January 2, 2026, Civil Law & Motion Tentative Rulings

1. CU0001395 Eric Butterworth et al vs. Mountain Concepts, LLC et al

Attorney Alexandra M. Asterlin's motion to be relived as counsel is denied without prejudice.

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 and Conclusion

Attorney Asterlin represents Defendants Mountain Concepts, LLC, Zhomz, LLC, Zero Energy Homes, LLC, and David Spear. Asterlin moves to be relieved as counsel, citing an irreparable breakdown in the attorney-client relationship. No opposition has been filed.

Asterlin has filed Judicial Council Form MC-051 (Notice of Motion and Motion) directed to "David Spear, Mountain Concepts, LLC". She has also filed a Declaration stating she seeks to be relieved as counsel for Defendants on the grounds there has been a breakdown in the attorney-client relationship. The Court finds this to be proper grounds for withdrawal. See *Estate of Falco* (1987) 188 Cal.App.3d 1004, 1014. However, the Declaration notes Asterlin is presently counsel of record for Mountain Concepts, LLC; Zhomz, LLC; Zero Energy Homes, LLC; and David Spear. Because Zhomz, LLC and Zero Energy Homes, LLC were not included on Asterlin's Notice of Motion and Motion, it is unclear if Asterlin seeks to be relieved as counsel for all parties, or only for David Spear and Mountain Concepts, LLC.

On Form MC-052, Asterlin declares the clients were served by mail at the client's last known address, which was confirmed within the past 30 days via the Secretary of State's website and email. However, on Form MC-053, Asterlin states the clients were served by email and a declaration establishing that the service requirements of California Rules of Court, Rule 3.1362 have been satisfied was submitted. Form MC-053 also states Asterlin seeks to be relived as counsel of record for Defendants Mountain Concepts, LLC; Zhomz, LLC; Zero Energy Homes, LLC; and David Spear, which contradicts the Defendants listed in the Notice of Motion and Motion. Additionally, there is no proof of service on record showing service was made on Asterlin's clients.

Considering the above, the Court is uncertain which clients Asterlin seeks to be relieved as counsel of record for, and whether the clients received notice of the present motion given that no opposition was filed.

Due to insufficient notice and uncertainty as to which clients Attorney Asterlin seeks to be relieved as counsel of record for, the present motion is denied without prejudice.

2. CU0001605 Andrew Alan Johnson vs. Donald Judas

Defendant Donald Judas' Motion to Quash Deposition Subpoenas is granted in part and denied in part. Defendant's request for sanctions is denied.

Analysis

Defendant Donald Judas ("Defendant") seeks to quash a medical deposition subpoena issued on September 23, 2025 ("Subpoena") seeking certain records from Auburn Medical Group. Defendant argues the records are overbroad and irrelevant or otherwise subject to the right of privacy. Accordingly, Defendant seeks to quash the subpoena and requests sanctions.

A party is entitled to discover the information as long as it is reasonably calculated to lead to the discovery of admissible evidence. Code Civ. Proc. § 2017.010. In accordance with the liberal policies underlying the discovery procedures, doubts as to relevance should generally be resolved in favor of permitting discovery. *Pacific Tel. & Tel. Co. v. Superior Court* (1970) 2 Cal.3d 161, 173. While discovery is broad, the right to discovery is not absolute. The California Constitution protects the individual's reasonable expectation of privacy against a serious invasion. *Pioneer Electronics (USA), Inc. v. Superior Court* (2007) 40 Cal.4th 360, 370. A reasonable expectation of privacy is an objective entitlement founded on broadly based and widely accepted community norms. *Hill v. Nat'l Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 37. The invasion of privacy must be serious in nature, scope, and actual or potential impact to constitute an egregious breach of social norms. *Ibid*. If the invasion is serious, the invasion must be measured against legitimate and important competing interests. *Id*. at 38.

