October 30, 2026, Civil Law & Motion Tentative Rulings

1. CU0000385 Derek Olsen, et al. v. David Sugalski, et al

Motion for Attorney's Fees

Plaintiffs' motion for an order assessing attorney's fees as costs of litigation is denied.

"In general, a prevailing party may recover attorney's fees only when a statute or an agreement of the parties provides for fee shifting." *Shames v. Utility Consumers' Action Network* (2017) 13 Cal.App.5th 29, 38 (citation omitted).

Plaintiffs argue an award of attorney's fees is appropriate against Defendant Sugalski, citing Code of Civil Procedure section 1021.9 and *Kelly v. CB&I Constructors, Inc.* (2009) 179 Cal.App.4th 442, 466, *disapproved on other grounds, Scholes v. Lambirth Trucking Co.* (2020) 8 Cal.5th 1094. The Court disagrees.

Section 1021.9 provides: "In any action to recover damages to personal or real property resulting from trespassing on lands either under cultivation or intended or used for the raising of livestock, the prevailing plaintiff shall be entitled to reasonable attorney's fees in addition to other costs …." *Kelly* affirmed a trial court award of attorney fees in a trespass action under this section "because there was substantial evidence in this case that defendant intended to 'raise' livestock on the property." Plaintiffs did not prevail in a Section 1021.9 action and are not entitled to attorney fees pursuant to this authority.

Plaintiffs also argue an award of attorney's fees is appropriate against Defendant Jumpsuit Farms arising out the stipulated judgment between Plaintiffs and Defendant Wild Acorns. Plaintiffs also argue such an award is allowed under Code of Civil Procedure section 1021.5 (permitting award of private attorney general fees) and *People ex rel. Deukmejian v. Worldwide Church of God* (1981) 127 Cal.App.3d 547, 557-558 (discretion to award private attorney general award). The Court is not persuaded.

Jumpsuit Farms was not a party to the stipulated judgment, which was apparently entered by the Court before Jumpsuit Farms was aware of the stipulation or received notice of it. That stipulated judgment cannot form the legal basis for an award of fees against Jumpsuit Farms. In addition, there has been no showing that this was a case resulting in the enforcement of an important right affecting the public interest for which an award of private attorney general fees would be warranted.

The Court denies Plaintiffs' motion for attorney's fees.

Motions to Tax Costs

Defendants' motion to tax costs is granted. Plaintiffs' motion to tax costs is denied.

Defendants move to strike or tax costs claimed by Plaintiffs because judgment was entered in favor of Defendant Jumpsuit Farms on each cause of action, and judgment was entered in favor

of Defendant Sugalski on every cause of action except one. In turn, Plaintiffs move to tax costs claimed by Defendants because the Court entered a stipulated order between Defendant Jumpsuit Farms' tenant and Plaintiffs and found Defendant Sugalski liable for trespass, awarding damages of $300.00.

Legal Standard

Generally, a "prevailing party" is entitled to costs. Code Civ. Proc. § 1032(b); *Santisas v. Goodin* (1998) 17 Cal.4th 599, 606. "A prevailing party who claims costs must serve and file a memorandum of costs within 15 days after the date of mailing of the notice of entry of judgment …. " Cal. Rules of Court, rule 3.1700. The losing party may contest the costs that a prevailing party seeks. Code Civ. Proc. §1034(a). The challenging party has the burden of demonstrating that those costs are unreasonable or unnecessary. *Adams v. Ford Motor Co.* (2011) 199 Cal. App. 4th 1475, 1486; *612 South LLC v. Laconic Limited Partnership* (2010) 184 Cal. App. 4th 1270, 1285.

Analysis

Defendant Jumpsuit Farms seeks $1,567.20 from Plaintiffs in its memorandum of costs, and Plaintiffs seek $1,087.00 costs apparently from Defendants Sugalski and Jumpsuit Farms in their memorandum of costs. The parties contest who prevailed.

As between Defendant Jumpsuit Farms and Plaintiffs, Defendant Jumpsuit Farms is the prevailing party, because it is "a defendant as against those plaintiffs who do not recover any relief against that defendant." Code Civ. Proc. § 1032(a)(4). As noted previously, Defendant Jumpsuit Farms was not a party to the stipulated judgment between Plaintiffs and Wild Acorns and that judgment cannot form the basis for a finding that Plaintiffs prevailed as against Jumpsuit Farms.

As between Plaintiffs and Defendant Sugalski, Plaintiffs argue they prevailed in connection with their trespass claim for which they received damages. *See* Code Civ. Proc. § 1032(a)(4) ("Prevailing party" includes "the party with a net monetary recovery."). Defendants argue that because the $300.00 judgment against Defendant Sugalski could have been rendered in a limited civil case, the court may in its discretion determine costs and should decline the same. *See* Code Civ. Proc. § 1033(a); *Gramajo v. Joe's Pizza on Sunset, Inc.* (2024) 100 Cal.App.5th 1094, 1102 ("Code of Civil Procedure section 1033, subdivision (a), gives the trial court discretion to deny litigation costs to a plaintiff, who would otherwise be entitled to those costs as a matter of right.") Defendant Sugalski has the better argument.

