

**Tentative Rulings and Resolution Review Hearings
March 20, 2023
Department 3**

This Court does not follow the procedures described in Rules of Court, Rule 3.1308(a). Tentative rulings appear on the calendar outside the court department on the date of the hearing, pursuant to California Rule of Court, Rule 3.1308(b)(1). As a courtesy to counsel, the court also posts tentative rulings no less than 12 hours in advance of the time set for hearing. The rulings are posted on the court’s website (www.shasta.courts.ca.gov) and are available by clicking on the “Tentative Rulings” link. A party is not required to give notice to the Court or other parties of intent to appear to present argument.

In furtherance of compliance with the California Department of Public Health and CDC guidelines and recommendations, the Superior Court of California, County of Shasta is continuing to undertake precautionary measures to ensure the health and safety of the courthouse users. Persons are encouraged to make appearances telephonically, through CourtCall (888-882-6878; courtcall.com).

8:30 a.m. – Law & Motion

**COX VS. ANGELL
Case Number: CVPO21-0198505**

Tentative Ruling on Order to Show Cause Re: Sanctions: An Order to Show Cause Re: Sanctions issued on February 9, 2023 to Defendant, in pro per, for failure to comply with the Court’s Order dated November 7, 2022. On November 7, 2022, Defendant was ordered to serve Plaintiff with his Answer that was filed on September 26, 2022. The Court notes that, as of February 27, 2023, Paul C. Meidus is now attorney of record for Defendant. The Court has reviewed the Declaration filed by Paul C. Meidus untimely filed on March 15, 2023. To date, the Answer has still not been served on Plaintiff, notwithstanding the Court’s November 7, 2022 order to do so, although attorney Meidus promises to do so before March 31, 2023. The Court finds no reasonable excuse why such a simple order from the Court, issued 4 months ago, has not been complied with. The Order to Show Cause is **GRANTED** as against Defendant Brandon Angell, individually, in the amount of \$250.00. Said sum shall be payable to the Court within 30 days of this order. This matter will be on calendar on **Monday, April 24, 2023 at 9:00 a.m. in Department 3** for review regarding status of service of the Answer and trial setting.

**DRISKELL VS. BALDEN
Case Number: CVCV20-0195151**

Tentative Ruling on Order to Show Cause Re: Dismissal: An Order to Show Cause Re: Dismissal (hereinafter “OSC”) issued on April 20, 2021 to Plaintiff Jason Driskell for his failure to timely serve the Defendant as required by 3.110(b). On June 28, 2021, the matter was continued to December 20, 2021 to provide Plaintiff additional time to effectuate service. The matter was continued again to March 21, 2022, then again to today’s date. During this time, no response to the OSC has been filed, however, Plaintiff has sent several letters to the Court. Although the

correspondence was not in an appropriate format for filing, and some appeared to be ex parte communications, as Plaintiff is the only party to have made an appearance in this case, in the interest of justice, the Court chose to consider the correspondence.

The Court starts this analysis with the principle of providing in propria persona litigants with meaningful access to the courts and of deciding bona fide civil actions on their merits in mind. The Court is aware that Plaintiff is an incarcerated litigant who is not represented by counsel.

In the four documents received by the Court since the last hearing on March 21, 2022, Plaintiff does not address the reasons for the delay in service or describe any attempts that he has made to serve Defendant. Plaintiff's failure to address the service issue is not caused by his incarcerated status as evidenced by the four times Plaintiff has mailed a document to the Court since the last hearing. Plaintiff has made no attempt in the past year to provide good cause for the continued violation of CRC 3.110(b).

The Court notes that the Complaint was filed on June 5, 2020 and that the Complaint still has not been served. The Order to Show Cause Re: Dismissal was issued on April 20, 2021 and no affirmative steps have been made to effectuate proper service since the Court continued the case for a year in order to provide Plaintiff to do so. The Court has explained in previous minute orders that Plaintiff's incarcerated status does not prevent him from effectuating service. Plaintiff has been reminded in previous rulings that the sheriff or marshal of any county is eligible to serve process. Gov. Code §§ 26665, 26608. Plaintiff has also been reminded that any person who is at least 18 years of age and not a party to the action may serve a summons. CCP § 414.10. Despite the Court informing Plaintiff that he may appear remotely via CourtCall and that he can set up a call through the litigation coordinator, Plaintiff has not appeared in court. In order to keep Plaintiff informed of the status of these proceedings, the Court has mailed the minute orders for each hearing to Plaintiff. The clerk has also previously mailed a copy of the summons to Plaintiff.