Specifically, the patient-physician privilege creates a zone of privacy which purpose is (1) to preclude the humiliation of the patient that might follow disclosure of ailments and (2) to encourage the patient's full disclosure to the physician all of the information necessary for effective diagnosis and treatment of the patient. Evid. Code § 990 *et seq*.; *Board of Medical Quality Assurance v. Gherardini* (1979) 93 Cal.App.3d 669, 678-679, overruled on other grounds by *Williams v. Superior Court* (2017) 3 Cal.5th 531. Thus, medical records fall within the protected ambit of the state Constitution right to privacy. *Board of Medical Quality Assurance, supra*, 93 Cal.App.3d at 679. Even absent a statutory privilege, the constitutional privilege would be held to operate. *Davis v. Superior Court* (1992) 7 Cal.App.4th 1008, 1014.

Defendant submits that his medical records are protected by his right to privacy, and that because he is not making a claim for damages, he has not put any neurological and cognitive conditions at issue. He also argues the Subpoena is overbroad and lacks any factual basis for materiality, so

the disclosure of any sensitive information will not provide any probative value to the case. The Court disagrees.

Pursuant to Evidence Code section 996(a), "[t]here is no privilege under this article as to a communication relevant to an issue concerning the condition of the patient if such issue has been tendered by the patient." While Defendant argues that because he did not file an action for personal injuries and is not making a claim for damages, he has not put his condition at issue, the language of the statute is if "the patient", not "the plaintiff" has put the condition at issue. Evid. Code § 996(a). "The section 996 exception compels disclosure only in cases in which the patient's own action initiates the exposure." *Koshman v. Superior Court* (1980) 111 Cal.App.3d 294, 298. The exception is justified "because when a patient has, himself, placed his medical condition at issue in the case he may no longer justifiably seek protection from its exposure…." *In re M.L.* (2012) 210 Cal.App.4th 1457, 1473.

Additionally, pursuant to Evidence Code § 999, "[t]here is no privilege…as to a communication relevant to an issue concerning the condition of the patient in a proceeding to recover damages on account of the conduct of the patient if good cause for disclosure of the communication is shown." Statutes relating to discovery procedures should be liberally construed in favor of disclosure. [Citations.]" *Harabedian v. Superior Court* (1961) 195 Cal.App.2d 26, 31. Therefore, medical records of a patient, where the patient's conduct is shown to be relevant to the issue of causation, are included within the scope of Evidence Code section 999 if good cause for disclosure is shown. *Slagle v. Superior Court* (1989) 211 Cal.App.3d 1309, 1314.

Further, while waivers of constitutional rights are not lightly found, Evidence Code section 912 provides for waiver "with respect to a communication protected by ... privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to such disclosure made by anyone." *Heda v. Superior Court* (1990) 225 Cal.App.3d 525, 530. "Consent to disclosure is manifested by any statement or other conduct of the holder of the privilege indicating consent to the disclosure, including failure to claim the privilege in any proceeding in which the holder has legal standing and the opportunity to claim the privilege." Evid. Code § 912(a).

At bar, Defendant Judas' own actions placed his medical condition at issue and has already disclosed or consented to disclosure of a significant part of the communications. On June 27, 2025, Defendant opposed Plaintiff's motion to compel his deposition by claiming "Defendant was, and is suffering from cognitive impairment and has been taking memory medication since at least April 2025." Cuevas Decl., Exh. 1, 2:26-28. Defendant also moved for a protective order on the grounds he was "unfit to sit for a deposition" and "suffering from memory loss". Cuevas Decl., Exh. 2, 3:21-22, 3:27-28. Defendant also obtained a letter from his physician, Dr. Gawayne Vaughan, which stated "[d]ue to patient's medical condition, his recall cannot be considered reliable in a deposition." Cuevas Decl., Exh. 2, exh. A. Additionally, Defendant produced Dr. Vaughan for deposition, who produced 324 pages of medical records relating to Defendant's medical conditions. Cuevas Decl., Exhs. 2-4. In his deposition, Dr. Vaughan stated he would try to send Defendant's medical records from "9/23/15 to 1/23/25", with no objection from Defendant's counsel. Cuevas Decl., Exh. 5, 25:18-19. The deposition also reflects Dr. Vaughan testified regarding Defendant's macular degeneration and memory "to see if that is what is affecting his driving ability." *Id.*, 54:11-13; 55:16-18. Dr. Vaughan testified "he does

