

March 6, 2026, Civil Law & Motion Tentative Rulings

1. CU0002461 Yevgeniy Zebrov v. Apex Building Technology, Inc.

On the Court’s motion, this hearing is continued to March 9, 2026, at 10:00 a.m.

The petition for release of mechanic’s lien is granted.

Introduction

The case concerns the property located at 11625 Hilltop Dr., Grass Valley, CA 95949 (“Property”). Petitioner Yevgeniy Zebrov is the owner of the Property. On January 9, 2023, Respondent Apex Building Technology Inc. recorded a mechanic’s lien against the property in the amount of \$12,600.00 for services furnished by Respondent for work of improvement.

Legal Standard

After a mechanic’s lien has been recorded, “[t]he owner of property or the owner of any interest in property subject to a claim of lien may petition the court for an order to release the property from the claim of lien if the claimant has not commenced an action to enforce the lien within the time provided in Section 8460.” Civ. Code § 8480(a). A claimant must commence an action to enforce a lien within 90 days of recording the lien. Civ. Code, § 8460(a). Civil Code § 8460 further provides that “[i]f the claimant does not commence an action to enforce the lien within that time, the claim of lien expires and is unenforceable.” Civ. Code, § 8460(a). Civil Code § 8460 also provides that the 90-day time limit to commence an action to enforce a lien does not apply if there was an agreement to extend credit and a notice of that fact was recorded within 90 days after recordation of the claim of lien or more than 90 days after recordation of the claim of lien but before a purchaser or encumbrancer for value and in good faith acquires rights in the property. Civ. Code, § 8460(b).

Civil Code § 8484 requires that the petition for release order be verified by the petitioner and allege the following:

- (a) The date of recordation of the claim of lien. A certified copy of the claim of lien shall be attached to the petition.
- (b) The county in which the claim of lien is recorded.
- (c) The book and page or series number of the place in the official records where the claim of lien is recorded.
- (d) The legal description of the property subject to the claim of lien.
- (e) Whether an extension of credit has been granted under Section 8460, if so to what date, and that the time for commencement of an action to enforce the lien has expired.
- (f) That the owner has given the claimant notice under Section 8482 demanding that the claimant execute and record a release of the lien and that the claimant is unable or unwilling to do so or cannot with reasonable diligence be found.
- (g) Whether an action to enforce the lien is pending.

(h) Whether the owner of the property or interest in the property has filed for relief in bankruptcy or there is another restraint that prevents the claimant from commencing an action to enforce the lien.

A property owner may not petition for a release order until he or she gives the claimant notice demanding that the claimant execute and record a release of lien claim at least ten days before filing the petition. Civ. Code § 8482. The manner of giving notice must comply with the requirements of Civil Code sections 8100, et. seq. *Id.*

“The petitioner shall serve a copy of the petition and a notice of hearing on the claimant at least 15 days before the hearing.” Civ. Code, § 8486(b). “Service shall be made in the same manner as service of summons, or by certified or registered mail, postage prepaid, return receipt requested, addressed to the claimant as provided in Section 8108.” *Id.*

Civil Code section 8108 provides that notice can be given to Respondent at the address shown on Respondent’s claim of lien. Civ. Code § 8108(d).

The petitioner bears the burden of proving compliance with the service and notice requirements. Civ. Code § 8488(a).

Service Requirements

“The petitioner shall serve a copy of the petition and a notice of hearing on the claimant at least 15 days before the hearing.” Civ. Code, § 8486(b). “Service shall be made in the same manner as service of summons, or by certified or registered mail, postage prepaid, return receipt requested, addressed to the claimant as provided in Section 8108.” *Id.* If service is made by mail, notice of hearing must be given at least 15 days before the hearing, plus 5 calendar days for service by mail. Code of Civ. Proc. § 1013(a). The petitioner bears the burden of proving compliance with the service and notice requirements. Civ. Code § 8488(a).

At bar, Petitioner has filed a proof of service of the Notice of Hearing of Amended Petition indicating that, among other things, the notice and petition were timely served by certified mail on February 12, 2026, at least 20 days prior to March 6, 2026. Petitioner has satisfied the service requirements.