The Court has taken numerous steps to ensure that Plaintiff's position as an incarcerated litigant would not prevent meaningful access to justice. The Court finds that Plaintiff has been given meaningful access to justice, however, Plaintiff has chosen to not address the service issue nor attempt to effectuate proper service. There is no sufficient excuse for the delay and it does not appear to the Court that lesser sanctions would be effective. The Court orders this case **DISMISSED** without prejudice pursuant to Gov. Code § 68608(b). Any future dates are vacated. The clerk is directed to close the file. In light of the dismissal, the monetary sanctions imposed on April 20, 2021 are hereby **DISCHARGED**.

ERIC ALAN BERG AND ASSOCIATES, INC. VS. HOLZEM
Case Number: 22CVG-00333

Tentative Ruling on Order to Show Cause Re: Sanctions: An Order to Show Cause Re: Sanctions (hereinafter "OSC") issued on January 26, 2023 to Plaintiff and counsel for failure to abide by CRC 3.110. The Complaint in this matter was filed on April 28, 2022. A proof of service should have been filed within sixty days of the filing of the Complaint. CRC 3.110(b). There is no proof of service on file. Plaintiff did not provide a written response to the OSC.

With no sufficient excuse for the delay, sanctions are imposed in the amount of \$250.00 against Plaintiff and counsel. The clerk is instructed to prepare a separate Order of sanctions. The Court

will issue an Order to Show Cause Re: Dismissal pursuant to Gov't Code Section 68608(b) to Plaintiff and counsel for failure timely serve the Complaint and failure to prosecute. The hearing on the Order to Show Cause Re: Dismissal is set for **Monday, May 22, 2023 at 8:30 a.m. in Department 3**. The clerk is instructed to prepare a separate Order to Show Cause Re: Dismissal. This matter is also calendared on **Monday, May 22, 2023 at 9:00 a.m. in Department 3** for review regarding status of dismissal.

ERIC ALAN BERG AND ASSOCIATES, INC. VS. DONATO-VERVAEKE
Case Number: 22CV-0199622

Tentative Ruling on Order to Show Cause Re: Sanctions: An Order to Show Cause Re: Sanctions (hereinafter "OSC") issued on January 30, 2023 to Plaintiff and counsel for failure to comply with CRC 3.110. The Complaint in this matter was filed on April 28, 2022. A proof of service should have been filed within sixty days of the filing of the Complaint. CRC 3.110(b). There is no proof of service on file. Plaintiff did not provide a written response to the OSC.

With no sufficient excuse for the delay, sanctions are imposed in the amount of \$250.00 against Plaintiff and counsel. The clerk is instructed to prepare a separate Order of sanctions. The Court will issue an Order to Show Cause Re: Dismissal pursuant to Gov't Code Section 68608(b) to Plaintiff and counsel for failure timely serve the Complaint and failure to prosecute. The hearing on the Order to Show Cause Re: Dismissal is set for **Monday, May 22, 2023 at 8:30 a.m. in Department 3**. The clerk is instructed to prepare a separate Order to Show Cause Re: Dismissal. This matter is also calendared on **Monday, May 22, 2023 at 9:00 a.m. in Department 3** for review regarding status of dismissal.

IN RE: HUNTER
Case Number: 23CV-0201311

Tentative Ruling on Petition for Change of Name: Petitioner Jeannine Michelle Hunter seeks to change her name to Jeannine Michelle Cruse. All procedural requirements of CCP §§ 1275 et. seq. have been satisfied. The Petition is **GRANTED**. All future dates will be vacated and the file closed upon the processing of the Decree Changing Name.

IN RE J.G. WENTWORTH ORIGINATIONS, LLC
Case Number: 23CV-0201567

Tentative Ruling on Petition for Approval for Transfer of Payment Rights: Petitioner, J.G. Wentworth Originations, LLC, petitions for Approval for Transfer of Payment Rights. The operative pleading is the Amended Verified Petition which seeks Court approval to transfer Shannon Vallejo's annuity payments to J.G. Wentworth Originations, LLC. As a preliminary matter, Amended Verified Petition was filed on February 27, 2023 and served on all interested parties by overnight mail on February 23, 2023. Insurance Code § 10139.5(f)(2) requires that Petitioner give 20 days' notice, thus service of the First Amended Verified Petition was timely.