have as the diagnosis states, the exudative age-related macular degeneration…. That's the reason he was told to see the eye doctor to make sure he was safe for driving based on his vision." *Id*. 59:4-8. Further, Dr. Vaughan testified that a neurology note reflected Defendant was not driving "due to macular degeneration." *Id.*62:10-12. No objections were made by Defendant to Dr. Vaughan's testimony. Defendant also testified that he has known about his macular degeneration for "many, many years." Cuevas Decl., Exh. 5, 41:1. Defendant was asked if his macular degeneration perhaps contributed to the accident because Defendant did not see Plaintiff, and Defendant testified, "Of course. That's fine vision." *Id.*, 47:21-23.

Accordingly, Plaintiff has established Defendant put at issue of his cognitive decline and macular degeneration; that good cause for the discovery exists because Defendant's conduct is relevant to the issue of causation; and Defendant's physician, Dr. Vaughan, without coercion, disclosed a significant portion of the communication and indicated consent to further production of medical records with no claim of privilege by Defendant during a proceeding in which Defendant had legal standing to claim such.

As some of Defendant's conditions are reported to precede the incident date, Plaintiff is entitled to determine the scope of those preceding conditions to the extent that the conditions may have contributed to the incident. Based on the above, the relief sought, to quash the issued subpoenas is denied.

Code of Civil Procedure section 1987.1 allows the Court to, "make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon such terms or conditions as the court shall declare." In the present case, Defendant's physician has produced some medical records and testified he would be able to produce them for a period of ten (10) years, with no objection from Defendant. Medical records relating to Defendant's cognitive decline and macular degeneration are relevant and discoverable. However, the deposition subpoena seeks "all documents and records pertaining to the care, treatment and examination of Donald Judas, including but not limited to, sign-in sheets, inpatient and outpatient charts and records, ambulance records, emergency room an dlab reports, x-ray reports, pathology reports, prescription and pharmacy records and any other records pertaining to Donald Judas, from January 1, 2012 to and including the present….Including but not limited to records from Dr. Gawayne Vaughan, M.D."

This request is not narrowly tailored to information relating to the medical conditions Defendant put at issue. Therefore, in an effort to safeguard Defendant's privacy, and pursuant to Code of Civil Procedure section 1987.1, the Court orders compliance with the deposition subpoena under the following terms. The parties are directed to meet and confer via telephone or videoconference regarding the terms of the subpoena to determine keywords designed to solely identify records regarding Defendant's "cognitive decline" and "macular degeneration" within ten (10) days. Thereafter, subpoenaed records for the past ten (10) years will be produced by the deposition officer directly to Defendant's attorney's office, who will review the records and produce them to Plaintiff with a log of anything removed or redacted. If there is any dispute regarding the documents removed, the parties are ordered to meet and confer further, or proceed with a motion to compel as necessary.

Under Code of Civil Procedure section 1987.2(a), the Court has discretion to award reasonable expenses incurred in making a motion to quash, including reasonable attorneys' fees, if the Court finds the subpoena was oppressive or if the motion was opposed without substantial justification, or if the Court finds that one or more of the requirements of the subpoena were oppressive. In this case, Plaintiff attempted to meet and confer with Defendant to discuss the terms of the subpoena, but Defendant declined to limit the terms. Therefore, the Court finds sanctions are not warranted in this instance.

