April 10, 2026, Civil Law & Motion Tentative Rulings

1. CU0002094 The Mortgage Law Firm, PLC v. All Claimants to Surplus Proceeds After the Trustee's Sale of the Real Property at 25970 Table Meadow Road, Auburn, CA

Appearances required for hearing on claims to the undistributed surplus funds.

2. CL0003052 JPMorgan Chase Bank, N.A. vs. Amy S. Perdue

Defendant Perdue's January 12, 2026, motion to compel arbitration is granted.

Defendant asserts Plaintiff JP Morgan Chase Bank N.A. is bound by a binding and enforceable agreement to arbitrate its claims by means of the Cardmember Agreement. The Court agrees.

"The party seeking to compel arbitration has the initial burden to plead and prove the existence of a valid arbitration agreement that applies to the dispute. Once that burden is satisfied, the party opposing arbitration must prove any defense to the agreement's enforcement …." *Dennison v. Rosland Cap. LLC* (2020) 47 Cal.App.5th 204, 209.

Defendant has shown that a valid arbitration agreement exists that applies to this dispute. Plaintiff previously indicated on February 25, 2026 that it was not opposing arbitration at that time and has filed no opposition to the same.

3. CL22-086219 American Express National Bank vs. Tania Blair

Plaintiff American Express National Bank's February 3, 2026, motion to vacate the conditional dismissal and for entry of judgment pursuant to Code of Civil Procedure section 664.6 is granted with modified costs.

Where the statutory requirements are met, the court, upon motion, may enter judgment pursuant to the terms of the settlement agreement after dismissal, pursuant to Code of Civil Procedure section 664.6. A party moving for entry of judgment pursuant to this provision need not establish a breach of the settlement agreement, as the court is authorized to enter judgment pursuant to the settlement regardless of whether the settlement's obligations were performed or excused. *Hines v. Lukes* (2008) 127 Cal.App.4th 1174, 1184-1185. When the settlement agreement and dismissal reserve for the trial court the authority to determine the prevailing party and to award costs and fees accordingly, the court has jurisdiction to award such costs and fees. *Khavarian Enterprises, Inc. v. Commline, Inc.* (2013) 216 Cal.App.4th 310, 320; 329 (rule applies to § 664.6 motions).

All statutory requirements of Code of Civil Procedure section 664.6 have been satisfied, as the parties entered into a valid and binding settlement agreement, and the court properly retained jurisdiction following dismissal to do so. Further, the stipulated written agreement expressly contemplates that upon Defendant's failure to comply with the terms of the settlement

agreement, Defendant agrees the court can enter judgment against Defendant in the amount of $19,925.72 plus costs.

One caveat: Plaintiff requests costs of $498.00. The Court financial records show an initial filing fee of $370.00, a filing fee for the stipulation and order for $20.00, and a filing fee for the instant motion of $60.00. Plaintiff has not supplied adequate evidence by declaration or memorandum of costs otherwise. Costs are awarded in in the amount of $450.00.

4. CU0000090 Matthew Palleschi, et al. v. Daniel Fraiman Construction, Inc., et al.

On the Court's motion, the hearing for this discovery matter is continued to April 17, 2026, at 10:00 a.m.

The Court grants Plaintiff Palleschi's motion for an order deeming its Requests for Admission (Set Three) directed to Defendant Daniel Fraiman Construction, Inc. ("DFC, Inc.") as admitted, unless DFC serves substantially compliant responses before the scheduled hearing. The Court denies, as moot, Plaintiff's motion for an order directing Defendant DFC, Inc. to provide further responses to Plaintiff's Requests for Admission (Set Three) and related Plaintiff's Construction Form Interrogatory No. 326.1. The motion for monetary sanctions against DFI, Inc. and its counsel is granted.

Plaintiff argues the Court should order that the truth of all matters specified in Plaintiff's requests for admission, set three, be deemed admitted because Defendant DFC, Inc. failed to serve verified responses to Plaintiff's Requests for Admission, Set Three ("RFAs"). DFC, Inc. argues it served compliant, verified responses and that the motion to deem admitted is inappropriate as a matter of law. Plaintiff has the better argument.