Statutory Requirements for Relief

At bar, the Amended Petition (“Amd. Pet.”) fully complies with the statutory requirements. The Amended Petition is verified, alleges the date of recordation of the Claim of Mechanic’s Lien, the county in which it was recorded (Nevada County), and attaches and incorporates by reference a certified copy of the Claim of Mechanic’s Lien. Pet., ¶ 3; Amd. Pet. p. 3 (verification); Exh. A. The Amended Petition alleges the legal description of the Subject Property. Amd. Pet., ¶ 1. The Amended Petition states the lien was recorded in the official records of the County Recorder as Instrument No. 20230000303 in book type OR, and alleges the recorder’s office uses an electronic system using only instrument numbers to locate claims rather than book or page numbers. Amd. Pet., ¶ 3.

The Amended Petition alleges that no extension of credit has been granted, that no action to foreclose the Claim of Mechanic's Lien was filed, that the 90-day time period to enforce the Claim of Mechanic's Lien has expired. Amd. Pet., ¶ 4. The Petition also alleges Petitioner has not filed for bankruptcy and that no other restraint exists preventing Respondent from filing an action to enforce the lien. Amd. Pet., ¶ 8. The Petition alleges that on October 30, 2025, which is at least ten days prior to the filing of the Petition, Petitioner sent Respondent, "by registered or certified mail" a written demand to remove the Claim of Mechanic's Lien. Amd. Pet., ¶ 6. Service of the written demand by "registered or certified mail, express mail, or overnight delivery by an express service carrier" is proper. Civ. Code §§ 8100, 8106(b), 8110. (Petitioner has not attached any proof as to the mailing by registered or certified mail.) In sum, Petitioner has met the substantive requirements for relief.

2. CU0001901 Heather Miles v. Michael Smallwood

On the Court's motion, this hearing is continued to March 9, 2026, at 10:00 a.m.

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.

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.

3. CU0001902 Travis Gould vs. PHH Mortgage Corporation, et al.

On the Court's motion, this hearing is continued to March 9, 2026, at 10:00 a.m.

Plaintiff Travis Gould's January 20, 2026, motion to compel answers to interrogatories and to deem facts as admitted against Defendants is denied.

Plaintiff asserts his "first round of discovery was propounded to all the Defendants on July 1, 2025." Mot., 2:7-8. Defendants contend they responded to the same with objections on August 4, 2025. Palmieri Decl. ¶ 4. Plaintiff, however indicates that the original discovery requests were *withdrawn* on August 20, 2025, and then served again reportedly on September 24, 2025. 2/27/26 Vodonik Decl. ¶¶6-8. No proof of service has been provided as to the same. In any event, the parties agree that an extension to respond to discovery was granted by Plaintiff to Defendants until November 19, 2025 due to ongoing settlement efforts. Vodonik Dec., Ex. B; Palmieri Decl. ¶ 6.

Under Code of Civil Procedure sections 2030.300(c) (interrogatories), and 2033.290(c) (requests for admissions), unless notice of a motion to compel further responses is given within 45 days of the service of the responses, or any specific later date to which the parties have agreed in writing, the propounding/requesting party waives any right to compel a further response to the interrogatories, or requests for admission.

Plaintiff's deadline to compel responses to the discovery requests was Monday, January 5, 2026 (given that the 45th day fell on January 3, 2026). Plaintiff filed its motion on January 20, 2026. Accordingly, the motion is untimely and Plaintiff waived his right to compel further responses.

Plaintiff unsuccessfully made the instant motion. There has been no showing that there was substantial justification for the motion or that imposition of sanctions would be unjust. *See* Code Civ. Proc. §§ 2030.300(c), 2033.290(c). Defendants seek sanctions for 5 hours of attorney time without specification of a reasonable rate. The Court finds that Defendants are entitled to monetary sanctions from Plaintiff in the amount of \$1,200.00 (4 hours at \$300/hour).

4. CU0002271 Christine Jones vs. Nationstar Mortgage LLC, et al.

On the Court's motion, this hearing is continued to March 9, 2026, at 10:00 a.m.

The December 5, 2025, motion of Defendant Nationstar Mortgage LLC and America West Lender Services LLC to strike Plaintiff's first amended complaint ("FAC") is granted. Plaintiff's complaint filed on August 7, 2025 shall proceed as the operative complaint in this matter.

Defendants assert Plaintiff's FAC was not filed in conformity with the laws of the state and should be stricken. The Court agrees.

