

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

**Department 18b**  
**Honorable Shella Deen, Presiding**  
Catherine A. Pham, Courtroom Clerk  
191 North First Street, San Jose, CA 95113

**DATE: October 22, 2024    TIME: 9:00 A.M.**

**To contest the ruling, call (408) 808-6856 before 4:00 P.M.**

Make sure to let the other side know before 4:00 P.M. that you plan to contest the ruling, in accordance with California Rule of Court 3.1308(a)(1) and Local Rule 8.E

**\*\*Please specify the issue to be contested when calling the Court and Counsel\*\***

**LAW AND MOTION TENTATIVE RULINGS**

**FOR APPEARANCES:** Department 18 is fully open for in-person hearings. The Court strongly prefers **in-person** appearances for all contested law and motion matters. For all other hearings, the Court strongly prefers either **in-person or video** appearances. If you must appear virtually, you must use video. Audio-only appearances are permitted, but disfavored, as they cause significant disruptions and delays to the proceedings. Please use telephone-only appearances as a last resort. To access the courtroom, click or copy and paste this link into your internet browser and scroll down to Department 18:

[https://www.scsccourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.shtml](https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml)

**SCHEDULING MOTION HEARINGS:** Please go to <https://reservations.scsccourt.org> or call 408-882-2430 between 8:30 a.m. and 12:30 p.m. (Mon.-Fri.) to reserve a hearing date for your motion before you file and serve it. You must then file your motion papers no more than five court days after reserving the hearing date, or else the date will be released to other cases.

**FOR COURT REPORTERS:** The Court is no longer able to provide official court reporters for civil proceedings (as of July 24, 2017). If you want to have a court reporter to report your hearing, you must submit the appropriate form, which can be found here:

[https://www.scsccourt.org/general\\_info/court\\_reporters.shtml](https://www.scsccourt.org/general_info/court_reporters.shtml)

**RECORDING IS PROHIBITED:** As a reminder, most hearings are open to the public, but state and local court rules prohibit recording of court proceedings without a court order. This prohibition applies to both in-person and remote appearances.

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**LAW AND MOTION TENTATIVE RULINGS**

<b>LINE #</b>	<b>CASE #</b>	<b>CASE TITLE</b>	<b>RULING</b>
<a href="#"><u>LINE 1</u></a>	20CV369138	Chicago Title Company vs 28th ST Villa Apts LLC et al	<b>Motion for Judgment on Pleadings</b>  Notice of Settlement of Entire Case filed on August 16, 2024, and this motion was VACATED per counsel's stipulation at the Case Status Review hearing on October 3, 2024.

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**LAW AND MOTION TENTATIVE RULINGS**

<a href="#">LINE 2</a>	22CV402498	Jose Lopez Ruiz vs Shark City Builders, Inc. et al	<b>Motion to Compel (Deposition)</b>  Defendants Shark City Builders, Inc. and Reyes Balderas' motion to compel Plaintiff Jose Daniel Lopez Ruiz to appear for a second deposition and a request for various sanctions, on the grounds that Plaintiff failed to timely disclose over 1,200 pages of material medical records until November 29, 2023, and that the "newly disclosed records reveal substantial medical treatment and evaluations that fundamentally alter the nature and scope of Plaintiff's claimed injuries". Plaintiff opposes the motion. The motion is <b>DENIED</b> . No good cause shown, this has already been addressed by the court's May 7, 2024 order and discovery is closed. The May 7, 2024 order fully considered the November 2023 production and <i>limited</i> what discovery could be conducted when discovery was reopened and, other than specifically listed items, the court ordered that "Discovery will otherwise close per the Code of Civil Procedure". There is also no good cause for any of the sanctions to be awarded, as such, Defendants request for sanctions is <b>DENIED</b> .  Moving party to prepare formal order.
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**LAW AND MOTION TENTATIVE RULINGS**

<a href="#">LINE 3</a>	23CV414246	Juanita McFerrin et al vs Valerie Barrientos et al	<p><b>Motion to Compel (Special Interrogatories)</b></p> <p>Defendant Valerie Barrientos' motion to compel responses to her special interrogatories, monetary sanctions of \$325.50, terminating sanctions and dismissal of this action against Plaintiff Juanita McFerrin. No opposition to this motion was filed by Plaintiff. A failure to oppose a motion may be deemed a consent to the granting of the motion. CRC Rule 8.54c. Failure to oppose a motion leads to the presumption that Plaintiff has no meritorious arguments. (<i>Laguna Auto Body v. Farmers Ins. Exchange</i> (1991) 231 Cal. App. 3d 481, 489.) There is also good cause to grant this motion. Plaintiff should have served a response within 30 days of service of the interrogatories or on any extension, but failed to do so. (Code Civ. Proc., §2030.260(a)). No responses were timely served, thus all objections, including that of privilege, have been waived. (Code Civ. Proc. §2030.290(a)). Moving party meets her burden of proof. Good cause appearing, the Motion is GRANTED in part. The request for sanctions is GRANTED in the amount of \$325.50. Plaintiff shall serve verified, code-compliant responses to the subject discovery, without objections, and the sanctions shall be paid within 20 days of service of this order. Defendant's requests for terminating sanctions and dismissal of this action are DENIED as neither are warranted at this time.</p> <p>Moving party shall prepare a formal order.</p>
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**LAW AND MOTION TENTATIVE RULINGS**

