

**TENTATIVE RULINGS for LAW and MOTION**  
**April 26, 2022**

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 on Yolo Court’s Website, at [www.yolo.courts.ca.gov](http://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 Nine (530) 406-6819  
Telephone number for the clerk in Department Ten (530) 406-6816

**TENTATIVE RULING**

**Case:** Capay Valley Floriculture v. Byrd  
Case No. CV-2018-243  
**Hearing Date:** April 26, 2022 Department Nine 9:00 a.m.

Plaintiff First Centaur Management Company LLC’s (“plaintiff”) objection to cross-defendant Flower of Life Capay Valley, LLC’s (“Flower of Life”) untimely opposition is **OVERRULED**. Flower of Life’s opposition was timely filed and served. (Code Civ. Proc., § 484.060, subd. (a).)

Plaintiff’s request for judicial notice is **GRANTED**. (Evid. Code, §§ 452, 453.)

Plaintiff’s application for right to attach order as to Flower of Life is **GRANTED**. (Code Civ. Proc., § 484.010 et seq.) Plaintiff has satisfied the applicable requirements. (See Code Civ. Proc., §§ 483.010, 484.020, 484.090.) First, the claim upon which the attachment is based is one upon which an attachment may be issued. (Code Civ. Proc., §§ 483.010, 484.090, subd. (a)(1).) Plaintiff’s conversion cause of action against Flower of Life is an implied contract claim, upon which plaintiff may base its writ of attachment. (Code Civ. Proc., § 483.010, subd. (a); see *Klein v. Benaron* (1967) 247 Cal.App.2d 607, 610; *Supervalu, Inc. v. Wexford Underwriting Managers, Inc.* (2009) 175 Cal.App.4th 64, 78; FACC, ¶¶ 21-24, 26-30.) The claim upon which attachment is sought is not secured by real property, and the total amount of the claim is a fixed or readily ascertainable amount, not less than five hundred dollars. (Code Civ. Proc., § 483.010, subs. (a) & (b); FAC, ¶ 1, Exhibit A; Stathis decl., ¶¶ 12, 28-30, Exhibits G, H, & I.) Second, plaintiff has established a probable validity of the claim upon which the attachment is based. (Code Civ. Proc., §§ 481.190, 484.090, subd. (a)(2); *Hodges v. County of Placer* (2019) 41 Cal.App.5th 537, 551; Stathis decl., ¶¶ 27-28, 30-31, Exhibits F & G; Plaintiffs’ RJN 1 & 2.) Third, the verified application states that the attachment is not sought for a purpose other than the recovery on the claim upon which the attachment is based. (Code Civ. Proc., § 484.090, subd. (a)(3); Application, ¶ 4.) Finally, the amount to be secured by the attachment is greater than zero. (Code Civ. Proc., § 484.090, subd. (a)(4); Application, ¶ 8.)

Relief is conditioned upon the posting of an undertaking in the amount of \$10,000.00. (Code Civ. Proc., § 489.220.)

Plaintiff's request for the issuance of a temporary protective order is **DENIED**. (Code Civ. Proc., § 486.010 et seq.) Plaintiff has failed to establish that it will suffer great or irreparable injury if the temporary protective order was not issued, especially given that the Court is granting the instant application. (Code Civ. Proc., §§ 486.010, subd. (b), 485.010; Application, ¶ 13a.)

Parties are **DIRECTED TO APPEAR**. (Code Civ. Proc., § 484.090.)

### **TENTATIVE RULING**

**Case:** **Din v. Sutter Health**  
**Case No. CV-2020-720**

**Hearing Date:** **April 26, 2022** **Department Ten** **9:00 a.m.**

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Defendant Sutter Valley Hospitals dba Sutter Davis Hospital's ("SDH") motion to compel a defense medical examination of plaintiff Dr. Adnan Din, M.D. ("plaintiff"), is **GRANTED IN PART**. The Court shall restrict the scope of the defense medical examination as required by law. (Code Civ. Proc., § 2032.320; *Carpenter v. Superior Court* (2006) 141 Cal.App.4th 249, 260.)

If any party desires to obtain discovery by a mental examination, the party *shall* obtain leave of court. (Code Civ. Proc., § 2032.310, subd. (a), emphasis added.)

The Court shall grant a motion for a physical or mental examination under Section 2032.310 only for good cause shown. (Code Civ. Proc., § 2032.320, subd. (a).) SDH has shown good cause for the proposed mental examination. Plaintiff has placed his mental state in controversy by the allegations in the second amended complaint, specifically assertions of mental anguish and pain, humiliation and emotional distress, all in amounts according to proof, and prayer for compensatory damages for mental and emotional distress. (SAC, ¶¶ 47, 76 and p. 14; see *Vinson v. Superior Court* (1987) 43 Cal.3d 833, 840.)

With regard to the standard diagnostic testing requested, the Court shall limit the defense medical examination to those psychological diagnostic tests that are specifically named in SDH's motion. (See *Carpenter v. Superior Court* (2006) 141 Cal.App.4th 249, 260.) Further, this Court holds that SDH has not established that psychological testing as to any cognitive deficits is warranted based upon the allegations made by plaintiff in the SAC putting his mental state at issue, nor in discovery responses plaintiff has provided to SDH.

An order granting a physical or mental examination shall specify the person or persons who may perform the examination, as well as the time, place, manner, diagnostic tests and procedures, conditions, scope, and nature of the examination. (Code Civ. Proc., § 2032.320, subd. (d).)

