November 9, 2026 Truckee Civil Law & Motion Tentative Rulings

1. CL0003110 LEXINGTON INSURANCE COMPANY , a corporation vs. ZACHARY BLISS et al

Motion to Compel Form Interrogatories

Plaintiff Lexington Insurance Company's unopposed motion to compel answers to Form Interrogatories served on Zachary Bliss is granted. Defendant is ordered to provide verified responses, without objections, to the Form Interrogatories, Set One, ("FIs") within thirty (30) days of notice of entry of the Court's order. Plaintiff shall also pay Defendant $285.00 in sanctions within thirty (30) days of notice of entry of the Court's order.

Legal Standard

If a party to whom interrogatories are directed fails to serve a timely response, the propounding party may move for an order compelling responses and for a monetary sanction. *See* Code Civ. Proc. § 2030.290(b). The statute contains no time limit for a motion to compel where no responses have been served. All that need be shown in the moving papers is that a set of interrogatories was properly served on the opposing party, that the time to respond has expired, and that no response of any kind has been served. *See Leach v. Superior Court* (1980) 111 Cal. App. 3d 902, 905-906. Moreover, "[w]here no objections have been made within the statutorily permitted time, they are deemed waived." *Id.*

"The court shall impose a monetary sanction … against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel motions for interrogatories or requests for production, unless the Court finds the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust." Code Civ. Proc. § 2030.290(c). The amount of sanctions awarded centers on two main principles: causation, and reasonableness. *See Cornerstone Realty Advisors, LLC. V. Summit Healthcare Reit, Inc.* (2020) 56 Cal.App.5th 771, 790. First, monetary sanctions may only be imposed based on attorney's fees and costs incurred "as a result" of the misuse of the discovery process. *Ibid., citing* Cal. Civ. Pro. § 2023.030(a). Second, "[t]he amount of monetary sanctions is limited to the 'reasonable expenses, including attorney's fees' that a party incurred as a result of the discovery abuse." *Id.* at 791. Again, a party requesting sanctions for reasonable expenses that were incurred as a result of discovery abuse must *already* be liable for those expenses before the court can award the costs as sanctions. *See Tucker v. Pacific Bell Mobile Serv*s., 186 Cal. App. 4th 1548 (2010) (anticipated costs for future deposition could not be included in award of sanctions).

Analysis

As a preliminary matter, Defendant has filed no opposition to the motion; as such, the Court deems Defendant's failure to oppose the motion as consent to the granting of the same. *See* Cal. Rules of Court, rule 8.54(c) ("failure to oppose a motion may be deemed a consent to the granting of the motion."); *see, e.g., Amato v. Downs* (2022) 78 Cal.App.5th 435, 440, n.3 (unopposed motion can be granted on that basis, citing rule 8.54(c)).

Turning to the merits, Plaintiff propounded its FIs on Defendant by mail on June 1, 2026. Tapper Decl., ¶ 3; Ex. A. Defendant's responses to these discovery demands were due by July 6, 2026; however, Defendant failed to serve any responses by the deadline. Tapper Decl., ¶¶ 4-5. As of the date of the declaration, Defendant has failed to serve any responses to Plaintiff's SIs or requested an extension. Tapper Decl., ¶ 5 Therefore, an order compelling responses is warranted.

Plaintiff's request for sanctions in the amount of $1,165.00, is granted, in part. Counsel argues he will spend five (5) hours for the motion, including time spent to draft the motion and anticipated time to travel to, from, and appear at the hearing. Tapper Decl., ¶ 7. At bar, as noted, the motion is unopposed; moreover, appearance at the hearing has not yet occurred and, most likely, will not be necessary. Therefore, the Court grants sanctions for the amount of time and costs actually incurred. The claimed fees of $225.00 per hour are reasonable. However, the motion itself appears to have required minimal work. Therefore, the Court awards $225.00 for fees (1 hour) and costs in the amount of $60.00 (the actual filing fee). Plaintiff shall pay sanctions in the total amount of $285.00.

Motion to Deem Requested Admissions Admitted

Plaintiff Lexington Insurance Company's unopposed motion to deem Requests for Admission, Set One admitted is granted. Defendant Zachary Bliss is ordered to pay Plaintiff's counsel $285.00 in sanctions within thirty (30) days after service of notice of entry of the order.