Plaintiffs prevailed against Defendant Sugalski in their trespass claim. That said, they received a modest award of damages well below the current maximum recovery for a limited civil case ($35,000 pursuant to Code of Civil Procedure section 85) and did *not* prevail in connection with their other claims that formed the gravamen of their action, *i.e.*, nuisance, extinguishment of easement. Considering the case as a whole, the parties' goals and objectives, and the actual outcomes, the Court, in the exercise of its discretion, declines to award costs to Plaintiffs under Code of Civil Procedure section 1033(a).

Defendants' motion to tax costs is granted in its entirety, and Plaintiffs' motion to tax costs is denied in its entirety.

2. CU0002091 Clyde Bender v. Allen Tyler

Plaintiff Clyde Bender's motion for clarification is denied.

Preliminarily, the Court notes there is insufficient proof of service of the motion on Defendant. The August 3, 2026, proof of service states service was made by fax and mail, but does not state who was served or the address used.

Plaintiff seeks clarification regarding the Court's May 22, 2026, Minute Order following a default judgment hearing which states, *inter alia*, "Plaintiff is ordered to prepare an appropriate order." Plaintiff suggests the "language is unclear to me and potential coun[sel]" and clarification is "necessary to ensure full compliance with the Court's order and intent [and] to avoid any misunderstanding or inadvertent violation of order." Mot., 1:21-27.

The order's language is clear, unambiguous and requires no further amplification. Plaintiff, in fact, submitted a proposed judgment consistent with the Court's request. On the judgment, the Court explicitly noted: "Regarding Plaintiff's request for clarification: The proposed judgment provided by Plaintiff satisfies the Court's request that Plaintiff prepare an appropriate order."

Should Plaintiff needs further assistance with this matter, he is again advised to seek counsel for advice; he may also access legal resources at the Self-Help Center for this court.

3. CU0002474 Alex Palm vs. Stephen Dowling, et al.

Plaintiff Alex Palm's motion to quash subpoenas is granted in part. Records subject to production include Plaintiff's: payroll records, wages or salary records; time sheets; employment physical examination reports and medical records related to the left knee; attendance records; evaluation reports (i.e., performance evaluations); reprimands (i.e., discipline records); injury reports related to the left knee; workers' compensation records related to the left knee; records related to termination or cessation of employment. The motion is otherwise granted as to all other documents requested. The subpoenaed records are to be produced subject to a protective order to be prepared by both counsel. The records are to be delivered to all parties, subject to the protective order, within two weeks of the Court's execution of the protective order.

Legal Standard

"If a subpoena requires the attendance of a witness or the production of … documents, electronically stored information, or other things before a court, or at the trial of an issue therein, … , the court, upon motion reasonably made by any person …, … may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders. In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person."

Code Civ. Proc. § 1987.1(a). A party may bring a motion under this section. *See* Code Civ. Proc. § 1987.1(b)(1).

> In determining whether a discovery order would violate state constitutional privacy rights, we apply the framework established in *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1 (Hill). *See Williams v. Superior Court* (2017) 3 Cal.5th 531, 552, 556, (Williams) [stating that Hill applies to a discovery dispute that "requires a court to reconcile asserted privacy interests with competing claims for access"]. In applying the *Hill* test, "[t]he party asserting a privacy right must establish a legally protected privacy interest, an objectively reasonable expectation of privacy in the given circumstances, and a threatened intrusion that is serious." *Williams*, supra, at p. 552, citing *Hill*, supra, at pp. 35–37. "The party seeking information may raise in response whatever legitimate and important countervailing interests [the] disclosure serves," and "[a] court must then balance these competing considerations." *Williams*, supra, at p. 552, citing *Hill*, supra, at pp. 37–40.

County of Los Angeles v. Superior Court (2021) 65 Cal.App.5th 621, 629 (parallel citations and parentheses omitted).

Plaintiff argues that personnel records and employment history are subject to constitutional privacy protections, and that the "Defense cannot identify a need for the entirety of plaintiff's personnel files, no need can be identified for most of the documents identified, nonetheless a compelling need." Mot 2:26-27, 3:25-27. Defendants argue they have "the right to review the contents of the employment file because Plaintiff claims that his employer terminated his employment as a result of the injury he sustained in the subject incident." Amd. Op. 4:23-25. The Court agrees with each party, in part.

As a preliminary matter, while not subject to detailed discussion by the parties, it appears, based on the record presented, that Plaintiff has established a legally protected privacy interest in his employment records, an objectively reasonable expectation of privacy in the given circumstances, and a threatened intrusion of the same by the subpoena that is potentially serious.