"The party to whom the requests for admission are directed shall sign the response under oath, unless the response contains only objections."[1] Code Civ. Proc. § 2033.240(a). "If that party is a …. private corporation . . . *one of its officers or agents shall sign the response under oath on behalf of that party*." Code Civ. Proc. § 2033.240(b) (italics supplied).

A "response to [an] RFA …fail[s] to conform to the statutory prescription" if "it was not signed by a party and was not under oath." *Allen-Pacific, Ltd. v. Superior Court* (1997) 57 Cal.App.4th 1546, 1550–1551, *disapproved on other grounds by Wilcox v. Birtwhistle* (1999) 21 Cal.4th 973 "Unsworn [or unverified] responses are tantamount to no responses at all." *Allen Pacific, Ltd. v. Superior Court* (1997) 57 Cal.App.4th 1546, 1550-1551, *citing Appleton v. Superior Court* (1988) 206 Cal. App. 3d 632, 636 and *Zorro Inv. Co. v. Great Pacific Securities Corp.* (1977) 69 Cal.App.3d 907, 914.

A party may move for an order deeming the request for admissions admitted if the party to whom they are directed has failed to serve a timely response. Code Civ. Proc. § 2033.280(b). More specifically:

[1] The exception to this requirement, for responses with only objections, is not at issue.

> In the event responses to RFAs are not timely served, the responding party waives any objections thereto (§ 2033.280, subd. (a)), and "[t]he requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction" (id. subd. (b)). Unless the court determines that the responding party "has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220," it must order the RFAs deemed admitted. (Id. subd. (c).) "[A] deemed admitted order establishes, by judicial fiat, that a nonresponding party has responded to the requests by admitting the truth of all matters contained therein." (*Wilcox,* supra, 21 Cal.4th at p. 979, 90 Cal.Rptr.2d 260, 987 P.2d 727.) The court must also impose monetary sanctions upon the party and/or the attorney for the failure to serve a timely response to the RFAs. (§ 2033.280, subd. (c).) But a responding party's service, prior to the hearing on the "deemed admitted" motion, of substantially compliant responses, will defeat a propounding party's attempt under section 2033.280 to have the RFAs deemed admitted. (*Tobin v. Oris* (1992) 3 Cal.App.4th 814, 827, 4 Cal.Rptr.2d 736 (Tobin).) As one court put it: "If the party manages to serve its responses before the hearing, the court has no discretion but to deny the motion. But woe betide the party who fails to serve responses before the hearing. In that instance the court has no discretion but to grant the admission motion, usually with fatal consequences for the defaulting party. One might call it 'two strikes and you're out' as applied to civil procedure." (*Demyer v. Costa Mesa Mobile Home Estates* (1995) 36 Cal.App.4th 393, 395–396, 42 Cal.Rptr.2d 260, fns. omitted (*Demyer*).)

St. Mary v. Superior Court (2014) 223 Cal.App.4th 762, 776.

At bar, the verification in connection with Defendant DFC, Inc.'s response to the request for admissions is legally inadequate. While Daniel Fraiman apparently signed the verification, there is no adequate indication that he executed the same as an officer or agent *on behalf of* the party requested to make the admission. See 3/16/26 Pl. Mot., Ex D. Indeed, the portion of the verification that calls for identification of the position of Fraiman vis a vis DFC, Inc. is left blank.[2] The verification purportedly on behalf of DFC, Inc. does not meet the requirement that an officer or agent of the private party "shall sign the response under oath *on behalf of that party*." Code Civ. Proc. § 2033.240(b) (italics supplied). [3]

The conduct of Defendant necessitated this motion. Sanctions are mandatory and appropriate. *See* Code Civ. Proc. 2033.280(c). Sanctions are awarded jointly and severally against DFC, Inc. *and* its counsel.

[2] On at least one previous verification, no such omission was made. *See, e.g.*, 3/16/26 Pl. Mot., Ex G.
[3] Plaintiff has advised the Court that DFC, Inc. is apparently not a going concern and was never a proper party to this action. Per Plaintiff, "Daniel Fraiman Construction" is the correct party. The Court defers to the parties to address this situation as deemed appropriate.