The Court orders the following specific provisions for the defense medical examination:

1. **DATE AND TIME:** April 27-28, 2022, commencing at 9:00 AM each day.
2. **PLACE:** 777 S. Figueroa St., Suite 4200, Los Angeles, CA 90017.
3. **EXAMINERS: Dr. Dale Watson, PhD:** Dr. Watson is a clinical psychologist, and will be administering the psychological test on the first day. The psychological test will be relied on by Dr. Woods in preparing for the defense medical examination and in arriving

at his assessment. **Dr. George Woods, M.D.:** Dr. Woods is a board certified psychiatrist, and will be conducting the defense medical examination.

4. **SCOPE AND NATURE OF THE EXAMINATION:** Psychological standard diagnostic testing is authorized as follows: the Rotter Incomplete Sentences Blank, the Minnesota Multiphasic Personality Inventory (II or III), the Millon Clinical Multiaxial Inventory (IV or V), Personality Assessment Inventory. A clinical interview is authorized on the existence, source, nature and extent of emotional damages alleged by plaintiff. Plaintiff may be asked questions regarding his occupational history, prior injuries and illness, and present illness/injury, symptomology, and activities for the purpose of reaching an opinion regarding the existence and cause of claimed injuries.
5. **CONDITIONS:** The Court does not authorize the Cognistat or Montreal Cognitive Assessment, or any other diagnostic testing that is not named herein.

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

Parties are **DIRECTED TO APPEAR** to discuss the continuance of the trial.

#### **TENTATIVE RULING**

**Case:** Insurance Company of the West v. Ely  
Case No. CV-2021-1143 (consolidated with CV-2021-1728)  
**Hearing Date:** April 26, 2022 Department Nine 9:00 a.m.

Petitioner Jennifer Marston, the guardian ad litem for plaintiff, Ryan Marston's request for judicial notice is **DENIED**. (Evid. Code, §§ 452, 453.) The proffered document is not relevant to the Court's determination of the instant petition. (*People v. Rowland* (1992) 4 Cal.4th 238, 268, fn. 6; see *Malek Media Group LLC v. AXQG Corp.* (2020) 58 Cal.App.5th 817 825.)

Petitioner Jennifer Marston, and the minor, Ryan Marston are **DIRECTED TO APPEAR**. (Cal. Rules of Court, rule 7.952.) If the parties fail to appear at the hearing and the Court has not excused their personal appearance, the petition will be denied without prejudice. No request for a hearing is required.

#### **TENTATIVE RULING**

**Case:** Olivine, Inc. v. Schorske  
Case No. CV-2021-1528  
**Hearing Date:** April 26, 2022 Department Ten 9:00 a.m.

The Court reminds both parties of the memorandum page length limitations. (Cal. Rules of Court, rule 3.1113(d) [stating that "no opening or responding memorandum may exceed 15 pages" and "[n]o reply or closing memorandum may exceed 10 pages."].) In the future, the Court may decline to consider any argument or legal authority found in pages exceeding the maximum permitted number of pages.

Defendants Zero Net Energy Alliance, Inc. (“ZNEA”), Richard Schorske, and Sharon Tobar’s request for judicial notice is **DENIED**. (Evid. Code, §§ 452, 453.) Defendants failed to make their request for judicial notice in a separate document as required. (Cal. Rules of Court, rule 3.1113(l).)

Defendants’ demurrer to plaintiff’s second amended complaint (“SAC”) as to the third cause of action (alter ego liability) is **OVERRULED**. (Code Civ. Proc., § 430.10, subd. (e).) Defendants have failed to establish that, as a matter of law, ZNEA’s status as a nonprofit corporation acts as a bar to alter ego liability. (See *Wilson v. Nobell* (1953) 119 Cal.App.2d 341, 348; SAC, ¶ 60.) Further, plaintiff has pled sufficient facts to support the first prong for alter ego SAC: “whether there is sufficient unity of interest and ownership that the separate personalities of the individual and the corporation no longer exist.” (*Misik v. D’Arco* (2011) 197 Cal.App.4th 1065, 1073; see also *Riddle v. Leuschner* (1959) 51 Cal.2d 574, 580.) Specifically, when considering the factors articulated in *Misik*, the SAC contains facts weighing in favor of finding a “unity of interest.” (*Misik, supra*, 197 Cal.App.4th at p. 1073; SAC, ¶¶ 2-3, 58, 60-62, 65-72, 75, 80.) Finally, the SAC states adequate facts as to the second prong for alter ego liability: “a finding that the facts are such that adherence to the fiction of the separate existence of the corporation would sanction a fraud or promote injustice.” (*Misik, supra*, 197 Cal.App.4th at p. 1073; *Sonora Diamond Corp. v. Superior Court* (2000) 83 Cal.App.4th 523, 539; SAC, ¶¶ 63, 70, 79-81.)

Defendants have ten days from the hearing date, by no later than **May 6, 2022**, to answer plaintiff’s complaint. (Cal. Rules of Court, rule 3.1320(j).)

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

#### **TENTATIVE RULING**

**Case:** **Stoneridge Westbridge Shopping Center, LLC v. Flynn**  
**Case No. CV-2021-1854**

**Hearing Date:** **April 26, 2022** **Department Ten** **9:00 a.m.**

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Defendant Carl Hultgren’s request for judicial notice is **GRANTED**. (Evid. Code, §§ 452, 453.)

Plaintiff Stoneridge Westbridge Shopping Center, LLC’s request for judicial notice is **GRANTED**. (Evid. Code, §§ 452, 453.)

Defendant Carl Hultgren’s motion to be relieved from entry of default is **GRANTED**. (Code Civ. Proc., § 473, subd. (b).) Defendant Hultgren has established that he failed to file a responsive pleading by the required deadline because of mistake, inadvertence, surprise, or excusable neglect. (Code Civ. Proc., § 473, subd. (b); Hultgren decl., ¶¶ 1-10; McKinley decl., ¶¶ 1-9; Hultgren’s RJN Exhibits A-C)

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.