

TENTATIVE RULINGS for LAW and MOTION

October 14, 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
Telephone number for the clerk in Department Nine (530) 406-6819

NOTICE: Effective May 4, 2020, all court appearances are by Zoom or Conference call. Yolo Superior Court Virtual Courtroom and conference call information is posted on the Yolo Court’s Website at www.yolo.courts.ca.gov.

TENTATIVE RULING

Case: **Gonzales v. Sandeno**
Case No. CV 2017-1517
Hearing Date: **October 14, 2020** **Department Ten** **9:00 a.m.**

Plaintiff Henry Gonzales’ motion to compel the depositions of Kanit & Kate managers, Kanapa Yungvanitsait and Khemwithu Reepolmaha is **GRANTED**. (Code Civ. Proc., § 2025.450.) According to Ketmoree Yungvanitsait and Donyavee Yungvanitsait’s deposition testimony, the deponents were managers of KetMoRee and therefore, their deposition testimony is “relevant to the subject matter involved in the pending action.” (Code Civ. Proc., § 2017.010; *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540–541; Alan K. Nicolette decl., ¶ 2, Exhibit A; Sola decl., ¶ 3, Exhibit A.) Defendant Kanit & Kate, Inc. has failed to show that the subject depositions would be “unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation.” (Code Civ. Proc., § 2019.030., subd. (a); see also Code Civ. Proc., § 2017.020.) The depositions shall be scheduled and completed by November 6, 2020.

Plaintiff’s request for monetary sanctions against defendant Kanit & Kate, Inc. is **GRANTED IN PART**, in the amount of \$1,895.00. (Code Civ. Proc., § 2025.450, subd. (g)(1); Alan K. Nicolette decl., ¶ 6; Ali L. Nicolette decl., ¶ 2.) The sanctions shall be paid by no later than November 6, 2020.

Defendant Kanit & Kate, Inc.’s request for monetary sanctions is **DENIED**. (Code Civ. Proc., §§ 2016.040, 2023.020.) Plaintiff adequately met and conferred prior to filing the motion to compel. (Code Civ. Proc., § 2016.040; Alan K. Nicolette decl., ¶ 4, Exhibits E-J.)

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: Nelson v. Kulkarni
Case No. CV 2019-2203
Hearing Date: October 14, 2020 Department Nine 9:00 a.m.

Defendant Deepa Kulkarni's request for judicial notice of the amended complaint filed December 11, 2019 is **GRANTED**. (Evid. Code, §§ 452, subd. (d), 453.)

Plaintiff Peter Nelson's objections are **OVERRULED**.

Defendant Kulkarni's motion to compel responses from non-party deponent Jamie Baker & Company is **GRANTED**, subject to protective conditions the Court will impose. (Code Civ. Proc., § 1987.1.)

Defendant Kulkarni brought the instant motion to compel no later than 60 days after the "completion of the record" of deposition responses (Code Civ. Proc., § 2025.480, subd. (b); *Unzipped Apparel, LLC v. Bader* (2007) 156 Cal.App.4th 123, 133–134.) Before bringing a motion to compel further responses, a moving party must meet and confer with the opposing side regarding "each issue presented by the motion." (Code Civ. Proc., § 2016.040.) After non-party deponent Jamie Baker & Company served supplemental discovery responses on July 21, 2020, raising multiple specific objections, defendant Kulkarni withdrew her pending motion to compel on July 28, 2020 and sent a meet and confer letter addressing the supplemental responses and their specific objections raised to Baker's counsel on August 4, 2020. (Decl. of Beene, paragraphs 13-15, Exh. 10.) On August 19, 2020, Baker served supplemental responses including production of Bates labeled documents. The record was not complete until full responses with specific objections were served by non-party deponent Ms. Baker. (*Unzipped Apparel, LLC v. Bader* (2007) 156 Cal.App.4th 123, 133–134; Wu Decl., ¶ 5.)

Non-party deponent Baker did not by her initial response serve any timely, specific objections. (*Scottsdale Ins. Co. v. Superior Court*, 59 Cal.App.4th 263, 274.) This Court finds that it would be unjust, however, to force the waiver of the tax return privilege by plaintiff Nelson who did timely and with the required specificity assert the tax return privilege as an objection to the current production request. (See *Korea Data Systems Co. v. Superior Court* (1997) 51 Cal.App.4th 1513, 1515.)

This Court finds that defendant Kulkarni is entitled to the compelled production of documents. First, the tax return privilege only protects precisely what it purports to protect: tax returns. Other documents are not protected by the privilege. The Court notes that Baker has already produced some communications responsive to the subpoena in this case. Second, plaintiff's first amended complaint puts at issue a portion of the contents of the tax returns sought, primarily and specifically the classification of Ms. Tuilaucala as a 1099 independent contractor or a W-2 employee prior to defendant Kulkarni's legal advice on the subject. (FAC, paragraphs 16-17.; *Wilson v. Superior Court* (1976) 63 Cal.App.3d 825, 828–829.) The information sought is relevant to causation and damages. The 1099 or W-2 classification of other in-home workers prior to Kulkarni's advice is somewhat attenuated, but still has relevance to the issue of causation, put at issue by the first amended complaint.

Parties and non-party deponent are directed to appear to discuss conditions for the production so that relevant information in the tax returns will be produced to defendant Kulkarni without compromising sensitive financial or personal information in plaintiff Nelson's tax returns which does not relate to the litigation at hand.