

August 10, 2026 Truckee Civil Law & Motion Tentative Rulings

1. CL0001165 Victor Navarrete vs. Jennin Valentine Martinez et al

Plaintiff Victor Navarrete's unopposed motion for order deeming each request for admissions ("RFAs") as admitted is granted. The Court awards Plaintiff sanctions in the amount of \$585.00 payable by Defendants JVM Landscape Construction, Inc. ("JVM") and Jennin Valentine Martinez ("Martinez") jointly and severally no later than ten (10) days from service of notice of entry of this order.

Request to Deem Matters Admitted

A party may move for an order deeming its 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. Electronic service extends the deadline by two (2) court days. Code Civ. Proc. § 1010.6(a)(3)(B). Service by mail extends the deadline by five (5) calendar days. Code Civ. Proc. § 1013(a).

At bar, Plaintiff served his RFAs, Set No. One on Defendant JVM on December 30, 2024 by electronic mail, making January 31, 2025 the deadline for Defendant to serve a timely response. Tsai Decl., ¶ 4, Ex. B. Plaintiff served his RFAs, Set No. Two on Defendant JVM and RFAs, Set No. One on Defendant Martinez by mail on April 16, 2026, making May 25, 2026 the deadline for Defendants to serve timely responses. Tsai Decl., ¶ 5, Ex. C. Plaintiff has not received any response from Defendant. Tsai Decl., ¶ 6. 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). An award of monetary sanctions must be "reasonable under the circumstances" *Mattco Forge, Inc. v. Arthur Young & Co.* (1990) 223 Cal.App.3d 1429, 1437; Code Civ. Proc., § 2023.030(a) (monetary sanctions may be awarded to compensate a party for reasonable expenses). "The principle of reasonableness means a trial court has discretion to reduce the amount of fees and costs requested as a discovery sanction in order to reach a reasonable award." *Cornerstone Realty Advisors, LLC v. Summit Healthcare Reit, Inc.* (2020) 56 Cal.App.5th 771, 791.

Based on information appearing in the Tsai declaration, the monetary sanctions requested by Plaintiff reflects 2.0 total attorney hours for preparing the motion. Tsai Decl., ¶ 8. Considering

the substance of the motion, which does not present a large number of requests, complex factual or legal issues, or extensive pleadings, the Court finds the time expended by counsel to prepare the instant motion is excessive. Moreover, the Court finds Ms. Tsai hourly rate is not supported by other known existing attorney hourly rates in this county or information contained in a declaration related to her training, experience and work associated with the instant matter.

Under the totality of the circumstances present here, including the Court's experience with addressing attorney's fee requests, the Court finds 1.5 hours of time for attorney Tsai at a reasonable hourly rate of \$350.00, plus the filing fee of \$60.00, constitutes the reasonable amount of attorney's fees and costs incurred by Plaintiff. Thus, the Court awards Plaintiff sanctions in the amount of \$585.00 payable by Defendants jointly and severally no later than ten (10) days from service of notice of entry of this order.

2. CL0003941 Wells Fargo Bank, N.A. vs. Kathleen Sivel, an individual

No appearances required. In light of the proof of service of the Summons and Complaint filed on June 5, 2026 and on the Court's own motion, the OSC re Dismissal is dismissed.

3. CL0003949 CREDITORS ADJUSTMENT BUREAU, INC., vs. ISRAEL GARCIA TAPIA

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 October 12, 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. The Court notes, the declaration of non-service filed on July 1, 2026 fails to set forth ongoing reasonable efforts in and by itself; however, the declaration of counsel evidences Plaintiff is and has been making diligent efforts to effectuate service of process.

4. CL0003950 Midland Credit Management Inc. vs. Casey R Timms

No appearances required. On the Court's own motion and in light of the proof of service of the Summons and Complaint filed on June 12, 2026, the OSC re Dismissal is dismissed.

5. CU0001529 NATIONAL COLLEGIATE STUDENT LOAN TRUST 2005-2, a Delaware Statutory Trust(s) vs. SANDE KAY

The Court, on its own motion and pursuant to good cause under California Rules of Court, Rule 3.185(c)(2), vacates the notice of settlement and places the case back on the active calendar.

Plaintiff's motion to vacate the notice of settlement and place the case back on active calendar pursuant to Code of Civil Procedure § 473(b) is denied as moot.

Discussion

Plaintiff moved for relief under Code of Civil Procedure § 473(b). However, such relief is not warranted in the present circumstances. Pursuant to such, the "court may, upon any terms as

may be just, relieve a party or the party's legal representative from a judgment, dismissal, order, or other proceeding taken against the party through the party's mistake, inadvertence, surprise, or excusable neglect." Code Civ. Proc. § 473(b).