3. CU0001760 In the Matter of County of Nevada

Receiver Richardson Griswold's ("Receiver") motion for authorization to increase receivership funding is granted.

On April 14, 2025, the court appointed the Receiver to take full control and possession of Defendant Craig Hufnagel's ("Defendant")'s property located at 16069 Shannon Way, Nevada City, California 95959 ("Subject Property") and delegated the duty and authority to correct all of the existing violations existing upon the Property and to see that the violations do not reoccur. ("Appointment Order"). Griswold Decl., ¶ 3. In pertinent part, the Appointment Order grants the Receiver the following powers and duties: "To issue and record Certificates of Indebtedness secured by deeds of trust against the Subject Property to evidence and secure the above debt, which shall become a first lien on the Subject Property superior to all preexisting private liens and encumbrances. The Receiver's Certificates shall be issued for such amounts and for such items as the Court may hereafter expressly authorize, upon notice and after hearing as herein provided…." and "To sell the Subject Property, pursuant to Code of Civil Procedure Section 568.5 or any other manner or sale deemed reasonable by the Court, subject to the Court's confirmation and approval." Appointment Order, ¶¶ 3(H), (N).

Courts also have substantial discretion to authorize a receiver to borrow money to fund the preservation and management of property in the receivership estate, particularly where, as here, the estate does not produce income. In that circumstance, the receiver may ask the court to authorize the issuance of a receiver's certificate to the lender as security for money loaned to the estate. Typically, such a receivership certificate will have priority over all other liens – even preexisting liens. *City of Sierra Madre v. SunTrust Mortgage, Inc.* (2019) 32 Cal. App. 5th 648, 657. The court has "authority to fund a receivership on a super-priority basis in the appropriate circumstance." *County of Sonoma v. Quail* (2020) 56 Cal. App. 5th 657, 673.

On April 14, 2025, the court authorized the Receiver to issue an initial $25,000 Certificate to fund the Receiver's efforts in taking possession of, securing, stabilizing, insuring, assessing and cleaning the Subject Property. Appointment Order, ¶ 9. After exploring several approaches to abate the violations at the Subject Property, the Receiver declares full rehabilitation through the receivership unfeasible because of prior defective work and unpermitted partially completed work. Griswold Decl., ¶ 6. The Receiver declares the only other option is an as-is sale of the Subject Property. *Id*. The Reciever notes the initial $25,000 Receiver's Certificate was used to conduct an initial inspection, obtain property insurance, source bids, and prepare a rehabilitation plan to correct the violations, with the initial funding being exhausted. Griswold Decl., ¶ 15. The Receiver now seeks the Court's authorization of a $25,000 increase in the existing

Receiver's Certificate funding to pay the Receiver's fees and costs to conduct the sale of the Property. Griswold Decl, ¶ 16. The Receiver's motion is unopposed.

The Court finds the Receiver has demonstrated good cause to grant the requested relief in its entirety. The Court grants the motion and authorizes the Receiver to obtain an additional $25,000 in receivership funding to be secured by a super-priority lien against the property for listing the Subject Property for sale and to pay other costs of the receivership. The Receiver must first seek approval of the Court for any sale of the Subject Property and demonstrate compliance with all of the requirements set forth in Code of Civil Procedure ¶ 568.5 prior to any sale of the Subject Property.

4. CU0001842 CHARLES EUGENE MURDOCK vs. JODI MICHELLE ANDREWS

Defendant Donald Leslie Ringen's motion for stay of case pending conclusion of criminal case against Defendant Jodi Michelle Andrews is denied as moot due to Plaintiff's dismissal of Defendant Donald Leslie Ringen entered on December 16, 2025.

5. CU0002064 duBois, Tod v. Fetty, Scott et al

Defendants' Sean Graham, Lake Life Resorts, LLC, Howard Schroyer, Thomas Capaldo, and Scott Fetty motion for award of attorney's fees is granted. Defendants shall be awarded attorney's fees in the amount of $1,575.00.