5. CU0001834 Keniia Novikov et al vs. Tahoe Forest Hospital District, et al

Plaintiff Kseniia Novikov's unopposed motion to continue the mandatory settlement conference and trial dates is granted. Appearances required by the parties, who shall meet and confer in advance regarding appropriate new dates for trial, pretrial conference and settlement conference.

Legal Standard

Continuances are granted only on an affirmative showing of good cause requiring a continuance." *In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 823. A trial court has broad discretion in considering a request for a trial continuance. *Pham v. Nguyen* (1997) 54 Cal.App.4th 11, 13-18. California Rules of Court, rule 3.1332 sets forth factors for the Court to consider in ruling on a motion to continue trial.

Although "disfavored, each request for a continuance must be considered on its own merits. The court may grant a continuance only on an affirmative showing of good cause requiring the continuance." Cal. Rules Ct., Rule 3.1332(c). Circumstances that may indicate good cause includes "[a] party's excused inability to obtain essential testimony, documents, or other material evidence despite diligent efforts." Cal. Rules Ct., Rule 3.1332(c)(6).

In ruling on a motion or application for continuance, the court must consider all the facts and circumstances that are relevant to the determination. These may include: 1. The proximity of the trial date; 2. Whether there was any previous continuance, extension of time, or delay of trial due to any party; 3. The length of the continuance requested; 4. The availability of alternative means to address the problem that gave rise to the motion or application for a continuance; 5. The prejudice that parties or witnesses will suffer as a result of the continuance; 6. If the case is entitled to a preferential trial setting, the reasons for that status and whether the need for a continuance outweighs the need to avoid delay; 7. The court's calendar and the impact of granting a continuance on other pending trials; 8. Whether trial counsel is engaged in another trial; 9. Whether all parties have stipulated to a continuance; 10. Whether the interests of justice are best served by a continuance, by the trial of the matter, or by imposing conditions on the continuance; and 11. Any other fact or circumstance relevant to the fair determination of the motion or application.

Cal. Rules of Court, rule 3.1332(d).

In determining whether to reopen discovery, the court must consider the necessity of and reasons for the additional discovery, the diligence or lack thereof by the party seeking to reopen discovery in attempting to complete discovery prior to the cutoff, whether permitting the discovery will prevent the case from going forward on the trial date or will otherwise prejudice any party, and any past continuances of the trial date. See Code Civ. Proc., § 2024.050, subd. (b).

Discussion

Plaintiff requests a trial continuance and related trial dates and discovery cutoffs from the currently scheduled trial date of May 5, 2026. She states a continuance is warranted to continue

with discovery including taking key witness depositions. Raven Decl., ¶ 21; Cal. Rules of Ct., Rule 3.1332(c)(6). Moreover, she notes, specifically: this is the first request to continue trial; she seeks a brief continuance to allow for the depositions to occur in April, as well as to allow for Plaintiff's counsel's unavailability due to a preferentially set trial in Placer County beginning April 13, 2026; no other means exist to accomplish Plaintiff's goal to fully and fairly to present her case; the interests of justice will be served by the requested relief because the continuance of trial and related deadlines will allow Plaintiff to complete essential discovery and allow her experts sufficient time to review testimony and formulate complete opinions; Defendants will not be prejudiced because a continuance will allow all parties to complete remaining discovery in an orderly manner; and granting the continuance will promote judicial efficiency. Raven Decl., ¶¶ 23-27; Cal. Rules of Ct., Rule 3.1332(d)(1)-(2), (4)-(5), (8), (10).

Based on the moving papers and declaration submitted in support thereof, the Court finds a good cause to grant the request. However, the Court requires parties to appear in that the moving papers do not contain any information as to the requested length of the continuance, or the parties' availability.[4]

6. CU0001901 Heather Miles v. Michael Smallwood

Plaintiff Heather Miles' unopposed motion to deem matters admitted and for imposition of sanctions is granted. Defendant Michael Smallwood is ordered to pay Plaintiff $2,810.00 in sanctions within 30 days.

