

TENTATIVE RULINGS for LAW and MOTION
February 6, 2020

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 Ten (530) 406-6816

TENTATIVE RULING

Case: **Sattari v. Davis Joint Unified School District**
Case No. CV PO 18-552
Hearing Date: **February 6, 2020** **Department Ten** **9:00 a.m.**

The parties are **DIRECTED TO APPEAR**. The Court intends to continue the trial date of March 10, 2020, on its own motion, to allow for: (1) the determination of the good faith settlement as to defendants Davis Joint Unified School District, Jeff Lorensen, Michael Mueck and Michael Satre; and (2) sufficient time for the parties to submit additional briefing for the motion(s) for summary judgment or alternatively summary adjudication. The issue that the Court would like the parties to exclusively address: Does Education Code section 49475 foreclose the application of the primary assumption of the risk doctrine to the risks inherent in high school sports? (See *Lilley v. Elk Grove School District* (1998) 68 Cal.App.4th 939.)

TENTATIVE RULING

Case: **Scaccia v. Scaccia**
Case No. CV CV 14-1820
Hearing Date: **February 6, 2020** **Department Ten** **9:00 a.m.**

All parties are **DIRECTED TO APPEAR**.

Plaintiff Brian Scaccia’s motion to compel further responses to special interrogatories, set three, from defendant Sutter Health, filed on February 17, 2016, is **GRANTED**. Defendant Sutter Health served timely, verified responses, therefore has not waived objections including objections based on claims of privilege. (Code of Civ. Proc., § 2030.290, subd. (a).) However, defendant Sutter Health’s objection that “a privilege log is unnecessary with regard to answering interrogatories seeking the identification of documents” is **OVERRULED**. (*Best Products, Inc. v. Superior Court* (2004) 119 Cal.App.4th 1181, 1191.) *Best Products, Inc. v. Superior Court* held that the *existence* of a document containing privileged information is not privileged, and interrogatories may be used to discover the existence of such documents. (*Best Products, Inc. v. Superior Court* (2004) 119 Cal.App.4th 1181, 1190.) Further, *Best Products, Inc. v. Superior Court* directed the lower court to direct the respondent in that case to serve further responses “which include a particularized identification of all documents to which the attorney-client or work-product privilege is asserted and the facts justifying the assertion of the privilege. (*Best*

Products, Inc. v. Superior Court (2004) 119 Cal.App.4th 1181, 1191.) The Court orders defendant Sutter Health to serve responses to the production request which include a particularized identification of all documents to which the attorney-client or work-product privilege is asserted. (*Best Products, Inc. v. Superior Court* (2004) 119 Cal.App.4th 1181, 1191.) Monetary sanctions are mandatory where a party has unsuccessfully opposed a motion to compel. (Code of Civ. Proc., § 2030.290, subd. (c).) Thus, monetary sanctions are **GRANTED** in the amount of \$131.07, to be paid by March 6, 2020. 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.

Defendant John Scaccia's motion for protective order against plaintiff Brian Scaccia regarding plaintiff's set two discovery requests is **DENIED** as the motion was not brought promptly as required. (Code of Civ. Proc., § 2033.080, subd. (a).) The motion for protective order is also **MOOT**, as defendant John Scaccia filed a notice of serving responses to plaintiff's set two discovery requests on January 24, 2020. The Court **DECLINES TO CONSIDER** defendant John Scaccia's amended/supplemental motion for protective order regarding plaintiff's set one discovery requests, as the motion was filed on January 24, 2020 for the hearing of February 6, 2020. Motions must be filed 16 court days before the hearing, with an additional ten days added if service is by mail from outside the State of California. (Code of Civ. Proc., § 1005, subd. (b).) The notice of motion does not provide notice of this Court's tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party, or the moving party if unrepresented by counsel, is ordered to notify the opposing party or parties immediately of the tentative ruling system. If no hearing is requested, and no party appears at the hearing, this tentative ruling is effective immediately. No formal order pursuant to California Rule of Court 3.1312 or further notice is required.

