

August 21, 2026, Civil Law & Motion Tentative Rulings

1. CU0001483 Susan Gabrielle vs. Phillip G. Conlon, Jr.

The Court received the joint status report filed by the parties on July 15, 2026. Appearances are required by the parties to discuss the status of listing of the property. The Court is favorably inclined to set a further review on Friday, September 18, 2026, at 9:00 a.m. in Department 6.

2. CU0001901 Heather Miles v. Michael Smallwood

Defendant Michael Smallwood is ordered to appear on August 21, 2026, 10:00 a.m., Department 6, to show cause why trial should not be set and/or why it should not proceed without him, and to show why Plaintiff's motion for an order deeming matters admitted against him should not be granted. Further, Defendant Michael Smallwood is ordered to appear at the August 21, 2026, hearing in one of three ways: personally, remotely (by means authorized by the Court), or via counsel.

At the hearing, the Court will set further proceedings regarding trial, and will rule on Plaintiff's motion to deem matters admitted as indicated in the previously posted tentative decision, unless it finds at hearing that there is justification and good cause to not set trial and/or rule on the motion.

At the hearing, the Court will seek verification that Michael Smallwood has retained counsel to represent him in this action, and that Michael Smallwood has executed a written instrument to appointing an agent under power of attorney to act on his behalf with respect to this action including trial thereon.

3. CU0001813 USA Bath California Remodeling, Inc. vs. David Sweat

Attorney James L. Arrasmith's motion to be relieved as counsel is continued on the Court's motion to September 18, 2026, at 10:00 a.m., in Dept. 6. Counsel shall give notice to his client and all parties.

Legal Standard

The Court has discretion to allow an attorney to withdraw, and such a motion should be granted provided that there is no prejudice to the client and it does not disrupt the orderly process of justice. *See Ramirez v. Sturdevant* (1994) 21 Cal.App.4th 904, 915; *People v. Prince* (1968) 268 Cal.App.2d 398, 403-407.

A motion to be relieved as counsel must be made on Judicial Council Form MC-051 (Notice of Motion and Motion), MC-052 (Declaration), and MC-053 (Proposed Order). Cal. Rules of Court, rule 3.1362(a), (c), (e). The requisite forms must be served "on the client and on all parties that have appeared in the case." Cal. Rules of Court, Rule 3.1362(d).

Analysis

Attorney Arrasmith represents Defendant David Sweat. Arrasmith moves to be relieved as counsel, citing a deterioration of the working relationship with his client and has filed the requisite required forms. Within the past 30 days of the request, Plaintiff's address was confirmed to be current by counsel through mail, return receipt requested. No opposition has been filed. The Court finds there to be proper grounds for withdrawal. *See Estate of Falco* (1987) 188 Cal.App.3d 1004, 1014 (a breakdown in the attorney-client relationship is grounds for allowing the attorney to withdraw).

That said, there is no proof of service or anything on the record to show counsel has served all parties in this action as required by California Rules of Court, Rule 3.1362(d). Accordingly, notice is required prior to adjudication of the request.

The motion states the next hearing is set for May 22, 2026. However, the next hearing is now the motion for attorneys' fees following entry of judgment on October 9, 2026. Counsel shall ensure that his client is aware of the same.

4. CU0002229 Krystal Ukoh, et al. vs. State of California, et al.

On the Court's motion, the hearing on Plaintiffs' motion to compel further responses to request for production of documents ("RFPs") is continued to Friday, September 18, 2026, at 10:00 a.m. in Department 6, and the parties are directed to meet and confer as specified herein.

Legal Standard

An agreement to comply with a document demand must state whether the responding party will be complying "in whole or in part." Code Civ. Proc., § 2031.220. In addition, the response must indicate whether any documents are being withheld based on an asserted objection. Code Civ. Proc., § 2031.240(b).

On the other hand, Code of Civil Procedure section 2031.230 states:

A representation of inability to comply with the particular demand for inspection, copying, testing, or sampling shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.