Request to Deem Matters Admitted

A party may move for an order deeming her Requests for Admission ("RFAs") admitted if the party to whom they are directed has failed to serve a timely response. Code Civ. Proc. § 2033.280(b). "The court shall make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220." Code Civ. Proc. § 2033.280(c). Responses are due within 30 days after service of the discovery. Code Civ. Proc. §2033.250(a). Response time is extended by manner of service. Code Civ. Proc. § 2016.050. Service by mail extends the deadline by 5 calendar days. Code Civ. Proc. § 1013(a).

At bar, Plaintiff served her RFAs on November 17, 2025 by mail, making December 22, 2025 the deadline for Defendant to serve a timely response. Batista Decl., ¶ 2. Plaintiff has not received any response from Defendant, nor has Defendant responded to any meet and confer attempts. Batista Decl., ¶¶ 2-3. Therefore, The matters specified in Plaintiff's RFAs are deemed admitted, 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.

[4] The Court is cognizant of the concerns noted by Defendant Streit in its response with respect to the increased MICRA cap effective next year.

Request for Sanctions

"It is mandatory that the court impose a monetary sanction … on a party … whose failure to serve a timely response to the [RFAs] necessitated this motion." Code Civ. Proc. § 2033.280(c). Unlike the analogous provisions for other discovery motions, this subdivision makes no exception for a responding party who acted with substantial justification. *Compare, e.g.*, Code Civ. Proc., §§ 2030.290(c), 2031.300(c). Defendant failed to serve timely responses to plaintiff's RFAs. His failure to do so necessitated plaintiff's motion; thus, sanctions are required.

Plaintiff requests $2,750.00 in attorney's fees and anticipated costs of $100 and submits a declaration in support thereof. The Court finds the requested fees are reasonable and grants the same as prayed. Costs are also awarded for the $60 filing fee. Total fees and costs of $2,810.00 shall be paid within 30 days of service of the final order.

7. CU0001972 Cynthia Carter vs. Stone House, LLC, et al.

Defendants Stone House, LLC, Thriving Lifestyles, LLC, and Jonathan Rowe's motion to quash service of summons and vacate previously entered defaults as to each is granted.

Request for Judicial Notice

Plaintiff's requests for judicial notice of Exhibits 1 and 2 are denied. Exhibits 1 and 2 are *printouts* from the California Secretary of State's website. A court may *not* take judicial notice of the *factual content* of a website. *Searles Valley Minerals Operations, Inc. v. State Board of Equalization* (2008) 160 Cal.App.4th 514, 519. Additionally, the Secretary of State's website itself warns, "Although every attempt has been made to ensure that the information contained in the database is accurate, the Secretary of State's office is not responsible for any loss, consequence, or damage resulting directly or indirectly from reliance on the accuracy, reliability, or timeliness of the information that is provided. All such information is provided 'as is.'" Therefore, the documents do not qualify for judicial notice under Evidence Code section 452(h); they are not facts that "are not reasonably subject to dispute" or "capable of immediate and accurate determination."

Legal Standard For Motion to Quash

"Service of process, under longstanding tradition in our system of justice, is fundamental to any procedural imposition on a named defendant." *AO Alfa-Bank v. Yakovlev* (2018) 21 Cal.App.5th 189, 202. "To establish personal jurisdiction, compliance with statutory procedures for service of process is essential." *Kremerman v. White* (2021) 71 Cal.App.5th 358, 371. Defendant's knowledge of the action does not dispense with statutory requirements for service of summons. *Kappel v. Bartlett* (1988) 200 Cal.App.3d 1457, 1466.) On the other hand, "[S]trict compliance with statutes governing service of process is not required. Rather, in deciding whether service was valid, the statutory provisions regarding service of process should be liberally construed to effectuate service and uphold the jurisdiction of the court if actual notice has been received by the defendant." *Summers v. McClanahan* (2006) 140 Cal.App.4th 403, 410-411.

"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*, 140 Cal.App.4th at 413. "When a motion to quash is properly brought, the burden of proof is placed upon the plaintiff to establish the facts of jurisdiction by a preponderance of the evidence." *Aquila, Inc. v. Superior Court* (2007) 148 Cal.App.4th 556, 568.

