

March 9, 2026 Truckee Civil Law & Motion Tentative Rulings

1. CL0002298 WELLS FARGO BANK, N.A. vs. VICTORIA BOLSHAKOFF, an individual

No appearances required. On the Court’s own motion, the prove up hearing in this matter is continued to April 17, 2026 at 11:00 a.m. Plaintiff has failed to file a proof of service evidencing Defendant was served with a Notice of Prove Up Hearing and evidence of service of all documents as previously ordered. Plaintiff shall file a proof of service at least five (5) court days in advance of the continued hearing date evidencing what documents were served on Defendant, when they were served, and how they were served. In addition, Plaintiff shall serve Defendant with a Notice of Continued Default Prove Up Hearing forthwith.

2. CL0003437 Capital One, N.A. successor by merger to Discover Bank vs. Michelle Mattingly

No appearances required. On the Court’s own motion and in light of the Declaration filed by counsel for Plaintiff, the Court continues the OSC re Dismissal to May 11, 2026 at 1:30 p.m. in Dept. A. Plaintiff shall file a proof of service, an application to serve by publication (if deemed appropriate), or a request for dismissal of defendant in advance of the continued order to show cause date.

3. CL0003474 STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, vs. LUIS FERNANDO GUERRA,

No appearance required. On the Court’s own motion and in light of the Declaration filed by counsel for Plaintiff, the Court the instant OSC to May 25, 2026 at 1:30 p.m. in Dept. A. The Court anticipates and hopes Plaintiff will file its default judgment package well prior to the continued OSC date. Should a proper default packet be presented and approved by the Court with judgment entering, the OSC will be dismissed and the May 25th appearance date vacated.

4. CL0003487 Midland Credit Management Inc. vs. Jarrod Spencer

Appearance required by Plaintiff to show cause as to why this case should not be dismissed and/or Plaintiff sanctioned for failure to serve the Summons and Complaint on Defendant despite the fact this case has been pending for almost four (4) months. Absent good cause being shown, the Court intends, on its own motion, to set the matter for dismissal pursuant to CCP section 583.420 and vacate the trial date set for July 17, 2026 at 11:00 a.m.

5. CU0000657 Daniel Botwinis vs. Patrice Fleming et al

Please check back for a Tentative Ruling to be posted this afternoon.

6. CU0001273 Edward De Jesus Jimenez vs. Inderpreet Singh et al

Plaintiff Edward De Jesus Jimenez’ motion to compel Defendant United Parcel Service, Inc.’s responses to requests for production of documents, set three (“RFPs), and for sanctions, is

granted in part. Plaintiff Edward De Jesus Jimenez' motion to compel Defendant United Parcel Service, Inc.'s responses to special interrogatories, set three ("SI Set 3"), and for sanctions is also granted in part.

Defendant is ordered to serve code-compliant further verified responses to Requests for Production of Documents, Set Three, Nos. 63-75 and 78-80. Defendant is ordered to serve code-compliant further verified responses to Special Interrogatories, Set Three ("RFP Set 3"), Nos. 78-79, 81, and 83. The court awards Plaintiff sanctions in the amount of \$600.00 for each motion, for a total of \$1,200.00.

Procedural Requirements

Pursuant to California Rules of Court, rule 3.1345(a), "[a]ny motion involving the content of a discovery request or the responses to such a request must be accompanied by a separate statement." Pursuant to California Rules of Court, rule 3.1345(b)(2), a separate statement is not required "[w]hen a court has allowed the moving party to submit-in place of a separate statement-a concise outline of the discovery request and each response in dispute."

Failure to include a separate statement that conforms to the California Rules of Court is grounds for the court to deny moving party's discovery motion. See *Mills v. U.S. Bank* (2008) 166 Cal. App. 4th 871, 893; *Neary v. Regents of University of California* (1986) 185 Cal.App.3d 1136, 1145. Although a separate statement is required pursuant to California Rules of Court, rule 3.1345, denial of a motion for failure to file a separate statement is within a court's discretion.

At bar, RFP Set 3 includes Request Nos. 63-81 and SI Set 3 includes Nos. 74-88. However, Plaintiff has failed to file a separate statement for either motion. Thus, it is unclear if Plaintiff is seeking to compel further responses as to all RFPs and SIs in each respective set three, or whether Plaintiff is making a more limited request. If so, it is unclear on what bases Plaintiff relies for each discovery request. Therefore, while the court declines to deny the motions due to Plaintiff's failure to file separate statements as to each, it only rules on the motions to the extent it can discern sufficient reason to do so.

Motion to Compel Further Requests for Production

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).

Further, 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).

Such a 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 2021) ¶ 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 or lead to information that would do so); 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.” Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2021) ¶ 8:1496.