The Petition seeks to transfer \$2,000 monthly payments from February 1, 2030 through January 1, 2038 (96 payments totaling \$192,000) in exchange for a one-time payment of \$70,000. Insurance Code § 10134 et seq. sets forth the various procedural requirements for the transfer of a structured settlement. The crux of approving or denying the present Petition is whether the transfer

is “fair and reasonable and in the best interest of the payee, taking into account the welfare and support of his or her dependents.” Ins. Code § 10137(a).

The Court was not provided with sufficient evidence to grant this Petition. The Payee Declaration contains an incorrect date for the end of the payments being transferred as it lists the end date as January 1, 2036. *Payee Decl.* ¶ 5. Nothing was provided detailing the Payee’s living expenses. The underlying settlement agreement was not filed with the Court. The Request for Dismissal filed as Ex. F does not contain the terms of the underlying settlement.

Additionally, Footnote 2 on page 8 of the Amended Verified Petition lists Case No. 200260 as a previously granted Petition. On its own motion, the Court takes judicial notice of the following from Shasta County Superior Court Case No. 200260.

- The October 31, 2022 Ruling
- The December 19, 2022 Ruling

It appears from both of these Rulings that information pertinent to this Petition was not included in this Petition. Shannon Vallejo and Mark Vallejo were no longer married at the time of his death. Pursuant to Prob. Code § 5040(a), the beneficiary designation would fail absent the circumstances listed in Prob. Code § 5040(b). No evidence has been provided that any of the circumstances in Prob. Code § 5040(b) apply. Additionally, this Petition was brought by Shannon Vallejo as the Administrator of the Estate of Mark Anthony Vallejo. Annuities are contractual in nature and typically contain provisions for nonprobate transfers. Probate Code § 5000; *Estate of Petersen* (1994) 28 Cal. App. 4th 1742, 1751. Therefore, the annuity would only be an estate asset if the named beneficiary was the Decedent’s Estate. The only evidence provided here lists Shannon Vallejo (Spouse) as the primary beneficiary and Sabrina M. Vallejo (Daughter) as the secondary beneficiary. *Amended Petition Ex. C.*

The Amended Verified Petition is **DENIED** without prejudice. A proposed Order was provided that will be modified to reflect the Court’s ruling.

JPMORGAN CHASE BANK, N.A. VS. FARRAR
Case Number: 22CVG-00625

Tentative Ruling on Motion to Set Aside Default and Default Judgment: Defendant Richard L. Farrar moves to set aside the default and default judgment entered on December 19, 2022. The Motion is unopposed. The Court notes that according to the court’s case management system, an Opposition may have been presented for filing on March 13, 2023, however, this document was returned to Plaintiff as the document did not include an original signature and was not filed by fax. The Court further notes that an Opposition to this matter was due to be filed no later than March 7, 2023. Filing on March 13, 2023 would have been untimely. The Court has the discretion to not consider late filed papers. CRC 3.1300(d); *Rancho Mirage Country Club Homeowners Assn. v. Haselbaker* (2016) 2 Cal. App. 5th 252. However, due to the attempt to file an Opposition, the Court will entertain an oral opposition at the time of the hearing.

Merits. Plaintiff moves to set aside the default and default judgment based on counsel’s mistake, inadvertence, surprise, or neglect.

The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken.

...

Notwithstanding any other requirements of this section, the court shall, whenever an application for relief is made no more than six months after entry of judgment, is in proper form, and is accompanied by an attorney's sworn affidavit attesting to his or her mistake, inadvertence, surprise, or neglect, vacate any (1) resulting default entered by the clerk against his or her client, and which will result in entry of a default judgment, or (2) resulting default judgment or dismissal entered against his or her client, unless the court finds that the default or dismissal was not in fact caused by the attorney's mistake, inadvertence, surprise, or neglect.

CCP § 473(b).

Strong public policy favors trial on the merits. *Fasuyi v. Permatex, Inc.* (2008) 167 Cal. App. 4th 681, 694-703. Any doubts in applying CCP § 473 must be resolved in favor of the party seeking relief from default. *Elston v. City of Turlock* (1985) 38 Cal. 3d 227, 233.