On receipt of the response to a document demand, the demanding party may move to compel a further response if any of the following apply: (1) a statement of compliance is incomplete; (2) a

representation of inability to comply is inadequate, incomplete or evasive; (3) an objection is without merit or too general. Code Civ. Proc., § 2031.310(a).

The motion must set forth specific facts showing good cause justifying the discovery, and it must be accompanied by a separate statement. Code Civ. Proc., § 2031.310(b); Cal. Rules of Court, rule 3.1345. Absent a claim of privilege or attorney work product, the burden of showing good cause may be met by a fact-specific showing of relevance. Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2026) ¶ 8:1495.6. To establish “good cause,” the burden is on the moving party to show both: relevance to the subject matter (e.g., how the information in the documents would tend to prove or disprove some issue in the case); and specific facts justifying discovery (e.g., why such information is necessary for trial preparation or to prevent surprise at trial). *Glenfed Develop. 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.” Cal. Practice Guide: Civil Procedure Before Trial at ¶ 8:1496.

Meet and Confer Requirements

“A meet and confer declaration in support of a motion shall state facts showing a reasonable and good faith attempt, either in person, by telephone, or by videoconference, to informally resolve *each issue* presented by the motion.” Code Civ. Proc. § 2016.040(a) (*italics added*). “This rule is designed ‘to encourage the parties to work out their differences informally so as to avoid the necessity for a formal order....’ ” *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431, 1435. “This, in turn, will lessen the burden on the court and reduce the unnecessary expenditure of resources by litigants through promotion of informal, extrajudicial resolution of discovery disputes.” *Ibid*.

Failing to confer or to attempt to confer “in a reasonable and good faith attempt to resolve informally any dispute concerning discovery” is a “misuse” of the discovery process that is subject to a mandatory monetary sanction. Code Civ. Proc. §§ 2023.010(i) and 2023.020. Failing to participate in the meet and confer process is also sanctionable in the amount of \$1,000.00 pursuant to Code Civ. Proc. § 2023.050(a)(3); *see also*, Cal. Prac. Guide: Civ. Proc. Before Trial at § 8:2100.

Analysis

At bar, Plaintiffs sent Defendant a meet and confer email on March 10, 2026 regarding the alleged inadequate responses. Maurer Decl., ¶ 5; Keowen Decl., ¶ 3, Ex. B. The letter addresses RFP Nos. 19 and 25 and general redactions, requests amended responses, and makes no mention of attempting to set up further communication with Defendant’s counsel. Keowen Decl., ¶ 3, Ex. B. Defendant sent a response email on March 30, 2026 justifying its responses, including reiterating it does not retain documents past 10 years but not explaining a reason for only producing 5 years of documents. Maurer Decl., ¶¶ 8-9; Keowen Decl., ¶ 4, Ex. B. Plaintiffs sent a reply email on their motion deadline, reasserting their arguments regarding RFP Nos. 19 and 25, and adding an argument regarding RFP No. 1. Maurer Decl., ¶¶ 10-11; Keowen Decl., Ex. B. Plaintiffs proceeded to file their motion the same day, moving for further production of RFP Nos. 1, 20, and 25. The Court notes RFP No. 20 was not included in the meet and confer

discussions. Thus, there is not a showing of a sufficient and reasonable attempt by both sides to informally resolve that dispute prior to the filing of the motion.

It appears the parties engaged in further meet and confer efforts following the filing of Plaintiffs' motion. Keowen Decl., Ex. B. It further appears Defendant agreed to and has produced unredacted documents. Keowen Decl., ¶ 4(c)(i), Ex. B. Defendants' opposition also states it "proposes to produce records from 2015 to 2022 or 2024 if possible." Opp., 8:2-3. Therefore, additional issues appear to be capable of resolution through further meet and confer efforts based on the arguments in the papers filed.

