

**Judge Mosbarger – Law & Motion – Wednesday, November 13, 2024 @ 9:00 AM
TENTATIVE RULINGS**

1-2. 22CV01078 FORNESS CONSTRUCTION, INC V. NORCAL HOME DESIGN INC ET AL

*EVENTS: (1) Ex Parte Application for Order and Notice of Hearing to Modify or Vacate
Temporary Protective Order *continued from October 31, 2024*

*(2) Case Management Conference *special set*

Defendant Norcal Home Design, Inc.'s Ex Parte Application to Modify or Vacate Temporary Protective Order is denied. The Court will hear from counsel regarding the status of deposit by Defendant Norcal Home Design, Inc.'s of \$70,000 into a blocked account as required by the Temporary Protective Order issued on October 18, 2024. The Court advances the Order to Show Cause Hearing scheduled for 10:30 a.m. to be heard at 9:00 a.m. and will also conduct a Case Management Conference. Counsel are to appear. However, this is not an invitation to present oral argument in regard to Defendant Norcal Home Design, Inc.'s Ex Parte Application. If counsel wishes to argue the tentative ruling, they must comply with Butte County Local Rule 2.9 and California Rules of Court Rule 3.1308(a)(1).

3. 22CV01639 C D V. COUNTY OF BUTTE

EVENT: Defendant County of Butte's Motion to Strike Plaintiff's Third Amended Complaint

Defendant County of Butte ("Defendant" herein) and Plaintiff D.C.'s ("Plaintiff" herein) respective Requests for Judicial Notice are granted. Defendant's Motion to Strike Plaintiff's Third Amended Complaint is granted in part and denied in part.

Plaintiff acknowledges that the reference to *Welfare and Institutions Code* §16594 was in error and therefore the citation thereto is stricken. Plaintiff further acknowledges that Regulation Nos. 30-304, 30-306, 30-308, 30-402 and 30-404 do not exist and they are therefore likewise stricken.

Finding that the Statutes and Regulations fail to impose a mandatory duty on the Defendant, the Court strikes from the Third Amended Complaint all references to *Welfare and Institutions Code* §§16003, 16009, 16502.5, 16506, and Regulation Nos. 30-170, 30-240, 30-305, 30-401, and 30-403.

Finding that Defendant and its employees are immune from liability pursuant to *Government Code* §§818.4 and 821.4, the Court strikes from the Third Amended Complaint all references to *Welfare & Institutions Code* §§16000, 16004, and 16018.

Finding that Defendant is entitled to discovery immunity under *Government Code* §820.2, the Court strikes from the Third Amended Complaint, all references to Regulation No. 30-309.

The remainder of the Motion is denied, the Court finding that the inclusion of *Welfare and Institutions Code* §16504, and Regulation Nos. 30-105, 30-206, 30-213, 30-302, 30-303,

30-307, 30-103, 30-405, are proper, appropriate, and sufficiently supported by the allegations in Plaintiff's Third Amended Complaint.

Plaintiff is granted leave to amend to replace only as to the citation to *Welfare and Institutions Code* §16594, to be amended to read instead *Welfare and Institutions Code* §16504 on Page 13, Paragraph 66, Line 8 of the Third Amended Complaint. Further leave to amend is denied.

Counsel for the Plaintiff shall submit a form of Order within two weeks.

4. 24CV00426 COOPER, CATHY ET AL V. FORQUER, CHUCK ET AL

EVENT: Plaintiff's Motion to Amend Complaint

The Motion is unopposed and is granted. Plaintiffs shall submit a form of order and the Amended Complaint shall be filed and served within ten days' notice of this ruling.

5. 24CV00795 STIEFVATER, RYAN J ET AL V. STIEFVATER, GARY G ET AL

EVENT: Plaintiff's Motion to Compel Further Responses to Plaintiff's Request for Production of Documents and Request for Sanctions

As an initial matter, Defendant The Stiefvater Orchards, LP ("SOLP" herein) argues that the Motion is untimely pursuant to CCP §2031.310(c) ["Unless notice of this motion is given within 45 days of the service of the verified response, or any supplemental verified response, or on or before any specific later date to which the demanding party and the responding party have agreed in writing, the demanding party waives any right to compel a further response to the demand."] Turning then to the relevant timeline here:

July 3, 2024	Verified Responses Served Via Electronic Service by SOLP
Aug 6, 2024	SOLP Agreed to One-Month Extension for MTC
Aug 19, 2024	Plaintiff Requested Pre-Trial Discovery Conference
Aug 22, 2024	SOLP Files Oppo to Request for Pre-Trial Discovery Conference
Sept 10, 2024	Request for Pre-Trial Discovery Conference Denied (with any Motion to be filed within 30 days from the Order)
October 10, 2024	Deadline to File MTC/Motion Filed

It appears that SOLP mistakenly believes that the Court did not rule on the requested pre-trial conference and calculated the deadline for filing a motion to compel based on that mistaken understanding. In any case, the Motion was timely filed, and the Court has considered the merits.

The Court declines to deny the Motion based upon SOLP's argument that the Separate Statement fails to comply with the requirements of California Rules of Court Rule 3.1345(c) and again, has reached the merits of the Motion.

The Motion is DENIED, the Court finding that SOLP's Responses are in conformity with the express requirements of the Civil Discovery Act, and Plaintiff does not sufficiently establish good cause to compel the production of metadata.

The parties' respective requests for sanctions are denied. Counsel for SOLP shall prepare and submit a form of order within two weeks.