In this matter, the parties reached an agreement that pending a fraud investigation, no answer was due and default would not be entered. Defendant has presented evidence that a letter was sent to Defendant's counsel in November of 2022, however, that letter was not authored by the attorney with whom counsel had been communicating, was not addressed to Defendant's counsel, made no reference to the pending lawsuit, and made no mention of terminating the agreed upon extension. *Reply Decl. Randall C. Nelson*, ¶ 3. Counsel does not recall reviewing this letter, however, he did provide evidence that had he reviewed the letter, he did not interpret the letter to terminate the agreed upon extension. *Id.* Immediately upon learning that default and default judgment had been entered, Defendant's counsel contacted Plaintiff's counsel seeking to set aside the default and default judgment. Defendant's counsel then followed up with counsel again less than one month later when he did not hear back. It appears that there may have been an issue with emails going to a spam folder that resulted in Defendant's counsel not receiving communications from Plaintiff's counsel.

Where an attorney affidavit of fault is filed, there is no requirement that the attorney's mistake, inadvertence, etc. be excusable. Relief must be granted even where the default resulted from inexcusable neglect by defendant's attorney. *Standard Microsystems Corp. v. Winbond Electronics Corp.* (2009) 179 Cal. App. 4th 868, 897. In this matter, relief is not discretionary as Defendant's counsel has stated that default was due to his mistake, inadvertence, or neglect.

However, the Court also finds that discretionary relief under CCP § 473(b) is warranted. In this matter, Defendant was diligent in seeking to set aside the dismissal as his attorney acted immediately upon learning of the default. This motion was filed well within the six month time limit. A proposed Answer was provided to the Court. Specific facts have been shown that the failure to file a responsive pleading was the result of mistake of fact that the agreed upon extension

was still in place. This was a reasonable mistake given the lack of detail in the November 2022 letter as well as the lack of receiving emails. Even assuming negligence on behalf of counsel, this would be excusable negligence as the November 2022 letter did not make it clear to counsel that the agreement had been terminated. There is no evidence that Plaintiff's counsel followed up with Defendant's counsel via telephone when there was no response to the November 2022 letter or emails that were sent. It appears that the reason a responsive pleading was not filed is simply because Defendant's counsel and Defendant were unaware that the fraud investigation had been completed and that Plaintiff considered the agreed upon extension has terminated.

The Court finds that both mandatory and discretionary relief is appropriate under these circumstances. "The court shall, whenever relief is granted based on an attorney's affidavit of fault, direct the attorney to pay reasonable compensatory legal fees and costs to opposing counsel or parties." CCP § 473(b). As relief is not solely based on an attorney affidavit of fault and there is nothing before the Court regarding compensatory legal fees or costs, the Court finds that Defendant's counsel shall pay \$0.

The Motion to Set Aside Default and Default Judgment is **GRANTED**. A proposed Order was submitted and will be executed by the Court. Defendant is granted ten days leave to file the Answer. The matter is calendared on **Monday, April 17, 2023 at 9:00 a.m. in Department 3** for trial setting.

LVNV FUNDING LLC VS. HANRAHAN

Case Number: CVG21-0000655

Tentative Ruling on Order to Show Cause Re: Dismissal: An Order to Show Cause Re: Dismissal (hereinafter "OSC") issued on January 17, 2023 to Plaintiff for failure comply with the Court's Order dated December 19, 2022. A Conditional Notice of Settlement was filed on June 23, 2022 stating that the matter would be dismissed by May 30, 2024. On June 27, 2022, the Court issued an Order explaining that the court does not have the staffing to monitor a case for years to assure closure of the court file and encouraged a resolution that results in a conditional dismissal. The Court reiterated this in its December 19, 2022 Ruling. Plaintiff has had ample time to take the steps necessary to effect a closure of the court file. Since the Court's Order dated December 19, 2022, it appears that Plaintiff has done nothing. Plaintiff did not provide a written response to the OSC.

With no sufficient excuse for the noncompliance with the Court's Order, and because lesser sanctions would not be effective, the Court orders this case **DISMISSED** without prejudice pursuant to Gov. Code § 68608(b). Any future dates are vacated. The clerk is directed to close the file.

MILLER, ET AL VS. MARTINEZ, ET AL

Case Number: CVPM21-0198045

Tentative Ruling on Petition to Approve Minor's Compromise: Petitioner/Guardian Ad Litem Michael Loey seeks an order approving the compromise of claims on behalf of his great niece, Brooklyn Houston. California Rules of Court, Rule 7.950 states that a petition for court approval of a minor's compromise must contain a full disclosure of all information that has any bearing upon the reasonableness of the compromise. The record before the Court does not contain

sufficient information for the Court to approve the Petition.