At bar, there is no "judgment, dismissal, order, or other proceeding taken against the party." Plaintiff filed a notice of conditional settlement ("NOS") on August 8, 2025, stating the "settlement agreement conditions dismissal of this matter on the satisfactory completion of specified terms that are not to be performed within 45 days of the date of the settlement" and that a request for dismissal will be filed no later than April 5, 2033. Lo Decl., Ex. 1. The moving papers first state Plaintiff and Defendant came to an agreement on a settlement amount on August 8, 2025 with the first payment being due on September 5, 2025, and Defendant defaulted in payment having not made any payment to Plaintiff since August 8, 2025. Mot., 2:1-4. The motion then states "Plaintiff could not have anticipated Defendant's immediate default of the settlement." Mot., 2:20-21. The motion then reveals, "Defendant was not in agreement with all terms and did not sign." Mot., 2:24-25. Thus, it appears there was never a signed settlement agreement in the first place.

Additionally, even if there were a "judgment, dismissal, order, or other proceeding" to vacate, section 473(b) requires application for relief "shall be made within a reasonable time, in no case exceeding six months...." Code Civ. Proc. § 473(b). At bar, the NOS was filed on August 8, 2025. Plaintiff's motion states, "On 11/17/2025 opposing counsel informed me he was relieved as counsel, where Plaintiff waited to receive defendants [sic] substitution of attorney." Mot., 2:25-26. However, the record reflects Defendant's Substitution of Attorney was filed and served on Plaintiff on November 14, 2025. Plaintiff does not include any explanation as to why she waited over eight (8) more months to file the present motion.

While relief under Code of Civil Procedure § 473(b) would be inappropriate for the reasons set forth above, Rule 3.185 allows the court to restore the case to the civil active list. *Irvine v. Regents of University of California* (2007) 149 Cal.App.4th 994, 1001. "By alleging a dispute over whether the parties reached a binding settlement, plaintiff demonstrated good cause to restore to the civil active list." *Id.* at 1001-1002. "In reaching this conclusion," the court does not consider "whether any of plaintiff's contentions have merit." *Id.* at 1002.

6. CU0002314 Craig Dealon Dowell vs. Jose Valentin Galaz Romero et al
CU0002605 Maria Cota, an individual et al vs. State of California, a public entity
et al

Defendants' Jose Romero and State of California Department of Transportation ("Caltrans") unopposed motion to consolidate for all purposes is GRANTED.

Code of Civil Procedure § 1048 grants discretion to the trial court to consolidate actions involving common questions of law or fact. A consolidation of actions does not affect the rights of the parties. The purpose of consolidation is to avoid unnecessary costs or delay, avoid duplication of procedure, particularly in the proof of issues common to both actions, and avoid inconsistent results by hearing and deciding common issues together. See *Estate of Baker* (1982) 131 Cal.App.3d 471, 485. Each case presents its own facts and circumstances, but the court generally considers the following: (1) timeliness of the motion: i.e., whether granting

consolidation would delay the trial of any of the cases involved; (2) complexity: i.e., whether joining the actions involved would make the trial too confusing or complex for a jury; and (3) prejudice: i.e, whether consolidation would adversely affect the rights of any party. See *State Farm Mut. Auto. Ins. Co. v. Superior Court* (1956) 47 Cal.2d 428, 430–431.

Here, because both CU0002314 and CU0002605 arise out of the same occurrence, involve the same defendants, and involve common questions of fact and law, and because no party opposes the motion, the Court finds consolidation is in the interest of justice and GRANTS the motion.

CU0002314 shall be the lead case. All future filings shall be in that case with captions noting both case numbers and the fact of consolidation. No further filings shall be made in CU0002605.

7. CU0002636 John Lascoe et al vs. Selene Finance LP et al

Attorney John S. Sargetis' unopposed motion to be relieved as counsel is granted. The order relieving counsel will be deemed effective upon the filing of a proof of service with the Court evidencing both plaintiffs have been served with the order. See California Rules of Court, Rule 3.1362(e).

8. CU0002801 In the Matter of Irina Naduhovskaya

No appearance required. Petitioner is directed to correct the issues below forthwith. The matter is continued to August 24, 2026 at 1:30 p.m. in Dept. A.

- There is no request or order appointing a guardian ad litem in this matter.
- The Petition is illegible due to either how it was scanned or the copy quality of what was filed.
- 5 describes that the minor was struck by the vehicle in the incident, whereas the medical notes state the minor was not struck, but rather her bicycle was struck causing the minor to fall.
- Issues with the Medical Expenses and Net Settlement Amount:
 - 12.a: states medical expenses paid in the amount of \$3,261.58, including \$2,631.87 paid by petitioner, and \$989.71 by private health insurance. This totals \$3,621.58. Correct the total amount paid in 12.a(2).
 - 12.b(f)(ii): states reimbursement is to be made to the plan in the amount of \$989.71.
 - 12.b(5)(b)(D): correct the amount paid as described above.
 - 14.b(1): does not include all medical expenses because it omits the \$989.71 to be reimbursed.
 - 15 and 16: includes the medical expense \$989.71 but omits the medical expense of \$2,631.87 paid by petitioner.
- Attachment 17a: the retainer agreement is attached but not labeled.