<a href="#">LINE 4</a>	23CV414246	Juanita McFerrin et al vs Valerie Barrientos et al	<p><b>Motion to Compel to Compel (Form Interrogatories)</b></p> <p>Defendant Valerie Barrientos' motion to compel responses to her special interrogatories, monetary sanctions of \$650, terminating sanctions and dismissal of this action against Plaintiff Juanita McFerrin. No opposition to this motion was filed by Plaintiff. A failure to oppose a motion may be deemed a consent to the granting of the motion. CRC Rule 8.54c. Failure to oppose a motion leads to the presumption that Plaintiff has no meritorious arguments. (<i>Laguna Auto Body v. Farmers Ins. Exchange</i> (1991) 231 Cal. App. 3d 481, 489.) There is also good cause to grant this motion. Plaintiff should have served a response within 30 days of service of the interrogatories or on any extension, but failed to do so. (Code Civ. Proc., §2030.260(a)). No responses were timely served, thus all objections, including that of privilege, have been waived. (Code Civ. Proc. §2030.290(a)). Moving party meets her burden of proof. Good cause appearing, the Motion is GRANTED in part. The request for sanctions is GRANTED in the amount of \$207.50. Plaintiff shall serve verified, code-compliant responses to the subject discovery, without objections, and the sanctions shall be paid within 20 days of service of this order. Defendant's requests for terminating sanctions and dismissal of this action are DENIED as neither are warranted at this time.</p> <p>Moving party shall prepare a formal order.</p>
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**LAW AND MOTION TENTATIVE RULINGS**

<a href="#"><u>LINE 5</u></a>	20CV362596	First Technology Federal Credit Union vs Stephanie Miguel	<b>Hearing on Claim of Exemption</b>  The Court has considered Judgment Creditor's opposition. This hearing is CONTINUED to December 12, 2024 at 9a.m. in Department 18b. By October 31, 2024, Judgment Debtor is to provide Judgment Creditor with: (1) pay stubs for the past three months to enable Judgment Creditor to verify income and payroll deductions from any employer, including, if applicable, Z Golf Food & Beverage, and (2) supporting documentation for expense categories "Transportation and Auto" and "Laundry and Cleaning" listed on Judgment Debtor's Claim of Exemption form.  Moving party to prepare formal order.
<a href="#"><u>LINE 6</u></a>	22CV404953	Capital One Bank (USA) N.A. vs Lisa Arellano	<b>Hearing on Claim of Exemption</b>  Defendant's Claim of Exemption is GRANTED IN PART. The Court orders that \$450 per month be garnished. Court will prepare the formal order.
<a href="#"><u>LINE 7</u></a>	23CV426400	Vinay Karna vs Dinesh Parapperi et al	<b>Motion for Reconsideration</b>  This motion will be heard by Judge Manoukian on October 22, 2024 at 9a.m. in Department 20.

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**LAW AND MOTION TENTATIVE RULINGS**

<a href="#">LINE 8</a>	24CV429757	Antonio Nieves vs Abraham Loya	<p><b>Motion to Expunge Lis Pendens</b></p> <p>Defendant's motion to expunge lis pendens and request for \$3860 for attorney fees and costs, brought on the grounds that Plaintiff cannot establish the probable validity of the real property claim because he cannot produce a writing (Civil Code § 1624(a), cannot overcome the statute of frauds (Code Civ. Proc., §1624(a)), and cannot produce evidence of any agreement, contract, alleged agreement, or interest in the subject real property. Plaintiff opposes the motion and seeks \$8,880 in attorney's fees. The motion is <b>DENIED</b>. Plaintiff has asserted causes of action that constitute real property claims under Code of Civil Procedure §§ 405.04, 405.31 that warrant the recording of a lis pendens (Specific Performance of Oral Contract, Declaratory Relief (Resulting Trust), Constructive Trust, Declaratory Relief relating to the ownership of real property and Quiet Title). These causes of action may affect title to the West Court property by requiring legal title to be transferred to Plaintiff. (Code Civ. Proc., § 405.4.) and the Court is satisfied as to the probable validity of these claims by a preponderance of the evidence presented. (Code Civ. Proc., §405.32). Both parties' requests for attorney's fees are <b>DENIED</b>.</p> <p>Moving party to prepare a formal order.</p>
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**LAW AND MOTION TENTATIVE RULINGS**

<a href="#">LINE 9</a>	24CV438640	Luis Bernardo vs Auto Company XXII, Inc. et al	<b>Petition to Compel Binding Arbitration.</b>  Defendants Mercedes-Benz USA, LLC, Auto Company XXII, Inc., and Mercedes-Benz Financial Services petition to compel Plaintiff Luis Hector Bernardo to arbitrate all of his claims in accordance with the arbitration agreement and staying this action pending the outcome of arbitration. A notice of motion with this hearing date and time was served by electronic mail on June 24, 2024. No opposition was filed. “[T]he failure to file an opposition creates an inference that the motion or demurrer is meritorious.” ( <i>Sexton v. Super Ct.</i> (1997) 58 Cal.App.4th 1403, 1410). There is also good cause to grant the petition. There is a valid agreement to arbitrate between the parties and the dispute in question falls within the scope of those arbitration agreements. ( <i>Bruni v. Didion</i> (2008) 160 Cal. App. 4th 1272, 1283). The Court finds no procedural or substantive unconscionability. The terms of the arbitration provision are equally applied. ( <i>Armendariz v. Foundation Health Psychcare Services, Inc.</i> (2000) 24 Cal.4th 83). Defendants motion to compel arbitration is GRANTED. (FAA, Code Civ. Proc., §§1280 et seq.). The case is stayed pending the outcome of the arbitration. The November 5, 2024 Case Management Conference is VACATED and the matter will be SET for an Arbitration Status Review on April 3, 2025 at 10:30 a.m. in Department 18b, regarding the status of the arbitration.  Defendants to prepare the formal order after hearing.
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