The minor is listed as an “heir” to Decedent Ashley Wright. It is unclear from the Petition what the relationship is between the minor and Ashley Wright and whether Ashley Wright was providing any care to the minor. The Petition does not provide any reasoning for splitting the settlement proceeds in the manner described in the Petition other than indicating that an agreement was reached. There is insufficient information before the Court for the Court to make a determination that dividing the settlement proceeds into five equal shares is reasonable.

Additionally, the gross settlement is listed as being the insurance policy limit, however, no information was provided regarding the value of the case and other assets of the Defendants, or the availability of underinsured motorist coverage. The Complaint lists the vehicle as being owned by both Defendants and the Petition lists Defendant Sadiel Ramon Martinez as the driver. Evidence of any other assets owned by either Defendants as well as evidence regarding whether any other insurance policies may apply will be required in order the Court to consider the Petition.

Hearing on the Petition is continued to **Monday, April 17, 2023 at 8:30 a.m. in Department 3.** Any additional briefing or evidence must be filed no later than April 10, 2023. **No appearance is necessary on today’s calendar.**

NAT. COLL. STUDENTLOAN TRUST 2007-4 VS. MURPHY, ET AL
Case Number: CVG15-0000613

Tentative Ruling on Motion to Set Aside CCP 664.6 Dismissal and Enter Judgment: Plaintiff National Collegiate Student Loan Trust 2007-4, moves to vacate the prior dismissal and enter judgment against Defendant Deborah Murphy pursuant to the terms of the Conditional Stipulated Settlement and CCP § 664.6. The present motion is unopposed. There is a proof of service on file indicating timely notice to Defendant.

Merits: CCP § 664.6 provides the Court with authority, upon motion, to enter judgment pursuant to the terms of a settlement agreement entered into in writing, or orally before the Court. If requested by the parties, the Court also retains jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement. *Id.*

In this action, the parties entered into a Conditional Stipulated Settlement. Defendant executed the agreement on August 25, 2016 while Plaintiff executed the agreement on September 14, 2016. The settlement was filed with the Court on December 1, 2016. On December 9 2016, the Court issued an order based on the settlement which conditionally dismissed this action and which provided for retained jurisdiction pursuant to CCP § 664.6.

The settlement provided for the entry of judgment in the amount of \$15,270.80 but stayed entry of judgment so long as Defendant paid a total of \$6,210.00 on a specific payment plan. If Defendant defaulted, the agreement provided that Plaintiff was entitled to set aside the dismissal, have the Court resume jurisdiction and enter judgment pursuant to CCP § 664.6 in the amount of \$15,270.80 minus any credits.

The declaration of counsel provides that Defendant only made \$964.00 in payments and that she is currently in default having failed to make any payments since April 2020. Plaintiff requests

entry of judgment in the amount of \$14,284.80 (\$15,270.80 minus credits in the amount of \$964). Costs and attorney's fees have not been requested.

Plaintiff has sufficiently shown that Defendant has breached the terms of the settlement by failing to make payments as promised and is entitled to judgment. The motion is **GRANTED**. The Conditional Dismissal is **VACATED**. Plaintiff is awarded judgment in the amount of \$14,284.80. A proposed order and judgment were lodged with the Court and will be executed.

IN RE: RECUPERO

Case Number: 22CV-0201107

Tentative Ruling on Petition for Change of Name: Petitioner Sophia Recupero seeks to change the name of her minor daughter. No proof of publication has been submitted. The Court requires a Certificate of Publication from the publishing newspaper before the Petition may be granted. Additionally, the non-petitioning parent must be personally served with a copy of the Amended Order to Show Cause at least 30 days prior to the hearing. CCP § 1277(a)(4). There is no proof of service for the non-petitioning parent. If Petitioner appears with the proof of publication and proof of timely personal service at the hearing the Court intends on granting the Petition. Otherwise, the Petition will be denied or the hearing continued if requested by the Petitioner.

TOWNE, ET AL. VS. WINDSOR REDDING CARE CENTER LLC, ET AL.

Case Number: CVPO22-0198907

Tentative Ruling on Motion to Compel Further Responses: Plaintiffs move to compel further responses to Request for Production, Set Two propounded on Defendant Windsor Redding Care Center (hereinafter "Windsor"). Specifically, Plaintiffs move for further responses to Request Nos. 16 - 21, and 23. Plaintiffs also request sanctions in the amount of \$1,200.