Legal Standard

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. Service by mail extends the deadline by 5 calendar days. Code Civ. Proc. § 1013(a).

"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). Sanctions must be for only reasonable expenses.

Analysis

At bar, Plaintiff served its RFAs on June 1, 2026 by mail, making July 6, 2026 the deadline for Defendant to serve a timely response. Tapper Decl., ¶¶ 3-4, Ex. A. Plaintiff has not received any response from Defendant, or any request for an extension of time. Tapper Decl., ¶ 5. 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 §2033.220.

Plaintiff's request for sanctions in the amount of $1,165.00, is granted, in part. Counsel argues he will spend five (5) hours for the motion, including time spent to draft the motion and anticipated time to travel to, from, and appear at the hearing. Tapper Decl., ¶ 7. The Court notes the request of three (3) hours of travel time and attendance at the hearing is duplicative of the same request in Plaintiff's motion to compel Form Interrogatories. As stated in the ruling on that motion, the motion is unopposed; moreover, appearance at the hearing has not yet occurred and may not be necessary. Therefore, the Court grants sanctions for the amount of time and costs actually incurred. The claimed fees of $225.00 per hour are reasonable. However, the motion itself consists required minimal work. Therefore, the Court awards $225.00 for fees (1 hour) and costs in the amount of $60.00 (the actual filing fee). Plaintiff shall pay sanctions in the total amount of $285.00.

2. CL0004157 Capital One, N.A. successor by merger to Discover Bank vs. Johnathan D Moore

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 over five (5) months. The Court notes, while the Declarations of Non-Service filed July 27, 2026, September 8, 2026, and October 26, 2026 indicate four (4) service attempts over 1-2-week periods each, Plaintiff provides no additional information regarding efforts to locate and serve Defendant or if Plaintiff intends to file an application to serve by publication (if deemed appropriate). 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 January 15, 2027 at 11:00 a.m.

3. CU0002591 Melanie Gans-Prosser et al vs. Lake of the Pines Association, a California mutual benefit corporation et al

Defendant Lake of the Pines Association's motion for judgment on the pleadings is denied.

Requests for Judicial Notice

Defendant's unopposed requests for judicial notice are granted.

Legal Standard

A party may bring a motion for judgment on the pleadings ("MJOP") after filing an answer and the time to demurrer has expired. Code Civ. Proc. § 438(b)(1) and (f); *Evans v. California Trailer Court, Inc.* (1994) 28 Cal.App.4th 540, 548. If the moving party is the defendant, then a MJOP is limited to assertion of the following grounds: (1) the court has no jurisdiction over the subject of the cause of action, or (2) the complaint fails to state a cause of action. Code Civ. Proc. § 438(c)(1)(B). The grounds for a MJOP shall appear on the face of the pleading or from any matter judicially noticed. Code Civ. Proc., § 438(d). Essentially, a MJOP performs the same function as a general demurrer, *i.e.*, it attacks only the defects disclosed on the face of the pleading or by matters that are judicially noticed. *Cloud v. Northrop Grumman Corp.* (1998) 67

Cal.App.4th 995, 999. "In deciding or reviewing a judgment on the pleadings, all properly pleaded material facts are deemed to be true, as well as all facts that may be implied or inferred from those expressly alleged." *Fire Ins. Exch. v. Super. Ct.* (2004) 116 Cal.App.4th 446, 452.

First Cause of Action – Breach of Governing Documents

Defendant argues the first cause of action for breach of governing documents is untimely. The Court disagrees.

An association has the authority to enforce violations of the association's governing documents. Civ. Code § 5975. Enforcement of the restrictions contained in the governing documents is considered the responsibility of an association. *Duffey v. Superior Court* (1992) 3 Cal.App.4th 425, 431. An association may be held liable for its failure to enforce those restrictions. *Posey v. Leavitt* (1999) 229 Cal.App.3d 1236, 1246. The statute of limitations for an action for violation of a restriction is five (5) years, and "runs from the time the person seeking to enforce the restriction discovered or, through the exercise of reasonable diligence, should have discovered the violation." Code Civ. Proc. § 336(b).