Stonehouse, LLC ("Stonehouse")

Defendants argue that service on Stonehouse was improper, noting that Plaintiff's process server left the summons and complaint at an address unrelated to the LLC on an unauthorized individual, Angie R. Plaintiff argues service was made upon Stonehouse's registered agent for service via its employee, Angie Rodriquez. On the record presented, Defendants have the better argument.

Code of Civil Procedure section 416.10 governs service of pleadings on a corporation. As relevant here, "A summons may be served on a corporation by delivering a copy of the summons and the complaint ... [¶] ... [*t]o the person designated as agent for service of process* as provided by [the Corporations Code] [or] ... [¶] ... [t]o the president or other head of the corporation, a vice president, a secretary or assistant secretary, a treasurer or assistant treasurer, a general manager, or *a person authorized by the corporation to receive service of process*." Code Civ. Proc. §416.10 (a) & (b) (italics added).

At bar, Plaintiff "did file a proof of service of summons form, the filing of which created a rebuttable presumption that service was proper." *Chinese Theater, LLC v. Starline Tours USA, Inc. (*2025) 115 Cal.App.5th 1048, 1059. "Evidence Code section 604 states that a presumption affecting the burden of producing evidence requires 'the trier of fact to assume the existence of the presumed fact unless and until evidence is introduced which would support a finding of its nonexistence, in which case the trier of fact shall determine the existence or nonexistence of the presumed fact from the evidence and without regard to the presumption.'" *Ibid.* Here, Defendants presented evidence (*i.e.*, that Angie G. was an employee at Stonehouse without authority to accept service), which *if* credited, would support a finding that Angie G was not an authorized agent. As such, the Court must determine the existence or nonexistence of the presumed fact from the evidence and without regard to the presumption.

As for the actual evidence, the only admissible evidence presented by Plaintiff is the proof of service wherein a registered process server declares that he served Stonehouse, and that he specifically served Angie R. as "agent for service" or as an "authorized agent." The process server identifies no basis for his assertion that Angie R. is the actual agent for service of process for Stonehouse and there is no record evidence of the same. Under these circumstances, Plaintiff has failed to demonstrate by a preponderance of evidence, that it served the designated agent for service of process of Stonehouse.

Thriving Lifestyles, LLC ("Thriving Lifestyles")

Defendants argue that Plaintiff's process server left the summons and complaint at Stone House restaurant with a Stone House employee and did not properly effectuate substituted service on Thriving Lifestyles. Plaintiff argues that substituted service on Stone House restaurant employee, "Matthrew [sic] 'Doe'" was proper as he was the person apparently in charge of the business.

Substituted service is a valid, statutorily-authorized alternative method of effectuating service of process under California law. *Chinese Theater, LLC,* 115 Cal.App.5th at 1056. Substituted service must comport with the letter and spirit of Code of Civil Procedure section 415.20. *Id.* at 1060.

> As relevant here, section 415.20, subdivision (a), provides that in lieu of personal service on a corporate officer or authorized agent listed in section 416.10, "a summons may be served by leaving a copy of the summons and complaint during usual office hours in his or her office ... with the person who is apparently in charge thereof, and by thereafter mailing a copy of the summons and complaint by first-class mail, postage prepaid to the person to be served at the place where a copy of the summons and complaint were left." (§ 415.20, subd. (a).)
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> The Judicial Council Comment to section 415.20 states that when substituted service is made on a corporate entity in this fashion, the "papers must be delivered to a person who is apparently in charge of such office, such as the personal secretary of the person to be served, and such delivery must be made during the usual office hours.... [¶] The process server must set forth in his affidavit of service facts showing that these requirements were complied with." (Jud. Council of Cal., com., foll. § 415.20.)

Chinese Theater, LLC v. Starline Tours USA, Inc. (2025) 115 Cal.App.5th 1048, 1056–1057

Of significance, "the phrase 'apparently in charge' cannot reasonably be read to validate service on any employee found at a business location. There must be some indication warranting a finding the employee is someone 'apparently in charge' and reasonably likely to deliver the service documents to the intended recipient and the service declarations should reflect some basic facts upon which the finding was made." *Id.* at 1059.

