

TENTATIVE RULINGS for LAW and MOTION
January 20, 2023

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. 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 Eleven (530) 406-6843

TENTATIVE RULING

Case: Koski v. Regents, Shaw
Case No. CV-2022-1634
Hearing Date: January 20, 2023 Department Eleven 9:00 a.m.

Plaintiff Kristie Koskie, Ph.D.’s motion to compel further response to plaintiff’s request for production of documents, set one, is **GRANTED IN PART**. (Code Civ. Proc., § 2031.310.) This Court finds that plaintiff has set forth sufficient grounds to find good cause for the below identified requests and reasonable, good faith efforts to meet and confer. (Isaq decl., ¶¶ 1-13, Exs. A-J; plaintiff’s separate statement; Code Civ. Proc., § 2031.310, subds. (b)(1), (2).)

Code compliance

Plaintiff argues that this Court should compel further response to multiple requests for production on the basis that defendants’ responses do not comply with the requirements of the Discovery Act. The instant motion to compel further response pertains to requests for production of documents served June 15, 2022 and demanding personal inspection or for documents to be mailed within thirty days. (Plaintiff’s request for production, set one, pp. 1-2.) Code of Civil Procedure section 2031.210 provides that “[t]he party to whom a demand for inspection, copying, testing, or sampling has been directed shall respond separately to each item or category of item by any of the following: (1) A statement that the party will comply with the particular demand for inspection, copying, testing, or sampling by the date set...” (Code Civ. Proc., § 2031.210, subd. (a)(1), emphasis added.) If the date for inspection has been extended pursuant to Section 2031.270, the documents shall be produced on the date agreed to pursuant to that section. (*Ibid.*) The parties agreed to multiple extensions of the date for compliance. (Isaq decl.; Nye decl.; Code Civ. Proc., § 2031.270.) Defendants’ many responses that state defendants will comply at an unspecified future date do not comply with section 2031.210. Thus, this Court **DIRECTS** defendants to provide code compliant responses to plaintiff’s request nos. 3-9, 12-15, 18, 23-24, 26, 28-29, 31-32, 34-38, and 43-44 by **February 20, 2023**.

With respect to request no. 1, defendants assert and plaintiff does not dispute that defendants have already produced the requested records. Thus this basis to compel further response is moot. See below, however, regarding a privilege log.

Web links

Web links do not satisfy defendants' burden to produce responsive documents under the Discovery Act. This Court directs defendants to provide documents responsive to requests for production nos. 4, 6-10, and 21-23 by **February 20, 2023**.

Other requests

With respect to request no. 11, this Court directs defendants to provide further response, but construes the request more narrowly than written so as to apply during plaintiff's employment with The Regents (2016-current) by **February 20, 2023**.

With respect to request no. 19 [insurance policies] and 20 [insurance policies], this Court does not compel further response. Defendants' response is code compliant, in that defendants have responded that they do not have, and never has had, any responsive documents in its possession, custody or control. Defendants' response that defendant is self-insured is code compliant and sufficient.

With respect to request no. 27 [documents that reflect or concern any communication written, sent or received by Dr. Jared Shaw concerning discipline for plaintiff], this Court directs defendants to produce responsive documents by **February 20, 2023**.

With respect to request no. 30 [documents that reflect or concern any communication written, sent or received by James DiCaprio concerning discipline for plaintiff], this Court directs defendants to produce responsive documents by **February 20, 2023**.

With respect to request no. 33 [documents that reflect or concern any communication written, sent or received by Vice Provost Phil Kass concerning discipline for plaintiff], this Court directs defendants to produce responsive documents by **February 20, 2023**.

With respect to request nos. 39 [documents that reflect or concern or relate to plaintiff's complaints or concerns regarding Dr. Jared Shaw], this Court directs defendants to produce responsive documents by **February 20, 2023**.

With respect to requests no. 40 [documents maintained by Danny Gray that concern or relate to plaintiff], and no. 41 [documents maintained by Mary Delaney that concern or relate to plaintiff] this Court directs defendants to produce responsive documents by **February 20, 2023**.

With respect to request no. 42 [documents that reflect or concern or relate to any report made by Dr. Jared Shaw to the Harassment & Discrimination Assistance and Prevention Program regarding plaintiff, including but not limited to any allegation plaintiff was falsely accusing Auddy Anilao of sexual harassment], this Court directs defendants to produce responsive documents by **February 20, 2023**.

With respect to request no. 45 [documents that reflect, concern or relate to any determination by the Privilege and Tenure Committee regarding or concerning conduct by plaintiff], this Court directs defendants to provide responsive documents by **February 20, 2023**.

With respect to request no. 46 [documents that reflect, concern or relate to any effort or proposal by Dr. Jared Shaw to take lab space away from plaintiff], this Court directs defendants to provide responsive documents by **February 20, 2023**.

Privilege Log

Plaintiff argues that this Court should compel defendants to provide a privilege log identifying with particularity documents withheld by defendants on the grounds of privilege for request nos. 1, 3-7, 9-15, 19-20, 24, and 26-45. Defendants have asserted objections based upon privilege and/or work product doctrine, without identifying with particularity any document falling within any category of item in the demand to which an objection is being made. (Code Civ. Proc., § 2031.240, subd. (b)(1).) Nor have defendants provided to plaintiff sufficient factual information for plaintiff or this Court to evaluate the merits of the claims. (Code Civ. Proc., § 2031.240, subd. (c)(1); see also *Catalina Island Yacht Club v. Superior Court* (2015) 242 Cal.App.4th 1116.) A “privilege log typically should provide the identity and capacity of all individuals who authored, sent, or received each allegedly privileged document, the document's date, a brief description of the document and its contents or subject matter sufficient to determine whether the privilege applies, and the precise privilege or protection asserted.” (*Catalina Island Yacht Club v. Superior Court, supra*, at p. 1130; cf. defendants’ points and authorities, pp. 10-11, Nye decl., ¶¶ 10-13, Ex. E.) As the information provided by defendants is insufficient for the opposing party or this Court to evaluate the merits of the privileges claimed, this Court **DIRECTS** defendants to a privilege log identifying with particularity any document withheld on the basis of privilege or work produce to plaintiff’s request nos. 1, 3-7, 9-15, 19-20, 24, and 26-45 by **February 20, 2023**.

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.