Pursuant to Code of Civil Procedure section 425.16(c), "a prevailing defendant on a special motion to strike shall be entitled to recover his or her attorney's fees and costs."

> Further, the anti-SLAPP statute, Code of Civil Procedure section 425.16, anticipates circumstances in which parties dismiss their cases while motions to strike are pending. In such circumstances, the trial court is given the limited jurisdiction to rule on the merits of the motion in order to decide if it should award attorney fees and costs to the defendants. *Pfeiffer Venice Properties v. Bernard* (2002) 101 Cal.App.4th 211, 216, 218–219; Code Civ. Proc. § 425.16(c). Thus, here, when plaintiff dismissed its case at a time when defendants' anti-SLAPP motion was pending, the trial court continued to have jurisdiction over the case only for the limited purpose of ruling on defendants' motion for attorney fees and costs. Code Civ. Proc. § 425.16(c); *Kyle, supra*, 71 Cal.App.4th at p. 908, fn. 4.

Law Offices of Andrew L. Ellis v. Yang (2009) 178 Cal.App.4th 869, 879.

"In making that determination, the critical issue is which party realized its objectives in the litigation. Since the defendant's goal is to make the plaintiff go away with its tail between its legs, ordinarily the prevailing party will be the defendant." *Kyle v. Carmon* (1999) 71 Cal.App.4th 901, 918. However, "a plaintiff's voluntary dismissal of a suit, after a section 425.16 motion to strike has been filed, neither automatically precludes a court from awarding a defendant attorney's fees and costs under that section, nor automatically requires such an award." *Liu v. Moore* (1999) 69 Cal.App.4th 745, 753. Because section 425.16(c)(1) authorizes an award of attorney fees and costs

to a prevailing defendant on a special motion to strike, "a determination of whether a defendant would have prevailed on its motion to strike is an essential prerequisite to an award of attorney fees and costs pursuant to section 425.16(c)(1)." *Id.* at 752.

At bar, the Court entered its Order granting a nearly identical special motion to strike on July 31, 2025, striking Plaintiff's complaint against Defendants' Tiffany McGuckin and Jon McGuckin without leave to amend. On July 302025, Defendants Sean Graham, Lake Life Resorts, LLC, Howard Schroyer, Thomas Capaldo, and Scott Fetty filed a nearly identical special motion to strike, with the only change being the name of the Defendants. Accordingly, if the Court had heard the second motion to strike, it would have made the same ruling. Therefore, the Court finds Defendants Sean Graham, Lake Life Resorts, LLC, Howard Schroyer, Thomas Capaldo, and Scott Fetty would have prevailed on their motion to strike and should be awarded attorney's fees pursuant to Code of Civil Procedures § 425.16(c)(1).

The court finds defense counsel's rate of $450.00 per hour is reasonable. The court further finds that counsel reasonably spent 3.5 hours in connection with the instant motion. Defendants are entitled to total fees in the amount of $1,575.00.

6. CU0002119 In the Matter of Dhillon Law Group Inc.

On the Court's motion, Petitioner's unopposed petition to confirm contractual arbitration award is continued to February 13, 2026.

Legal Standard

Once arbitration is concluded, "any arbitrator's award is enforceable only when confirmed as a judgment of the superior court." *O'Hare v. Municipal Resource Consultants* (2003) 107 Cal.App.4th 267, 278. Any of the parties may file a petition with the court, which must then "confirm the award, correct and confirm it, vacate it, or dismiss the petition." Code Civ. Proc. §§ 1285, 1286; *EHM Productions, Inc. v. Starline Tours of Hollywood, Inc.* (2018) 21 Cal.App.5th 1058, 1063. "It is well settled that the scope of judicial review of arbitration awards is extremely narrow." *California Faculty Assn. v. Superior Court* (1998) 63 Cal.App.4th 935, 943. "Neither the trial court, nor the appellate court, may 'review the merits of the dispute, the sufficiency of the evidence, or the arbitrator's reasoning, nor may we correct or review an award because of an arbitrator's legal or factual error, even if it appears on the award's face." *EHM Productions, supra,* at 1063-1064.