The Court also notes a Request for Dismissal was filed on June 30, 2026 stating “dismissal subject to proof of deposit into blocked account.” However, “At no time has this court approved any minor’s compromise in this matter. Such approval is a prerequisite to a valid settlement.”

Anderson v. Latimer (1985) 166 Cal.App.3d 667, 676. “Nor is the settlement binding [on the minor] until it is endorsed by the trial court.” *Perason v. Superior Court* (2012) 202 Cal.App.4th 1333, 1338. This court has not approved a minor’s compromise, and therefore, there is no valid settlement of the claims. Moreover, there is no pending action to be dismissed. This case arising from the filing of a Petition which will either be approved or not. There is nothing to be dismissed even upon approval of the Petition.

9. FL0001988 Berber, Victoria Saldana v. Rodriguez, Jorge Aron Diaz

No appearance required. A Judgment was filed in this matter on July 29, 2026. Pursuant to the language of the OSC, the OSC would vacate provided a Judgment was approved and filed prior to the date of the OSC. Accordingly and on the Court’s own motion, the OSC is dismissed.

August 10, 2026 Truckee Probate Tentative Rulings

1. PR0000554 In Re Rogers, Auctaviah Marie Davis

Petitioners are directed to file an amended petition including their signatures prior to the hearing on the motion. Otherwise, the Court is inclined to grant the unopposed petition to fix the residence of the minors outside the state of California and direct the guardians to commence a guardianship in the appropriate court in Benson, Arizona.

2. PR0000750 In the Matter of Melilah A Schuch Living Trust

The motion to be relieved as attorney of record is granted. Counsel for beneficiary Mario Albert Hernandez shall file a Proposed Order on form MC-053 as required by California Rules of Court, rule 3.1362(e). Attorney Capdevielle shall be deemed relieved as attorney of record for Mario Albert Hernandez upon the filing of a proof of service of the filed order on his client.

Legal Standard

The court may order that an attorney be changed or substituted at any time before or after judgment or final determination upon request by either client or attorney and after notice from one to the other. Code of Civ. Proc., § 284(b). An attorney is permitted to withdraw where conflicts between the attorney and client make it unreasonable to continue the representation. See Cal. Rules of Prof. Conduct 3-700(C)(1). “The determination whether to grant or deny a motion to withdraw as counsel lies within the sound discretion of the trial court.” *Manfredi & Levine v. Superior Court* (1998) 66 Cal.App.4th 1128, 1133.

An application to be relieved as counsel must be made on Judicial Counsel Form MC-051 (Notice of Motion and Motion) (Cal. Rules of Court, rule 3.1362(a)), MC-052 (Declaration) (Cal. Rules of Court, rule 3.1362(c)), and MC-053 (Proposed Order) (Cal. Rules of Court, rule 3.1362(e)). Further, the requisite forms must be served on the client and all other parties who have appeared in the case. Cal. Rules of Court, rule 3.1362(d). The court may delay effective date of the order relieving counsel until proof of service of a copy of the signed order on the client has been filed with the court. (Cal. Rules of Court, rule 3.1362(e)).

Analysis

Trustee Judie D. Moreno (“Trustee” or “Moreno”) opposes the motion, arguing permitting withdrawal is unsupported by generalized claims of conflict, and will cause undue delay and prejudice to the Trustee and other beneficiaries. The Court disagrees.

“Where issues of confidentiality prevent “counsel from further disclosure and the court [accepts] the good faith of counsel's representations, the court should find the conflict sufficiently established and permit withdrawal.” [Citations.]” *Manfredi, supra*, at 1133.

At bar, counsel for Mr. Hernandez avers the grounds for withdrawal involve confidential attorney-client communications and matters protected by privilege, which details cannot be provided in public filing to avoid prejudice to the client. Capdevielle Decl., ¶ 5. Counsel also avers he has not brought the motion for purposes of delay. Capdevielle Decl., ¶ 6. The Court finds counsel’s declaration in support of his motion to sufficiently set forth information which results in a finding Mr. Capdevielle can no longer effectively represent Mr. Mario Hernandez.

Accordingly, the motion is granted. Counsel shall provide a proposed order utilizing Judicial Council form MC-053 within five (5) days.

3. PR00001042 In Re Vazquez Lizarraga, Carlo Alexandre

Appearances required. The Court wishes to inquire of counsel for the proposed conservatee as to whether there is any objection to the Petition and to clarify powers requested.