

TENTATIVE RULINGS for CIVIL LAW and MOTION July 23, 2015

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Two: (530) 406-6843

TENTATIVE RULING

Case: **American Claims Management, Inc. v. Perea**
Case No. CV PM 15-25

Hearing Date: **July 23, 2015** **Department Two** **9:00 a.m.**

Defendant Teresa Perea's unopposed motion to consolidate Case No. CV PM 15-25 with Case No. CV CV 15-65, is **GRANTED**. (Code Civ. Proc., § 1048.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312, or further notice is required.

TENTATIVE RULING

Case: **Scaccia v. Scaccia**
Case No. CV CV 14-1820

Hearing Date: **July 23, 2015** **Department Two** **9:00 a.m.**

Plaintiff Brian Scaccia's unopposed motion to compel responses to special interrogatories, set one, from defendant John Scaccia, is **GRANTED**. (Code Civ. Proc., § 2030.290, subd. (b).) Defendant shall provide verified responses to these interrogatories by August 7, 2015.

Plaintiff's request for monetary sanctions in connection with this motion is **DENIED**. (Code Civ. Proc., § 2030.290, subd. (c).) Plaintiff declares that he incurred expenses "[a]s a result of Defendants' failure to respond to the *Request for Admission*," not the instant motion to compel responses to special interrogatories. (Emphasis added, Decl. of Brian Scaccia, ¶ 7.)

Plaintiff's unopposed motion to compel responses to requests for production, set one, from defendant John Scaccia, is **GRANTED**. (Code Civ. Proc., § 2031.300, subd. (b).) Defendant shall provide verified responses to these requests, together with any responsive documents, by August 7, 2015.

Plaintiff's request for monetary sanctions in connection with this motion is **DENIED**. (Code Civ. Proc., § 2030.290, subd. (c).) Plaintiff declares that he incurred expenses "[a]s a result of

Defendants' failure to respond to the *Request for Admission*," not the instant motion to compel responses to requests for production. (Emphasis added, Decl. of Brian Scaccia, ¶ 10.)

Plaintiff's unopposed motion to deem requests for admission admitted, set one, from defendant. Ariel Scaccia, is **GRANTED**. (Code Civ. Proc., § 2033.280, subd. (b).)

Plaintiff's unopposed motion to deem requests for admission admitted, set one, from defendant. John Scaccia, is **GRANTED IN PART**. (Code Civ. Proc., § 2033.280, subd. (b).) Plaintiff states in his declaration that he served the requests for admission attached as Exhibit 2 to his motion on "John Doe 1." (Decl. Brian Scaccia, ¶ 3.) However, these requests for admission state that they are directed to defendant John Scaccia. The requests in this set of requests for admission total 28. Plaintiff declares that the requests for admission attached as Exhibit 3 to the motion were also served on defendant John Scaccia. This set of requests for admission both duplicate and supplement the requests for admission attached as Exhibit 2. This set causes the number of requests for admission propounded on defendant John Scaccia to exceed 35 requests. (Code Civ. Proc., § 2033.030.) Plaintiff provides no evidence that he complied with section 2033.030(b) in order to properly serve these excess requests. The Court will only deem admitted those requests for admission attached as Exhibit 2, and Request Nos. 5 and 6 in Exhibit 3.

Plaintiff's request for monetary sanctions in connection with this motion is **DENIED**. (Code Civ. Proc., § 2033.280, subd. (c).) Plaintiff seeks as costs a "\$1,376 cost for research and preparation, including a week of lost wages ..., time to attend the hearing and visit the Sacramento County Law Library several times, and for service, copying, and DVDs." (Decl. Brian Scaccia, ¶ 22.) Plaintiff also seeks \$132 for transportation to and from court and the Sacramento law library." (*Ibid.*) Section 2033.030 (a) authorizes monetary sanctions in an amount equal to "the reasonable expenses, including attorney's fees, *incurred* by anyone as a result of that conduct." (Emphasis added, Code Civ. Proc., § 2033.030, subd. (a).) "Incur" under section 2033.030 means to "become liable" to pay for an expense. (*Tucker v. Pacific Bell Mobile Services* (2010) 186 Cal.App.4th 1548, 1563.) Lost wages do not qualify, and plaintiff does not itemize the costs so the Court cannot determine what amount is awardable after lost wages are excluded. Insofar as plaintiff seeks \$132 for transportation, this amount is exorbitant, and plaintiff does not justify it. Accordingly, all amounts sought as monetary sanctions are **DENIED**.

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312, or further notice is required.