The Court **DECLINES TO CONSIDER** defendant John Scaccia's motion for protective order as it was not promptly filed, nor filed timely to consider as an opposition to plaintiff's motion to compel. (Code of Civ. Proc., §§ 2033.080, 1005, subd. (b).) The Court **GRANTS IN PART** plaintiff's motion to compel further responses from defendant John J. Scaccia to special interrogatories, set one. (Code of Civ. Proc., § 2030.300.) Plaintiff brought his motion within 45 days of the service of the defendant's amended response. (Plaintiff's Declaration, Exhibits 13-14; Code of Civ. Proc., § 2030.300, subd. (c).) Plaintiff has established efforts to meet-and-confer as to each of the disputed special interrogatories. (Plaintiff's Declaration, Exhibit 15; Code of Civ. Proc., §§2016.040, 2030.300, subd. (b).) Plaintiff has filed a separate statement as required. (Cal. Rules of Court, rule 3.1020.) Plaintiff is correct that objections were waived, because defendant's initial responses were untimely. (Plaintiff's Declaration, Exhibit 2; Code of Civ. Proc., § 2030.290, subd. (a).) Plaintiff has the burden to demonstrate that the defendant's responses were evasive or incomplete, or that asserted objections are without merit or too general. (Code of Civ. Proc., § 2030.300, subd. (a).) With regard to the specific interrogatories, the Court: (1) **GRANTS** plaintiff's motion to compel further response to Special Interrogatory No. 1. Defendant's answer is incomplete as it responds only to part of the question, outstanding debt, rather than the information requested, all loans or gifts received including amounts, dates, terms and repayments if any. (Code of Civ. Proc., § 2030.300, subd. (a).); (2) **DENIES** plaintiff's motion to compel further response to Special Interrogatory No. 2. Defendant's answer is sufficient response to the interrogatory as written, requesting that defendant identify

communications regarding loans or gifts. Plaintiff has not established that defendant's answer was incomplete or evasive. (Code of Civ. Proc., § 2030.300, subd. (a).); (3) **DENIES** plaintiff's motion to compel further response to Special Interrogatory No. 3. Defendant Plaintiff has not established with sufficient detail what further information he wishes to compel. (Code of Civ. Proc., § 2030.300, subd. (a).); (4) **DENIES** plaintiff's motion to compel further response to Special Interrogatory No. 4. Defendant's answer is a sufficiently detailed response to the interrogatory's request for "contents and nature" of all communications. Plaintiff has not established that defendant's answer was incomplete or evasive. (Code of Civ. Proc., § 2030.300, subd. (a).); (5) **DENIES** plaintiff's motion to compel further response to Special Interrogatories Nos. 5 through 9, as not reasonably calculated to lead to the discovery of relevant, admissible evidence. (Code of Civ. Proc., § 2017.010.); (6) **GRANTS** plaintiff's motion to compel further response to Special Interrogatory No. 10. Plaintiff requested defendant to identify specific checks. Plaintiff has established that the defendant's answer was non-responsive, therefore incomplete or evasive. (Code of Civ. Proc., § 2030.300, subd. (a).) Mandatory sanctions do not apply in this case, as defendant John Scaccia did not file an opposition to plaintiff's motion to compel. (Code of Civ. Proc., § 2030.290, subd. (c)) The Court **DECLINES TO AWARD** discretionary monetary sanctions in this matter. (Code of Civ. Proc., § 2023.010.) 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.

Plaintiff Brian Scaccia's motion for partial default judgment is **DENIED WITHOUT PREJUDICE**. (Code of Civ. Proc., § 585.) Defendant John J. Scaccia filed an answer to plaintiff's first amended complaint. (Plaintiff's Declaration, ¶ 5.) As plaintiff's second amended complaint is not substantially different from plaintiff's first amended complaint, defendant John J. Scaccia's answer to the first amended complaint may stand as an answer to the second amended complaint as well. (*See Carrasco v. Craft* (1985) 164 Cal.App.3d 796, 811.) Further, plaintiff has not established that lesser sanctions, such as an order striking pleadings or parts of pleadings or an order staying further proceedings until discovery orders are obeyed, have been inadequate to curb abuses of the discovery act. (Code of Civ. Proc., § 2023.030, subd. (d).) 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.

Plaintiff Brian Scaccia's objection to defendant John J. Scaccia's motion for summary judgment for failure to comply with Code of Civil Procedure section 437c is **SUSTAINED**. (Code of Civ. Proc., § 437c, subd. (a)(2).) Defendant John J. Scaccia's motion for summary judgment is **DENIED WITHOUT PREJUDICE**. Notice of the motion and supporting papers shall be served on all other parties to the action at least 75 days before the time appointed for hearing. (Code of Civ. Proc., § 437c, subd. (a)(2).) The Court does not have the authority to shorten time without the consent of all parties. (*McMahon v. Superior Court* (2003) 106 Cal.App.4th 112, 112.) The Court does not have the authority to continue the matter to comply with the 75 day requirement; the notice period must begin anew and 75 days is mandatory where notice is given personally. (*Robinson v. Woods* (2008) 168 Cal.App.4th 1258, 1267-1268.) The required notice period is increased by ten days when mailed from outside the state of California. (Code of Civ. Proc., § 437c, subd. (a)(2).) The notice of motion does not provide notice of this Court's tentative ruling system as required by Local Rule 11.4(b). Counsel for moving party, or the moving party if unrepresented by counsel, is ordered to notify the opposing party or parties

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