Analysis

Nos. 63-64, 71: Defendant provided responses and amended responses to requests to produce documents. However, the amended response does not include a statement of whether the production will be allowed in whole or in part, and all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production. Therefore, further code-compliant responses are warranted.

Nos. 65-70, 72-75, 78-80: Defendant’s responses either lack a statement of compliance or the statement of compliance does not 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. Therefore, further code-compliant responses are warranted.

Nos. 76, 81: Defendant asserts the documents requested are protected by privilege and has produced a privilege log. Therefore, no further response is warranted.

No. 77: Defendant’s responses assert documents have already produced. Because Plaintiff failed to file a separate statement, the Court cannot ascertain if good cause exists to compel further discovery. Thus, no order for further response is made.

Accordingly, Defendant is ordered to serve code-compliant further verified responses to Requests for Production of Documents, Set Three, Nos. 63-75 and 78-80 within ten (10) days of service of notice of entry of this order.

Special Interrogatories, Set Three

Legal Standard

Code of Civil Procedure section 2030.220 provides:

- (a) Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.
- (b) If an interrogatory cannot be answered completely, it shall be answered to the extent possible.
- (c) If the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party.

Where the question is specific and explicit, an answer that supplies only a portion of the information sought is improper. It is also improper to provide “deftly worded conclusory answers designed to evade a series of explicit questions.” *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 783.

A party may move to compel further responses to interrogatories on the grounds that the answer is evasive or incomplete, an exercise of the option to produce documents under Code of Civil Procedure section 2030.230 is unwarranted or the required specification of those documents is inadequate, and/or an objection to an interrogatory is without merit or too general. Code Civ. Proc., § 2030.300(a). If a timely motion to compel has been filed, the burden is on the responding party to justify any objection or failure to fully answer the interrogatories. *Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255.

Analysis

Nos. 74, 77, 82, 87-88: Defendant served only objections to these interrogatories. By not filing a separate statement, Plaintiff fails to identify if the objections are overly broad or unwarranted. Thus, the Court declines to order further response to these interrogatories be required.

Nos. 75-76, 80, 84-86: Defendant provides a response to these interrogatories. By not filing a separate statement, Plaintiff fails to describe if he believes the responses require a further response, and, if so, why he believes this. Therefore, further responses to these interrogatories are not ordered.

Nos. 78-79, 81, 83: The responses to these interrogatories only state there are no documents responsive to the requests. These responses are incomplete and evasive, and thus deficient. Defendant is ordered to serve code-compliant further verified responses to Special Interrogatories, Set Three, Nos. 78-79, 81, and 83 within ten (10) days of service of notice of entry of this order.

Sanctions

Code of Civil Procedure section 2033.290, subdivision (d), provides “[t]he court shall impose a monetary sanction . . . against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.” Here, Plaintiff has been successful, to a degree, in each motion. Accordingly, the Court awards Plaintiff sanctions in what it finds to be a reasonable amount of \$600.00 for each motion, for a total of \$1,200.00. Sanctions shall be paid by Defendants jointly and severally within ten (10) days of entry of the order. The Court acknowledges Defendants have succeeded in their oppositions to a degree; however, they have not sought sanctions. As such, none are ordered payable by Plaintiff.

7. CU0001352 William Vick vs. Rmax Operating, LLC et al

Defendant Bobby Brown Construction’s motion to compel Defendant/Cross-Defendant RMAX Operating, LLC’s further responses to Form Interrogatories – Construction, Set One (“FIs”), and for sanctions is now MOOT in light of the dismissal of Bobby Brown Construction’s claims against RMAX. No appearances required.

8. CU0001906 Dezmond Devonte Sinclair vs. Tahoe Downtowner, LLC et al

Defendant Town of Truckee’s unopposed motion for leave to file amended answer is dismissed as MOOT. This Defendant was dismissed as a party subsequent to the filing of the motion. No appearances are required.

9. CU0002183 Adventure Resort Marketing, LLC, (ARM) et al vs. B & W Resorts, Inc., dba Harmony Ridge Resort et al

No appearances required. The parties have stipulated to jointly withdraw their respective motions.

10. CU0002187 MA Construction et al v. Li, Jingwen et al

Appearance required by Plaintiff to show cause as to why this case should not be dismissed pursuant to Code of Civil Procedure § 583.420. Absent good cause being shown, this matter shall be calendared to be dismissed on June 18, 2027.

11. CU0002216 Peter Zellner et al vs. Amanda Jean Neadeau

This matter is before the Court on a petition for compromise of minor's claims. Appearances by counsel for Petitioner and the Petition/guardian ad litem are required. Petitioner is directed to file a corrected Petition to correct the below deficiencies prior to the hearing. If not filed prior to the hearing, the Court intends to continue the hearing to March 23, 2026 at 1:30 p.m.