Accordingly, the hearing on Plaintiffs' motion to compel is continued to Friday, September 18, 2026, at 10:00 a.m., in Department 6. Within seven (7) days of this order, counsel for the parties are ordered to participate in a good faith, meet and confer session with respect to the remaining issues giving rise to the pending motion, and considering the Discovery Act requirements described above when discussing Defendant's further responses. Thereafter, the parties shall file a joint status report, no later than two weeks prior to the scheduled hearing, limited to five (5) pages, apprising the Court of the outcome of the meet and confer efforts and setting forth in succinct fashion each party's position as to what discovery issues, if any, remain outstanding in relation to the pending motions. The report shall also include any request for discovery sanctions by any party. To the extent that any discovery disputes remain, the parties shall file an amended separate statement at least two weeks prior to the continued hearing date.

5. CU0002596 Peter Moran vs. John Doe, et al

Defendant Edelweiss Holdings, LLC dba Crystal Ridge Care Center's demurrer is overruled.

Legal Standard

On demurrer, a court's function is limited to testing the legal sufficiency of the complaint. *Fremont Indemnity Co. v. Fremont General Corp.* (2007) 148 Cal.App.4th 97, 113-114. In determining a demurrer, the court assumes the truth of the facts alleged in the complaint and the reasonable inferences that may be drawn from those facts. *Miklosy v. Regents of the Univ. of Cal.* (2008) 44 Cal.4th 876, 883. A court must determine if the factual allegations of the complaint are adequate to state a cause of action under any legal theory. *Barquis v. Merchants Collection Assn.* (1972) 7 Cal.3d 94, 103.

Contentions, deductions and conclusions of law, however, are not presumed as true. *Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 967. A plaintiff is not required to plead evidentiary facts supporting the allegation of ultimate facts; the pleading is adequate if it apprises the defendant of the factual basis for the plaintiff's claim. *Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6. A demurrer is not the appropriate procedure for determining the truth of disputed facts. *Fremont Indemnity Co.*, 148 Cal.App.4th at 113-114.

"If a complaint does not state a cause of action, but there is a reasonable possibility that the defect can be cured by amendment, leave to amend must be granted." *Milligan v. Golden Gate Bridge Highway & Transportation Dist.* (2004) 120 Cal.App.4th 1, 6.

Analysis

Defendant argues its demurrer should be sustained without leave to amend because Plaintiff's complaint is barred by the statute of limitations pursuant to Code of Civil Procedure section 340.5. The Court disagrees.

“[I]n determining whether the MICRA statute of limitations applies, we look to whether the plaintiff's claim derives from *professional* obligations that are distinct from the duty to exercise ordinary care that is owed to the public generally. Where the plaintiff's claim is premised on the violation of a professional obligation owed in the rendering of a patient's medical care, treatment, or diagnoses, the claim sounds in professional negligence and the MICRA statute of limitations will apply.” (emphasis in original). *Gutierrez v. Tostado* (2025) 18 Cal.5th 222, 238. “Where, in contrast, the alleged negligence does not implicate a specific professional obligation along the foregoing lines and violates only the duty of ordinary care owed to the general public, the claim does not involve professional negligence and the MICRA statute of limitations is inapplicable.” *Ibid.* In addition:

For MICRA's statute of limitations to apply, it is not enough that there is a temporal connection between the plaintiff's alleged injuries and a health care provider's rendering of professional services. Rather, the alleged injury must be “suffered as a result of negligence in rendering the professional services that hospitals and others provide by virtue of being health care professionals.” That is, the breach of the professional obligation must be the “proximate cause of a personal injury or wrongful death.”

Id. at 241 (citation omitted).

At bar, Plaintiff's complaint alleges “Defendants owned and operated a motor vehicle. The Defendants owed a duty to those around them to safely operate said motor vehicle. The Defendants ... suddenly and negligently operated the vehicle by braking abruptly while Plaintiff was not securely strapped....” Complaint, COA for General Negligence. Thus, “Plaintiff does not allege that defendants were negligent in performing ‘medical diagnosis or treatment’ of the patient whom they were transporting.” *Gutierrez*, 18 Cal.5th at 239. “As such, plaintiff's claim sounds in general negligence and falls outside of MICRA's scope.” *Id.* at 240.

The one-year statute of limitations contained in Code of Civil Procedure section 340.5 does not apply and the demurrer is overruled.