

**Judge Mosbarger – Law & Motion – Wednesday, July 17, 2024 @ 9:00 AM  
TENTATIVE RULINGS**

**1. 19CV02689 CALIFORNIA STATE GRANGE, A CALIFORNIA NONPROFIT CORPORATION V. PARADISE COMMUNITY GUILDS, AN ENTITY OF UNKNOWN FORM**

*EVENT: Order of Examination (Paradise Community Guilds)*

The Court will swear in the Judgment Debtor for examination.

**2. 20CV01220 CALIFORNIA OPEN LANDS V. BUTTE COUNTY DEPARTMENT OF PUBLIC WORKS**

*EVENT: Plaintiff's Motion for Appellate Attorneys' Fees*

Defendant's Request for Judicial Notice is granted. The Court finds that the amounts of time claimed are not facially excessive or unreasonable, except for the following: 2.1 hours [as set forth in the Opposition at Defendant's Table 3] for administrative tasks, and 1.4 hours [as set forth in the Opposition at Defendant's Table 1] for timekeeping/inconsistent errors.

The Court therefore awards the following attorneys' fees:

Mr. Packard:	24.9 hours x \$825/hour =	\$20,542.50
Mr. Acree:	183.7 hours x \$750/hour =	\$137,775.00
Mr. Carlon:	108.0 hours x \$400/hour =	<u>\$43,200.00</u>
	Total =	\$201,517.50

Counsel for the Plaintiff shall submit a form of order consistent with this ruling within two weeks.

**3. 21CV02330 DECKER, MICHAEL P ET AL V. SIERRA PACIFIC LAND & TIMBER COMPANY ET AL**

*EVENT: Motion of Sierra Pacific Industries, Inc. to Compel Further Responses to Request for Production of Documents, Set No. One; to Compel Compliance with Plaintiff's Agreement to Produce Documents; and Request for Monetary Sanctions*

The Motion is GRANTED in its entirety.

The Court finds that although the parties may be in the process of negotiating a settlement agreement in which Plaintiffs would agree to withdraw some or all of their claims in this action, and Plaintiffs intend to narrow their complaint should settlement fail, neither of these events has occurred and thus the requested discovery remains viable and good cause exists to seek the relief requested by this Motion. The Court further finds that the meet and confer efforts in relation to this Motion were sufficient and in good faith.

In regard to the substantive objection to Request Nos. 1-3, 5, 7-9, 11, 13-17, 19, 22-24, 26, 28-29, the Court finds that the Requests mirror the allegations in the Third Amended Complaint, are not overbroad, and are made with reasonable particularity. The Motion is thus granted, and Plaintiffs shall provide further Code-compliant responses to Request Nos. 1-3, 5, 7-9, 11, 13-17, 19, 22-24, 26, 28-29 within 10 days' notice of this ruling.

In regard to Request Nos. 12, 21, 25, 27, 30 and 31, the Court finds that a Separate Statement is not required where a party is seeking to compel the production of promised documents and is not seeking to compel a further response to a discovery request, which is the case here. The Motion is thus granted, and Plaintiffs shall produce the responsive documents to Request Nos. 12, 21, 25, 27, 30 and 31 within 10 days' notice of this ruling.

Sanctions are awarded against Plaintiff Michael Decker in the amount of \$5,000 to be paid within 30 days' notice of this ruling.

The Court will utilize the form of order submitted by counsel with modification to the deadline to provide further responses and the sanctions awarded.

**4. 21CV02434 KITCHEN, IVANELL ET AL V. WINDSOR CHICO CREEK CARE AND REHABILITATION CENTER, LLC ET AL**

*EVENT: Motion to Compel Further Responses to Request for Production of Documents & Special Interrogatories*

As to the Special Interrogatories, Defendants state that “[o]n June 20, 2024, Defendant served its Verified Supplemental Response to Plaintiff’s Special Interrogatories, set 7.” [See, Defendants’ Opposition at Pg. 2, Lines 3-5.] This is confirmed by Plaintiffs in the Reply. [See, Reply at Pg. 1, Lines 25-26.] As such, the Motion as to Special Interrogatories, Set 7, is moot is denied on that basis.

As to Requests for Production of Documents, a foundational issue is raised by Plaintiffs that the responses to the Requests for Production, Set 7, are unverified. Plaintiffs argue correctly that the failure to provide verified responses is tantamount to no response at all, and Defendant has waived their objections. See, e.g., Zorro Inv. Co. v. Great Pacific Securities Corp. (1977) 69 Cal.App.3d 907, 914; Appleton v. Super. Ct. (1988) 206 Cal.App.3d 632, 636. As such, the Motion is granted on that basis as to the Requests for Production, Set 7.

As to the specific Requests at issue, the Court further finds as follows:

Request No. 82: Defendant indicates that it has obtained the requested audit logs pursuant to Plaintiffs’ RFP No. 82, “and will produce the audit logs with the supplemental responses to Plaintiffs’ request for production set 7, shortly.” As such, the Motion is deemed unopposed is granted as to Request No. 82. The Court does confirm that the relevant time period for the production of responsive documents for Request No. 82 is 6 months before and 6 months after the admission of Mrs. Kitchen.

Request Nos. 85-92: Defendant suggests that it has in its possession documents responsive to these requests and objects only on the basis that Plaintiffs have failed to agree to a protective order. This is not a proper objection and absent a motion before the Court for such an order, the documents are to be produced. The Motion is granted as to Request Nos. 85-92.

Request Nos. 94-96: Defendant indicates that the parties met and conferred, and following negotiations reached an agreeable search term list and “will run the agreed-upon search, sans “reimburse!”, and product the results of the search with the supplemental responses to Plaintiff’s request for production set 7, shortly.” As such, the Motion is deemed unopposed is granted as to Request Nos. 94-96.

Request No. 98: Defendant indicates that it has obtained the requested Key Factor Reports and will produce them “with the supplemental responses to Plaintiff’s request for production set 7, shortly.” As such, the Motion is deemed unopposed is granted as to Request No. 98.

Request Nos. 99-101: Defendant states that it has performed a diligent search and a reasonable inquiry to comply with the request for facility assessments but to date has not yet located the requested documents and will continue its diligent search and provide a further update in its supplemental responses. If there are no documents responsive to these Requests, Defendant shall provide Code compliant responses so indicating.

Request Nos. 105-107: Defendant states that it has performed a diligent search and a reasonable inquiry to comply with these requests but is unable to comply because the document is no longer in the possession, custody, or control of Defendant, other than the photo of page one of the waiver that was produced to Plaintiff in Defendants’ initial response. Pursuant to CCP §2031.230, Defendant believes that the California Department of Public Health has possession, custody, or control of the entire staffing waiver requested by Plaintiffs. Defendant shall provide Code compliant responses so indicating.

Defendant is ordered to provide further verified responses to Request for Production, Set 7, including production of all responsive documents without objection, within 20 days’ notice of this order. Counsel for the Plaintiffs shall submit a form of order consistent with this ruling within two weeks.

## **5. 24CV01925 IN RE: CLAIM OF LUX VENDING, LLC**

*EVENT: Motion for Return of Property*

This matter has been reassigned and is continued to Monday, August 5, 2024 at 8:30 a.m. to be heard by Judge Merrifield in Courtroom 3 at the North Butte County Courthouse in Chico. Counsel may appear by Court Call and shall provide notice.