At bar, Plaintiff "did file a proof of service of summons form, the filing of which created a rebuttable presumption that service was proper." *Chinese Theater, LLC,* 115 Cal.App.5th at 1059. Defendants presented evidence (*i.e.*, that Matthew was an employee at Stonehouse with no role in connection with Thriving Lifestyles, a San Francisco company), which *if* credited, would support a finding that Matthew was not a person in charge of Thriving Lifestyles. Again, the Court must determine the existence or nonexistence of the presumed fact from the evidence and without regard to the presumption.

As for the actual evidence, the only admissible evidence presented by Plaintiff is the proof of service wherein a registered process server declares that he served Thriving Lifestyles, LLC by substituted service and that he specifically served "Matthrew (sic) 'Doe'" as a person apparently

in charge at the office/usual place of business of the LLC. The process server identifies no basis for his assertion that "Matthrew Doe" is the apparent person in charge. Moreover, Plaintiff has submitted no other persuasive evidence which would support a finding that "Matthrew Doe" was an employee apparently in charge. Under these circumstances, Plaintiff has failed to demonstrate, by a preponderance of evidence, that it properly served the person apparently in charge of Thriving Lifestyles and properly effectuated substituted service.

Jonathan Rowe

Defendants argue that substituted service on Jonathan Rowe via "Josh Zyoonis" was ineffective because there were inadequate efforts to personally serve Rowe and, in any event, Zyoonis was not a proper person in charge of the business. Plaintiff suggests that service was appropriate. Defendants have the more persuasive argument again.

With regards to natural persons, the Judicial Council Comment to section 415.20 states that:

> If a defendant is a natural person, service may be made, in lieu of personal delivery of process, to the person to be served by leaving the papers at his dwelling house, usual place of abode, or usual place of business when such papers cannot be personally delivered with reasonable diligence…. The papers must be left in the presence of a competent member of the household or a person apparently in charge of such business, as to case may be, who must be at least 18 years of age and be informed of the general nature of the papers…. The process server, or other persons with personal knowledge of the facts, must set forth in the proof of service facts showing that the various requirements were complied with.

At bar, Plaintiff "did file a proof of service of summons form, the filing of which created a rebuttable presumption that service was proper." *Chinese Theater, LLC*, 115 Cal.App.5th at 1059. Defendants presented evidence (*i.e.*, that Mr. Rowe was not personally served, and that he did not know a Josh Zyoonis as a member of his household or businesses), which *if* credited, would support a finding that Matthew was not a person in charge of Thriving Lifestyles. Again, the Court must determine the existence or nonexistence of the presumed fact from the evidence and without regard to the presumption.

As for the actual evidence, Plaintiff presented the proof of service wherein a registered process server declares that he served Jonathan Rowe by substituted service and that he specifically served Josh Zyoonis as a person apparently in charge at the office/usual place of business of Rowe. The process server identifies no basis for his assertion that Zyoonis is the apparent person in charge. Plaintiff also filed a declaration from former Stonehouse employee Zyoonis indicating that he was handed papers from a process server who told him he was serving Jonathan Rowe and that he left those papers on Mr. Rowe's desk (as he promised he would). Of note, the declaration contains no information which would suggest that, when served, Zyoonis was a person apparently in charge. Plaintiff has submitted no other persuasive evidence which would support a finding that Zyoonis was an employee apparently in charge. Under these circumstances, Plaintiff has failed to demonstrate, by a preponderance of evidence, that it properly served the person apparently in charge of the business of Rowe and properly effectuated substituted service.

In summary, the motion to quash service is granted as to all Defendants.

Motion to Vacate Defaults

"The court may, upon motion of the injured party ... set aside any void judgment or order" Code Civ. Proc. § 473(d). . " ' " [B]ecause the law strongly favors trial and disposition on the merits, any doubts in applying section 473 must be resolved in favor of the party seeking relief from default." ' " *Chinese Theater, LLC,* 115 Cal.App.5th at 1061. "Because service of process was not properly effectuated here, [Defendants] were entitled to seek an order vacating the default as void." *Id.* at 1060-1061. All defaults against all Defendants are vacated.