- The petition does not contain a description of the settlement terms – section 10(c) is blank. Please complete this section. The Court understands the settlement terms are set forth in an attachment, but this section should not be blank. It should be completed specifically or a reference to a different attachment such as 18b(3) could be made.
- Please fill in the defendant's name in section 11(b)
- Please do not include the settlement proposal in the middle of the JC Form Petition. Currently, it is inserted as pay 6 of the Petition, as well as attached as the 18b(3) attachment.
- Section 17(c) and 17(f) - please clarify. If fees have not yet been approved and received, then the information in 17(c) should actually be set forth in 17(f). 17(c) is for fees already received, while 17(f) is for fees anticipated. The reference to "upon court approv" seems to indicate the incorrect section is filled in.

12. CU0002439 Brandon Huerta vs. Jason Waters, et al.

No appearance required. In light of the proof of service of the Summons and Complaint filed on January 6, 2026, the OSC re Dismissal is hereby dismissed.

13. CU0002522 Douglas Gray vs. Infinity Insurance

On the Court's own motion, the Court vacates the OSC re Dismissal set for April 27, 2026. A proof of service evidencing service on Respondent has now been filed.

The Court nominates five arbitrators as more specifically set forth below. Further the Court grants the motion to compel raw data. Sanctions are awarded to Petitioner in the amount of \$4,500.00 which shall be paid within thirty (30) days of service of entry of this order.

Legal Standard

Insurance Code § 11580.2 mandates arbitration of uninsured and underinsured motorist claim disputes between insurers and insureds regarding liability, damages, or both. "The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration." Ins. Code. § 11580.2(f).

In general, "an arbitration has a life of its own outside the judicial system." *Briggs v. Resolution Remedies* (2008) 168 Cal.App.4th 1395, 1401. However, "Insurance Code section 11580.2, subdivision (f) commits discovery disputes in uninsured motorist arbitrations to the superior court." *Id.* fn. 6.

Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration[.]

Ins. Code, § 11580.2(f).

“Importantly, the statute then adopts the California Civil Discovery Act in its entirety.” *Miranda v. 21st Century Ins. Co.* (2004) 117 Cal.App.4th 913, 920. The superior court has exclusive jurisdiction to hear discovery matters arising under uninsured and underinsured motorist arbitrations. *Id.* at pp. 920, fn. 6, 926.

Petition for Order Compelling Selection of Arbitrator

Code of Civil Procedure section 1281.6 provides as follows:

If the arbitration agreement provides a method of appointing an arbitrator, that method shall be followed. If the arbitration agreement does not provide a method for appointing an arbitrator, the parties to the agreement who seek arbitration and against whom arbitration is sought may agree on a method of appointing an arbitrator and that method shall be followed. In the absence of an agreed method, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails to act and his or her successor has not been appointed, the court, on petition of a party to the arbitration agreement, shall appoint the arbitrator.

When a petition is made to the court to appoint a neutral arbitrator, the court shall nominate five persons from lists of persons supplied jointly by the parties to the arbitration or obtained from a governmental agency concerned with arbitration or private disinterested association concerned with arbitration. The parties to the agreement who seek arbitration and against whom arbitration is sought may within five days of receipt of notice of the nominees from the court jointly select the arbitrator whether or not the arbitrator is among the nominees. If the parties fail to select an arbitrator within the five-day period, the court shall appoint the arbitrator from the nominees.

In his supporting declaration, Petitioner’s counsel states the parties agreed to an arbitrator (Daniel Quinn) and set the date for November 13-14, 2025. Loewen Decl., ¶ 6. Thereafter, the arbitration was unilaterally canceled by Respondent’s counsel stating she wanted to select a different neutral arbitrator. Loewen Decl., ¶ 9. Despite agreeing to provide a list of proposed arbitrators by December 2, 2025, Respondent’s counsel has failed to provide such a list. Loewen Decl., ¶ 10. The applicable underinsured motorist policy states either party may demand arbitration, but does not describe a method for appointment of the arbitrator. Loewen Decl., Exh. A, Part C. While the Court is aware Respondent’s counsel asserts it was Petitioner who canceled the arbitration (Bazar Decl. at ¶8) perhaps due to his request to continue the November, 2025

arbitration dates, the Court finds otherwise. It appears Ms. Bazar's response to Mr. Loewen's request to reschedule the arbitration dates was to inform arbitrator Quinn the arbitration was off by requesting the arbitrator charge the parties his minimum two (2) hour minimum and issue refunds for the remaining retainers paid. See, email from Bazar to Loewen dated November 18, 2025.

Thus, it appears the parties are unable to reach an agreement on an arbitrator with Petitioner desirous of an arbitrator in the Nevada County/Northern California area, and Respondent is desirous of an arbitrator in the San Diego, California area. Notably, counsel previously agreed to an arbitrator in Stockton, California which most would consider a central California location.