Discussion

Petitioner seeks an order confirming the arbitration award issued in its favor on August 21, 2024.

An arbitrator's award is enforceable only after being confirmed by a court of law. *O'Hare, supra*, 107 Cal.App.4th at 278. "An award that has not been confirmed or vacated has the same force and effect as a contract in writing between the parties to the arbitration." Code Civ. Proc. § 1287.6. Thus, the court must first evaluate and confirm the initial arbitration award.

Filing Requirements – Code of Civil Procedure § 1285.4

Code of Civil Procedure section 1285.4 states: "A petition under this chapter shall:

> (a) Set forth the substance of or have attached a copy of the agreement to arbitrate unless the petitioner denies the existence of such an agreement.
> (b) Set forth the names of the arbitrators.
> (c) Set forth or have attached a copy of the award and the written opinion of the arbitrators, if any."

Here, Petitioner submits the written Final Award issued by Arbitrator Scott J. Silverman. Pet., Ex. 8(c). Petitioner also submit a copy of the arbitration agreement between the parties. Pet., Ex. 4(b). Petitioner has satisfied the filing requirements.

> Service of the Arbitration Award & Timeliness of Petition – Code of Civil Procedure §§ 1283.6, 1288, 1288.4

Code of Civil Procedure section 1283.6 provides that: "The neutral arbitrator shall serve a signed copy of the award on each party to the arbitration personally or by registered or certified mail or as provided in the agreement." In addition, a party may seek a court judgment confirming an arbitration award by filing and serving a petition no more than four years, but not less than 10 days, after the award is served. Code Civ. Proc. §§ 1288, 1288.4.

Here, the court cannot tell if this motion is timely. Petitioner submits the Final Award which was issued on August 21, 2024. Pet., Ex. 8(c). But, there is no proof of service, let alone any evidence that Arbitrator Silverman served a signed copy of the award to each party of the arbitration personally or by registered or certified mail or as provided in the agreement. For this reason, the court will continue the motion.

> Service of the Petition and Notice of the Hearing – Code of Civil Procedure § 1290.4

Code of Civil Procedure section 1290.4, the statute governing proper service of this motion states, in pertinent part:

> "(a) A copy of the petition and a written notice of the time and place of the hearing thereof and any other papers upon which the petition is based shall be served in the manner provided in the arbitration agreement for the service of such petition and notice.
>
> (b) If the arbitration agreement does not provide the manner in which such service shall be made and the person upon whom service is to be made has not previously appeared in the proceeding and has not previously been served in accordance with this subdivision: ¶ (1) Service within this State shall be made in the manner provided by law for the service of summons in an action."

Here, Petitioner served Respondent with a copy of the petition on August 7, 2025, by personal service. See Proof of Service of Summons, filed August 13, 2025. However, Petitioner served the notice of hearing on October 15, 2025, by first class mail. See Notice of Hearing, Proof of

Service, filed October 15, 2025. The arbitration agreement does not provide the manner of service. See Pet., Ex. 4(b). Accordingly, Petitioner should have served the notice of hearing in the manner provided by law for the service of summons. Petitioner does not demonstrate that the notice of hearing was properly served. Additionally, the Proof of Service lists the wrong document.

Conclusion

Based on the foregoing, the motion to confirm the contractual arbitration award is continued to February 13, 2026. Petitioner is directed file proof of service of the final arbitration award that complies with Code of Civil Procedure § 1283.6. Petitioner is also directed to serve the notice of hearing that complies with Code of Civil Procedure § 1290.4, and to file with the court proof of service of the notice of hearing.