At bar, the Complaint was filed January 23, 2026 and alleges as follows: Defendant decided on the permanent site for the pickleball court in 2021; the governing documents ("CC&R") state "illegal, noxious, or offensive activities shall not be carried on or conducted upon any Lot or Common Area, nor shall anything be done within Lake of Pines which is, or could become, an unreasonable annoyance or nuisance to neighboring residents"; the "noise generated by the pickleball courts has become an unreasonable annoyance and nuisance" and "unreasonably interferes with Plaintiff's right to possess their properties in peace"; and Defendant's "failure to enforce the governing documents as they relate to the unreasonable annoyance and nuisance resulting from the noise from pickleball play violates the governing documents." Comp., ¶¶ 25, 38, 40, 41.

Even if Defendant argued the decision took place prior to January 1, 2021, the Complaint sufficiently alleges violation occurred sometime after ("has become") installation and an ongoing violation of the CC&Rs which Defendant has failed to enforce.

Second Cause of Action – Nuisance

Defendant argues the second cause of action for nuisance is untimely, arguing the Complaint alleges a permanent nuisance rather than a continuing nuisance. The Court again disagrees.

"Depending upon its nature, a nuisance is either permanent or continuing. 'A permanent nuisance is generally of a type where a single occurrence causes permanent injury, and damages are assessed once and for all. But where the nuisance involves a use which may be discontinued at any time, it is characterized as a continuing nuisance. The crucial test of a continuing nuisance is whether the offensive condition can be discontinued or abated at any time. "In case of doubt as to the permanency of the injury the plaintiff may elect whether to treat a particular nuisance as permanent or continuing." ' " *Shamsian v. Atlantic Richfield Co.* (2003) 107 Cal.App.4th 967, 979. Under the "'abatability test' … a trespass or nuisance is continuing if it

'can be remedied at a reasonable cost by reasonable means.' " *Madani v. Rabinowitz* (2020) 45 Cal.App.5th 602, 609.

"Where continuing or recurring injury results from a wrongful act or from a condition wrongfully created and maintained, such as a continuing nuisance or trespass, there is not only a cause of action for the original wrong arising when the wrong is committed, but separate and successive causes of actions, for the consequential damages arise as and when such damages are from time to time sustained." *Kafka v. Bozio* (1923) 191 Cal. 746, 751.

Here, the Complaint alleges an ongoing nuisance which could be mitigated or abated, such as through the use of special paddles resulting in a lower decibel of sound or other noise mitigation measures, and Plaintiffs have repeatedly contacted the HOA requesting mitigation of the infiltrating noise but have been ignored. Comp., ¶¶ 1, 45. Additionally, the Complaint alleges Plaintiffs have been unable to enjoy their home due to the ongoing and excessive noise. Comp., ¶¶ 1, 44.

Therefore, the Complaint sufficiently alleges a continuing nuisance, and, thus, is timely.

Third Cause of Action – Breach of Fiduciary Duty

Defendant argues the third cause of action is time-barred by either a three or four-year statute of limitations under Code of Civil Procedure § 338(d) when fraud is alleged or § 343 respectively. The Court disagrees.

"The statute of limitations for breach of fiduciary duty is four years. (§ 343.)" *Stalberg v. Western Title Ins. Co.* (1991) 230 Cal.App.3d 1223, 1230. A breach of fiduciary duty claim is based on concealment of facts, and the statute begins to run when plaintiffs discovered, or in the exercise of reasonable diligence could have discovered, that facts had been concealed." *Ibid.* There are no allegations of fraud in the complaint.

Here, the Complaint alleges Plaintiffs learned of the results of a study of the noise emitting from the pickleball courts on March 4, 2024. Comp., ¶ 28, Ex. H. Therefore, regardless of any allegations of continued nuisance, Plaintiffs only learned defendant was allegedly breaching any applicable noise ordinance and thereby violating its CC&Rs which required it to ensure any illegal activities not be carried on upon any common area. Comp., Ex. A, CC&Rs Article VIII, Section 7.

Fourth Cause of Action – Violation of Nevada County's Noise Ordinance Section 12.04.070

Plaintiff argues the fourth cause of action is based upon a breach of the CC&Rs, rather than the Nevada County Noise Ordinance, and they are seeking relief based on the breach of duty imposed by the HOA rather than relief based on the Ordinance. The Court agrees.