"Ordinarily, an amended complaint may be filed without leave of court only before responsive pleadings are filed." *Woo v. Superior Court* (1999) 75 Cal.App.4th 169, 175, citing Code of Civ. Proc. § 472. "After the responsive pleadings are filed an amendment to a complaint ... requires leave of court." *Ibid.*, citing Code of Civ. Proc. § 473 (a).

Here, Plaintiff filed the FAC without leave of the Court after Defendants had answered the initial complaint. As such, it was not filed in conformity with the Rules of Procedure and is subject to striking under Code of Civil Procedure section 436(b). See *Ferraro v. Camarlinghi* (2008) 161 Cal.App.4th 509, 528 ("This provision is commonly invoked to challenge pleadings filed in violation of a ... requirement of prior leave of court.")

Plaintiff has not opposed the motion and has made no showing that she had authority to file the FAC. The Court is aware that during the meet and confer process Plaintiff suggested the FAC filed on November 21, 2025 "was submitted pursuant to...judicial authorization" permitted to correct the defect of being unverified. Chaffin Decl., Exh. A, pg. 2. In the court's November 14, 2025 order denying Plaintiff's request for preliminary injunction, the court held, "[t]he verified complaint, in fact, does not include a verification; it is not considered as evidence.... To the extent that Plaintiff seeks other relief, she must file and notice an appropriate motion for the same." Nov. 14, 2025 Order, 2:5-10. That order did not, in any way, authorize Plaintiff to file a FAC after Defendant filed an answer.

Defendants' motion to strike is granted.

5. CU0002305 Jason Christ v. Justis Barquilla

On the Court's motion, this hearing is continued to March 9, 2026, at 10:00 a.m.

Plaintiff's December 8, 2025, motion to strike the answer and cross-complaint is denied.

Defendant urges the Court to deny the motion because no supporting memorandum of points and authorities was filed by Plaintiff. The Court agrees.

Cal. Rules of Court, rule 3.113 "requires motions to be supported by memoranda containing 'a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, cases, and textbooks cited in support of the position advanced,'" and provides that a motion's failure to provide such a memorandum can be construed "as an admission that the motion ... is not meritorious...." *Quantum Cooking Concepts, Inc. v. LV Associates, Inc.* (2011) 197 Cal.App.4th 927, 931, quoting Rule 3.1113(b) & (a). "Rule 3.1113 rests on a policy-based allocation of resources, preventing the trial court from being cast as a tacit advocate for the moving party's theories by freeing it from any obligation to comb the

record and the law for factual and legal support that a party has failed to identify or provide.” Id. at 934.

Accordingly, the motion is denied.

6. CU0002304 Jason Christ v. Jordan Hannah

On the Court’s motion, this hearing is continued to March 9, 2026, at 10:00 a.m.

Plaintiff’s December 8, 2025, motion to strike the answer and cross-complaint is denied.

Defendant urges the Court to deny the motion because no supporting memorandum of points and authorities was filed by Plaintiff. The Court agrees.

Cal. Rules of Court, rule 3.113 “requires motions to be supported by memoranda containing ‘a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, cases, and textbooks cited in support of the position advanced,” and provides that a motion's failure to provide such a memorandum can be construed “as an admission that the motion ... is not meritorious....’ ” *Quantum Cooking Concepts, Inc. v. LV Associates, Inc.* (2011) 197 Cal.App.4th 927, 931, *quoting* Rule 3.1113(b) & (a). “Rule 3.1113 rests on a policy-based allocation of resources, preventing the trial court from being cast as a tacit advocate for the moving party's theories by freeing it from any obligation to comb the record and the law for factual and legal support that a party has failed to identify or provide.” Id. at 934.

Accordingly, the motion is denied.

7. CU0002112 Martin F. Ryan vs. Lisa Dunne

Defendant Dunne apparently reserved this date for the filing of a motion; none was filed. This matter is dropped from calendar.

8. CU0001386 Rise Grass Valley, Inc. vs. Board of Super. of Nevada County, et al.

On the Court’s motion, this hearing is continued to March 9, 2026, at 11:15 a.m.

Argument shall be heard in connection with the writ of administrative mandate by Petitioner Rise Grass Valley, Inc. on the issue of alleged abandonment solely. Each side is permitted no more than 10 minutes in total.