The contested issue is whether there are countervailing discovery interests by Defendants which require disclosure. The Court must consider whether "defendants have identified interests in favor of disclosure that outweigh the [potential] serious invasion of privacy." *County of Los Angeles,* 65 Cal.App.5th at 653. "In conducting such inquiry, [the court] may consider 'the interest of the requesting party, fairness to litigants in conducting the litigation, and the consequences of granting or restricting access to the information.' " *Ibid.*

Defendants' subpoenas request:

> Any and all personnel records, payroll records, including but not limited to W-2 forms, 1099 forms, business records, applications for employment, wages or salary, applications for insurance, time sheets, files, resumes, pre-employment screening/testing forms, questionnaires, and results, employment physical examination reports, medical records, attendance records, evaluation reports, training manuals, reprimands, insurance records, benefits, injury reports, workers' compensation records, correspondence to or from any

other person/entity, or any other information, letters and other writings, instruments and/or documents of any and every kind or character whatsoever which pertains to the record subject.

Separate Statement ¶¶ 1-2.

Plaintiff testified in his deposition and discovery responses that he was terminated because he was "not hitting goals" and he was unable to travel due to his injury from the subject incident. Allred Decl., Ex. A, 112:23-113-1, 113:13-18; Ex. B 13:16. He testified he never went on disability and informed his employer he was unable to travel due to his injury, but did not make other accommodation requests. Allred Decl., Ex. A, 113:23-114:9. Plaintiff is claiming lost wages and potentially claiming future loss of earning capacity. Allred Decl., Ex. B, 13:18-14:4.

In light of this information, the Court is persuaded that the following documents are relevant to the instant litigation and must be produced in order to ensure fairness and due process to the litigants, subject to a protective order to preserve the privacy rights of Plaintiff, namely: payroll records, wages or salary records; time sheets; employment physical examination reports and medical records related to the left knee; attendance records; evaluation reports (i.e., performance evaluations); reprimands (i.e., discipline records); injury reports related to the left knee; workers' compensation records related to the left knee; records related to termination or cessation of employment. As for all other requested documents, the Court is not persuaded that the interests of fairness and due process to the litigants outweighs Plaintiff's privacy interests in connection therewith.

4. CU0002492 Bank of America, N.A. v. Prashant Tyagi

Motion to Quash

The Court will hear argument in connection with the motion of Cross-Defendants Brian T. Moynihan, Alastair Borthwick, Clayton S. Rose, Sharon L. Allen and Geoffrey S. Greener to quash service of summons and First Amended Cross-Complaint for lack of personal jurisdiction. The motion has been comprehensively briefed by all. Each side is permitted no more than five minutes in total for all argument.

Demurrer

The Court will hear argument in connection with Cross-Defendants' demurrer to Cross-Complainant Prashant Tyagi's First Amended Cross-Complaint. The motion has been comprehensively briefed by all. Each side is permitted no more than five minutes in total for all argument.

Motion to Compel

On the Court's motion, the hearing on Cross-Complainant's motion to compel further responses to Form Interrogatories, Special Interrogatories, Requests for Admission, and Requests for Production of Documents, Set One, and for monetary sanctions, against Cross-Defendant Hunt & Henriques, LLP, is continued to Friday, January 8, 2027, at 10:00 a.m., in Department 6.

"The Discovery Act requires that, *prior to the initiation of a motion to compel*, the moving party declare that he or she has made a serious attempt to obtain 'an informal resolution of each issue. This rule is designed 'to encourage the parties to work out their differences informally so as to avoid the necessity for a formal order.... 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." *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431, 1435 (citations and quotations omitted, italics added).

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 and 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 (after notice and an opportunity to be heard). *See* Code Civ. Proc. §2023.050(a)(3).

At bar, Cross-Complainant filed his motion on October 5, 2026. He then reportedly proposed a meet and confer on October 12, 2026 and engaged in that process with Cross-Defendant on *October 16, 2026*. 10/16/26 Tyagi Decl. Such efforts, *ten days after filing a motion*, are woefully insufficient.

"[T]he instant case requires reconciliation of two key principles of California discovery law: the principle of liberal construction in favor of discovery versus the requirement of informal efforts to resolve disputes." *Obregon v. Superior Court* (1998) 67 Cal.App.4th 424, 434. In light of the discovery issues raised and concerns noted by all parties, the Court directs as follows: Within fourteen days of this order, the parties are ordered to participate in a *meaningful* meet and confer with respect to *all* the issues giving rise to the instant motion. After the parties have engaged in this process in good faith, Cross-Complainant may file an amended motion to compel, if necessary, with respect to any remaining, unresolved issue(s), and Cross-Defendant may file any motion for relief in connection with the discovery issues. Any such motions shall be noticed for the continued hearing date and *fully briefed anew* in accordance with the Rules of Civil Procedure. The briefing henceforth shall supersede all other briefing submitted to date. *See Obregon*, 67 Cal.App.4th at 434 (when discovery is not automatically denied for egregious violations, "the trial court should consider whether it would be more appropriate to specify additional efforts which will be required before the court will turn to the merits of the discovery dispute.").