Plaintiff cannot use form and special interrogatories to obtain information from a non-party, which she again attempts to do. Plaintiff's questions also contain assumptions that will be the subject of the trial, i.e., the assumptions are disputed. Plaintiff's choice to ignore the Court's (Hon. Christopher Rudy) prior orders and instructions cost the Defendants \$1248 in attorneys fees. The Court finds the amount of time Defendants' counsel spent opposing this motion and the amount charged reasonable and therefore assesses \$1248 in sanctions against Kim, payable within 30 days of service of the final order. The parties are ordered to appear for argument.
<u>5</u>	19CV356353	Jean Kim vs Pets' Rx, Inc. et al	Kim's motion for leave to amend is DENIED. The Court (Hon. Christopher Rudy) previously sustained Defendants' demurrer without leave to amend and denied Kim's prior motion for leave to amend. There also do not appear to be any new facts or any facts alleged Kim could not have known at the time of her second amended complaint to necessitate an amendment, and amendment at this late date in the litigation would be prejudicial to the Defendants. The Court agrees that a sanction is appropriate for Kim's repeated refusal to address the Court's orders, which refusal has necessitated Defendants' responding to repeat motions. The Court previously sanctioned Kim \$500 for filing a discovery motion without substantial justification, and Kim nevertheless filed the present motion. The Court accordingly sanctions Kim \$1,000. The Parties are ordered to appear for argument.
<u>6</u>	21CV386554	Anil Naran et al vs Gary Townsend	David C. Anderson's Motion to Withdraw is off calendar, per the moving party.
<u>7</u>	23CV409415	Bank Of America, N.A. vs Pamela Escudero	Bank of America N.A.'s Motion for Order that Matters in Request for Admission of Truth of Facts be Admitted is GRANTED. An amended notice of the motion with this hearing date was served on Defendant by regular mail on August 15, 2023. Plaintiff failed to file an opposition. Failure to oppose a motion may be deemed consent to the motion being granted. (Cal. Rule of Court, 8.54(c).) Further, Plaintiff served it's first set of requests for admission on Defendant by mail on March 8, 2023. To date, Defendant has served no responses. Plaintiff followed up with letters to Defendant on April 26, 2023 and May 17, 2023. Defendant still did not respond. A party served with Requests for Admission must serve a response within 30 days. (Code of Civ. Pro. §2033.250.) When a party fails to respond—even in the face of a motion to have the matters in the Requests for Admission deemed admitted—as Defendant has done here, the Court must order the Requests for Admission deemed admitted. (Code of Civ. Pro. §2033.280(c); <i>St. Mary v. Superior Court</i> (2014) 223 Cal.App.4 th 762, 775-776.) Such a "deemed admitted" order establishes that the nonresponding party has responded to the requests for admission by admitting the truth of the matters contained in the requests. (<i>Id.</i>) To request oral argument, call or email the other side and call the court at (408) 808-6856 by 4 p.m. today. (CRC 3.1308(a)(1) and LR 8.E.) Moving party to prepare formal order.

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