Merits of Motion: A propounding party may move for an order compelling further responses if: 1) the response to a request for production is incomplete; 2) a representation of inability to comply is inadequate, incomplete, or evasive; or 3) an objection to the request is without merit or too general. CCP § 2031.310(a). A motion to compel further responses for production must show "good cause" for the request. CCP § 2031.310(b)(1). "Good cause" can be established by showing the request was made in good faith and the documents sought are relevant to the action. *Associated Brewers Distributing Co. v. Superior Court of Los Angeles County* (1967) 65 Cal.2d 583, 588.

Request No. 16: This request seeks production of Windsor's grievance policy. Windsor is required to establish such a policy and provide it upon request to a resident. 42 C.F.R. § 483.10(j)(4). Windsor agreed to produce the document but initially failed to produce the document. Windsor's opposition states that the document has been produced; however, Plaintiffs dispute this fact. As it appears undisputed that the document should be produced, the Court will order its production.

Request No. 17: This request seeks production of any grievances from October 1, 2020 through October 1, 2021. Plaintiffs contend the documents will show that Windsor was aware of deficiencies in its facility and failed to address them. Windsor submitted objections and stated it would produce grievances filed by Plaintiff Douglas Towne only. A review of Windsor's

objections show them to be unspecific and boilerplate. Windsor has also failed to provide an explanation as to why grievances of other residents would invade any privacy right or be irrelevant. The Court finds the objections to be without merit. The objections are overruled. A further response is required.

Request No. 18: This request seeks production of the “resident council meeting minutes” from October 1, 2020 through October 1, 2021. Windsor, as a skilled nursing facility, is required to establish and facilitate resident council meetings to enable residents or their families to express concerns about the facility or their living situation. H&S § 1418.2; 42 C.F.R. § 483.0(f)(5). Plaintiff contends the documents would show any issues or concerns raised by the residents or family which would show that Windsor was aware of deficiencies at its facility and failed to act. Windsor agreed to produce the documents but limited the timeframe from October 1, 2020 through May 2021 when Douglas Towne ceased being a resident. Windsor also stated the production would be subject to redaction for any confidential, proprietary or privileged information. Windsor’s opposition provides that redacted resident council meeting minutes have now been provided but does not specify the timeframe. The Court finds that the one-year timeframe in the request is appropriate. The Court also finds that the objections are without merit. A further response is required.

Request No. 19: This request seeks production of the “in-service calendar” from October 1, 2020 through October 1, 2021. Windsor’s Director of Nursing testified at her deposition that the topics for this calendar were selected on what the facility was doing good or bad. Plaintiffs contend the calendar including for the limited time after Douglas Towne left would show patterns of negligent and deficient practices at the facility. Windsor only agreed to produce the calendar for October 1, 2020 through May 2021, subject to redaction as noted above. The Court finds that the one-year timeframe in the request is appropriate. The Court also finds that the objections are without merit. A further response is required.

Request Nos. 20 & 21: This request seeks production of the “fall binder” and “pressure ulcer binder” from October 1, 2020 through October 1, 2021. Windsor’s facility maintained a fall binder and pressure ulcer binder. It is alleged Douglas Towne suffered from both due to Windsor’s neglect. Windsor only agreed to produce the binder for October 1, 2020 through May 2021 related to entries relating to or pertaining to Douglas Towne. One of Windsor’s objections are that the documents are private. Windsor has the burden of establishing that the information is protected from disclosure. *Sierra Vista Hospital v. Superior Court* (1967) 248 Cal.App.2d 359. The information contained in the two binders would appear to include private medical information of third parties. As such the production should be limited to only the Decedent and/or include the incidents related to others but redacting identity information. Based on the foregoing, the Court will order the production of two logs. The logs shall be redacted to remove the name of any individual other than David Towne.

Request No. 23: This request seeks any correspondence with consultants related to Plaintiff Douglas Towne. Plaintiffs contend the documents are highly relevant. The Nursing Director testified at her deposition that the facility used nursing consultants to assess issues at the facility. Correspondence from one of these consultants related to Douglas Towne would certainly be relevant and discoverable. Windsor has objected to the production and refused to produce any of the documents based on the objection. The Court finds the objections to be without merit. A further response is required.