Respondent's counsel opines "Truckee County" is rural and small and such does not lend itself to an adequate selection of arbitrators. The Court notes, there is no such area as "Truckee County". The Town of Truckee, however, is located in Nevada County. While Truckee, California is considered a rural area, Nevada County is adjacent to and near many other counties including Sacramento County, an area one would be hard pressed to call "rural". In addition, Northern California is commonly considered to encompass San Francisco County and its surrounding areas. Again, hardly a rural area.

"When a petition is made to the court to appoint a neutral arbitrator, the court shall nominate five persons from lists of persons supplied jointly by the parties to the arbitration or obtained from a governmental agency concerned with arbitration or private disinterested association concerned with arbitration." Code Civ. Proc. § 1281.6. The parties have not jointly supplied a list of proposed arbitrators. Thus, the court shall nominate five persons pursuant to Code of Civil Procedures § 1281.6.

Accordingly, the Court nominates the following five arbitrators:

Hon. Marla O. Anderson (Ret.)

Hon. Cecily Bond (Ret.)

Hon. Lynn Duryee (Ret.)

Hon. William J. Cahill (Ret.)

Hon. Jackson Lucky (Ret.)

The Court shall issue a formal notice and serve the parties.

Pursuant to Code of Civil Procedure section 1281.6, within five (5) days of receipt of notice of the above-referenced nominees from the Court, Petitioner and Respondent "may...jointly select the arbitrator whether or not the arbitrator is among the nominees." If the parties fail to select an arbitrator within the five-day period, the Court shall appoint the arbitrator from the nominees. Code Civ. Proc., § 1281.6.

Accordingly, the parties are ordered to file a joint notice of selection of arbitrator setting forth their agreed upon arbitrator no later than March 30, 2026. If a joint notice is not filed by said date, the Court will issue an order selecting an arbitrator.

Discovery

Petitioner seeks production of the raw data from a neurophysical Independent Medical Examination (“IME”).

Discovery may be conducted both before and after the commencement of an uninsured / underinsured motorist arbitration proceeding. Cal. Ins. Code, § 11580.2(f); *Miranda v. 21st Century Insurance Co.*, *supra*, 117 Cal.App.4th at 923. The discovery statutes of the Code of Civil Procedure apply to uninsured / underinsured motorist arbitration proceedings. Cal. Ins. Code, § 11580.2(f)(2).

Pursuant to Code of Civil Procedure section 2032.530(a), “[t]he examiner and examinee shall have the right to record a mental examination by audio technology.” Plaintiff also has a “right to take discovery and cross-examine defendants’ expert witnesses, which includes being able to examine the expert on the matter upon which the expert’s opinion is based and the reasons for that opinion. Evid. Code, § 721, subd. (a.)” *Randy’s Trucking, Inc. v. Superior Court* (2023) 91 Cal.App.5th 818, 838. “Without the raw data and audio recording, plaintiffs cannot effectively scrutinize the way the data was collected, determine if there are discrepancies, and cross-examine the neuropsychologist on the basis and reasons for the neuropsychologist’s opinion.” *Ibid.* Moreover, “disclosure of these materials may help to protect against abuse and disputes over what transpired during the examination.” *Ibid.* Such audiotaping will also ensure the examiner does not overstep bounds set by the court, provide the context of responses for purposes of trial, protect the examinee’s interests since the examinee’s counsel is usually not present, and assure any evidence of abuse can be presented to the court. *Ibid.* “Without plaintiffs’ access to the audiotape and raw data, plaintiffs cannot adequately protect these interests.” *Ibid.*

At bar, Petitioner, has shown a legitimate need for the raw data requested. The parties are ordered to meet and confer and, within five (5) days of service of entry of this order, finalize a proposed protective order to adequately addresses any confidentiality and security concerns of the parties. After the meet and confer efforts, the parties shall either file the protective order with the court or, if such efforts fail, each party shall file a proposed protective order with the Court. (The Court notes a proposed protective order has been provided; however, there are what the Court believes are obvious issues with that order (e.g. referencing “Truckee County” instead of Nevada County, “Truckee Courthouse” instead of branch; and error reference in the footer, etc.))

Respondent’s failure to timely provide the discovery requested, or, alternatively, file a motion for a protective order, constitutes a misuse of the discovery process. Code Civ. Proc., §2023.010(d). Sanctions are appropriate and have been properly noticed. Therefore, Petitioner’s request for sanctions against Respondent is granted, yet it is granted in the amount of \$4,500.00 which the Court finds to be an amount reasonably related to the pending motion. The sanctions are to be paid within ten (10) days of service of notice of entry of this order.