The Complaint alleges the CC&Rs prohibit illegal activities, that the ordinance prohibits sound levels in excess of certain levels, and the pickleball courts generate peak noise levels in excess of certain levels making the activity illegal. Comp., ¶¶ 55-58. The Complaint also alleges such violation occurs on an ongoing basis, and so sufficiently alleges continuing violation of the

ordinance. This is sufficient to plead a violation of a breach of duty imposed by the HOA CC&Rs based on the ordinance.

Fifth Cause of Action – Negligence

Defendant argues the negligence claim is time barred based on the two-year statute of limitations. As discussed above, Plaintiffs have sufficiently alleged continuous negligence.

Sixth Cause of Action – Declaratory Relief

"To qualify for declaratory relief, a party would have to demonstrate its action presented two essential elements: (1) a proper subject of declaratory relief, and (2) an actual controversy involving justiciable questions relating to the party's rights or obligations." *Jolley v. Chase Home Finance, LLC* (2013) 213 Cal.App.4th 872, 909. However, Code of Civil Procedure section 1061 provides "[t]he court may refuse to exercise the power granted by this chapter [declaratory relief] in any case where its declaration or determination is not necessary or proper at the time under all the circumstances," and Section 1061 grants the trial court discretion to dismiss a declaratory relief claim where an adequate remedy exists for the parties to resolve their dispute (i.e., another cause of action) and there are no allegations suggesting declaratory relief will regulate future conduct by the parties. *See Osseous Technologies of America, Inc. v. Discovery Ortho Partners LLC* (2010) 191 Cal.App.4th 357, 374. "The declaratory relief statute should not be used for the purpose of anticipating and determining an issue which can be determined in the main action. The object of the statute is to afford a new form of relief where needed and not to furnish a litigant with a second cause of action for the determination of identical issues." *General of America Ins. Co. v. Lilly* (1968) 258 Cal.App.2d 465, 47.

As discussed above, the Complaint sufficiently alleges a cause of action for declaratory relief seeking a declaration of the parties' rights and obligations based on alleged ongoing nuisance and illegal activity.

Accordingly, the Motion for Judgment on the Pleadings is hereby DENIED.

4. CU0002642 Shawn Desilva vs. Jagwint Singh

Appearances required. The Court is inclined to grant Defendants' unopposed motion to continue trial and all related dates and deadlines pursuant to stipulation of parties. However, the Court notes notice of the motion was insufficient by one (1) day and information in the notice of the motion included incorrect information regarding the department, Court address, and Defendant name. Therefore, the Court must ensure the parties are actually in agreement as to the stipulation filed with the motion.

California Rules of Court, Rule 3.1332(c) states, although "disfavored, each request for a continuance must be considered on its own merits. The court may grant a continuance only on an affirmative showing of good cause requiring the continuance." Cal. Rules Ct., Rule 3.1332(c). Circumstances that may indicate good cause include "[a] party's excused inability to obtain essential testimony, documents, or other material evidence despite diligent efforts." Cal. Rules Ct., Rule 3.1332(c)(6).

Defendant moves the Court for an order continuing the trial date in this action, which is currently set for August 27, 2026. Defendant states due to an inadvertent oversight, his counsel missed the cutoff to request oral argument at the Case Management Conference and was unavailable to advise the court of her unavailability on that trial date during which time she will be engaged in another trial. Talmachoff Decl., ¶ 4. Defendant also attaches a signed stipulation by both parties to request a trial continuance based on the unavailability. Talmachoff Decl., ¶ 5, Ex. A. Defendant notes there have been no prior requests for trial continuance, there are no reasonable alternative means to address the issue, and no party will suffer prejudice. The parties stipulate to requesting a continuance of approximately seven (7) months to accommodate their availability.

Based on the moving papers and declaration submitted in support thereof, the Court finds good cause to grant a continuance. However, the Court requires parties to appear, as noted above, to confirm their agreement, to confirm availability for continued dates, and to set dates less than the amount of time requested for continuance based on the Trial Delay Reduction Act.

5. CU0002912 Jake Emmet Mojica, an individual vs. Clete Steinwand, LLC, a limited liability company et al

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 over five (5) 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 January 15, 2027 at 11:00 a.m.

6. CU0003120 Joshua Edward Gillespie vs. Derick Anthony Taylor

Appearances required at the continued hearing for the request for restraining order.

7. TCU18-7124 ROXANNE T JEN vs. MICHAEL P LONEY

The ex parte application of court appointed referee for final discharge and order is granted as prayed.