Sanctions: Sanctions are mandatory against a party that unsuccessfully makes or opposes a motion to compel further responses unless the party subject to sanctions acted with substantial justification or other circumstances makes the imposition of sanctions unjust. CCP § 2030.300(d). Plaintiffs requested sanctions in the amount of \$1,200 which amounts to four hours at the rate of \$300 per hour. The Court finds the \$300 hourly rate to be reasonable. The Court finds that Windsor has not substantially complied with its obligations under the Civil Discovery Act. Sanctions are imposed in the amount of \$1,200.

The motion is **GRANTED**. Sanctions are awarded in the amount of \$1,200. Further responses and the sanctions are due 30 days after service of the notice of entry of order. Plaintiffs shall prepare a new order consistent with the Court's final ruling.

Tentative Ruling on Motion for Sanctions: Plaintiffs move for an award of sanctions against Defendants Windsor Redding Care Center LLC, S&F Management Company, LLC and Windsor Norcal 13 Holdings, LLC (collectively "Defendants").

Merits of Motion: Plaintiffs move for the imposition of sanctions against Defendants pursuant to CCP §§ 128, 128.5, 177.5, 1209, 1211, 1211.5, 1212 and 2023.030. The claimed basis for the sanctions is Defendants violation of the Court's order dated December 12, 2022. The Court's minute orders issued for that day required further responses and the imposition of sanctions. On December 19, 2022, the Court executed written orders requiring the further responses and sanctions to be paid within 30 days of December 12, 2022. Defendants do not dispute that it failed to provide the further responses within the 30 day period. Likewise, Defendants do not dispute that it failed to pay the sanctions within the required 30 day time period.

The undisputed evidence is that Defendants violated the Court's prior order. However, the undisputed evidence also establishes that Defendants have now provided the further responses and paid the sanctions in full. The Court finds that there was indeed a violation of the Court's order. Counsel should understand there will always be a consequence for violating a Court order. This is particularly so where, as here, the violation is not simple oversight, but violation of an order that was generated due to counsel's prior failure to abide by the law. Thus, payable sanctions are no longer "fee shifting," but based upon non-discovery statutes as noted above.

Defendants concede they did not timely comply with the Court's order but insist the delay was due to "a series of unrelated and unforeseen events" and that there is no prejudice to plaintiffs since they have now received the further responses and sanction payments. It appears to the Court that Defendants understand neither the letter or spirit of the discovery laws, nor the Court's resolve to enforce its orders. If they were unable to timely comply, they should have obtained a stipulated extension from opposing counsel or relief from the Court.

The Court declines to issue additional monetary sanctions at this time. However, Defendants are admonished to timely and completely comply with all court orders in this matter in the future. This case is replete with law and motion practice far exceeding what the Court normally encounters with a case of this nature, and the Court is unimpressed with the parties' failures to meet and confer and resolve litigation conflicts. The Court finds that the monetary sanctions that have been imposed have not been effective in stemming the bad behavior the Court has witnessed in this case, including the conduct complained of herein. Therefore, it is the intent of the Court to leave

the instant motion with this simple admonishment, and the parties should understand that the Court now considers more serious graduated sanctions to be appropriate. Although the Court maintains its authority to continue issuing monetary sanctions, Defense counsel is admonished for its failure to timely comply with the Court's order. Defense counsel is further warned that any further violations may justify the imposition of contempt proceedings or sanctions including evidentiary or terminating sanctions for future discovery misuses.

The motion is **DENIED**. Plaintiff shall prepare the order.

9:00 a.m. – Review Hearings

COFFEE VS. TAYLOR

Case Number: CVPM22-0199065 (Consolidated with: 199157)

This matter is on calendar for review to confirm hearing dates. This matter was recently consolidated with Case No. 199157. A mandatory settlement conference is set in this case for August 14, 2023. Trial is scheduled to commence in this case on October 10, 2023. **The parties are ordered to appear to discuss the currently set dates and to confirm whether they remain viable given the recent consolidation.**

COX VS. ANGELL

Case Number: CVPO21-0198505

This matter was on calendar for review regarding status. Today's review hearing was continued at this morning's 8:30 a.m. Law and Motion calendar. The Court confirms the future review hearing date of April 24, 2023. **No appearance is necessary on today's calendar.**

DRISKELL VS. BALDEN

Case Number: CVCV20-0195151

This matter was on calendar for review regarding status. This litigation was dismissed by the Court at the 8:30 a.m. Law and Motion calendar. **No appearance is necessary on today's calendar.**

DURBIN, ET AL. VS. ARAN INVESTMENTS, INC., ET AL.

Case Number: CVCV21-0197125

This matter is on calendar for review regarding trial re-setting. This litigation is at issue. The Court designates this matter as EXEMPT from the case disposition time standards. Plaintiffs have posted jury fees. Defendants have not posted jury fees. Defendants are granted ten days leave in which to post jury fees. A failure to post jury fees will be deemed a waiver of the right to a jury. **The parties are ordered to appear to provide the Court with available trial dates.**

ERIC ALAN BERG AND ASSOCIATES, INC. VS. HOLZEM
Case Number: 22CVG-00333

This matter was on calendar for review regarding status. Today's review hearing was continued at this morning's 8:30 a.m. Law and Motion calendar. The Court confirms the future review hearing date of May 22, 2023. **No appearance is necessary on today's calendar.**

ERIC ALAN BERG AND ASSOCIATES, INC. VS. DONATO-VERVAEKE
Case Number: 22CV-0199622

This matter was on calendar for review regarding status. Today's review hearing was continued at this morning's 8:30 a.m. Law and Motion calendar. The Court confirms the future review hearing date of May 22, 2023. **No appearance is necessary on today's calendar.**

HUDSON, ET AL. VS. MONSANTO COMPANY, ET AL.
Case Number: 22CV-0200528

This matter is on calendar for review regarding trial readiness. The parties have submitted a Joint Status which requests the Court vacate the current dates to permit the parties to pursue settlement discussions. The Court vacates all future dates. The Court sets this matter for **Tuesday, May 30, 2023, at 9:00 a.m. in Department 3** for trial re-setting. **No appearance is necessary on today's calendar.**

LVNV FUNDING LLC VS. HANRAHAN
Case Number: CVG21-0000655

This matter was on calendar for review regarding status. This litigation was dismissed by the Court at the 8:30 a.m. Law and Motion calendar. **No appearance is necessary on today's calendar.**

MAAS ENERGY WORKS, INC. VS. HANFORD RENEWABLE ENERGY, LLC, ET AL.
Case Number: 22CV-0199564

This matter is on calendar for review regarding status. Defendants were previously defaulted. Their subsequent motion to set aside the default was denied. **The parties are ordered to appear to provide the Court with a status of the litigation.**

RABO AGRIFINANCE, LLC VS. WOOLERY, ET AL.
Case Number: CVCV21-0198097

This matter is on calendar for review regarding status of the preliminary injunction. On January 31, 2022, the Court issued an order, by stipulation of the parties, for a preliminary injunction. The deadlines on the injunction and appointment of a receiver have been extended on numerous occasions by stipulation of the parties. The current orders expire today, March 20, 2023. **The parties are ordered to appear to provide the Court with a status.**

SMITH VS. SMITH JR, ET AL
Case Number: CVCV21-0198673

This matter is on calendar for review regarding status and trial re-setting. At the prior hearing on December 19, 2022, the Court was advised that an Amended Complaint would be filed. No Amended Complaint has been filed. Plaintiff has submitted a Review Statement which identifies ongoing discovery and requests a continuance. In light of the foregoing, this matter is continued to **Monday, June 26, 2023 at 9:00 a.m. in Department 3.** **No appearance is necessary on today's calendar.**

STEVENS VS. EXAMWORKS, LLC, ETAL
Case Number: CVCV21-0197549

This matter is on calendar for review regarding status of removal to Federal Court. On July 19, 2021, the Court received a Notice to State Court of Removal of Civil Action to Federal Court. Based on the Notice, the Court suspended its jurisdiction pursuant to 28 USC § 1446 and set this matter for review regarding status. No documentation has been filed to provide the Court with a status of the federal action or to provide a status whether this case may or will be remanded to this Court. **The parties are ordered to appear to provide the Court with a status of the federal action and to discuss whether this case will be remanded to this Court.**

THE PEOPLE OF THE STATE OF CALIFORNIA VS. \$2,657.00 U.S. CURRENCY
Case Number: 22CV-0199802

This matter is on calendar for review regarding status. On March 16, 2023, the Court executed a stipulated order to return a portion of the funds. Based on the order this matter is now fully resolved. Today's hearing is dropped from calendar. All future dates are vacated. The clerk is instructed to close the file. **No appearance is necessary on today's calendar.**