

“Civility allows for zealous representation, reduces clients’ costs, better advances clients’ interests, reduces stress, increases professional satisfaction, and promotes effective conflict resolution.”

-- [OCBA Civility Guidelines](#)

**TENTATIVE RULINGS**  
**Judge Nathan Scott, Dept. W2**

- The court encourages remote appearances to save time and reduce costs: <https://www.occourts.org/media-relations/civil.html>. Click on the yellow box.
- All hearings are open to the public. The courtroom doors are open.
- You must [provide](#) your own court reporter (unless you have a [fee waiver](#) and request one in advance).
- **Call the other side** and ask if they will submit to the tentative ruling.

If **everyone** submits, then call the clerk. The tentative ruling will become the order.

If anyone does not submit, there is no need to call the clerk. The court will hold a hearing. The court may rule differently at the hearing. (See *Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442, fn. 1.)

**Hearing Date: Fri. 4/26/24 at 10 am**

Posted Thu. 4/25/24 at 4 pm

1	HEJ Endeavors v. Jump	11 motions to compel. (See 12/8/23 order.)  The remaining discovery dispute is whether defendants must identify certain potential witnesses. (See Pl. 4/4/24 status report; Defs. 4/22/24 status report.)  “Central to the discovery process is the identification of potential witnesses. `The disclosure of the names and addresses of potential witnesses is a routine and essential part of pretrial discovery.” ( <i>Puerto v. Superior Court</i> (2008) 158 Cal.App.4th 1242, 1249-1250.) Even the “standard form interrogatories request the names, addresses, and telephone numbers of witnesses to the relevant incident . . . .” ( <i>Id.</i> at p. 1250.)  When a court considers whether to compel witness disclosure, the “witness’s willingness to participate in civil discovery has never been considered relevant — witnesses may be compelled to appear and testify whether they want to or not.” ( <i>Puerto, supra</i> , 158 Cal.App.4th at pp. 1251-1252.)
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		<p>Thus, plaintiff's motions are granted to the following extent.</p> <p>Within 30 days, defendants shall serve a complete, code-compliant, verified further response without objection to:</p> <ul style="list-style-type: none"> <li>• plaintiff's special interrogatories (set two) #53</li> <li>• plaintiff's requests for production (set two) #32-33, 36, 33 [sic, actually 39], 40 [sic, actually 46], and 41 [sic, actually 47]</li> </ul> <p>Within the same 30 days, defendants shall produce to plaintiff all documents responsive to those requests.</p> <p>Defendants shall pay \$2,280 in discovery sanctions to plaintiff.</p> <p>Plaintiff shall give notice.</p>
2	Ryan v. Children Future Dev. Group	<p>Plaintiff Kayla Ryan's four discovery motions are taken off calendar. (See 4/25/24 notice.)</p>
3	Crews v. General Motors	<p><b><u>Motion to Compel: PMQ Deposition</u></b> Plaintiff David Crews' motion is granted.</p> <p>Defendant General Motors LLC shall submit its person(s) most qualified for deposition on the noticed topics and produce the requested documents no later than 5/20/24.</p> <p>Plaintiff adequately met and conferred. (See Goldsmith decl. ¶¶ 9-23 &amp; Exs. 5-9.)</p> <p>The topics and documents are relevant to the subject matter of the litigation, including allegations of willfulness and defendant's "Qualified Third-Party Dispute Resolution Process" affirmative defense. (See <i>Lopez v. Watchtower Bible &amp; Tract Society of New York, Inc.</i> (2016) 246 Cal.App.4th 566, 590-591 [relevance broadly defined]; <i>Kwan v. Mercedes-Benz of North America, Inc.</i> (1994) 23 Cal.App.4th 174, 184-185 [willfulness]; <i>Santana v. FCA US, LLC</i> (2020) 56 Cal.App.5th 334, 346-347 [civil penalties affirmed where manufacturer knew its repair was intentionally inadequate].)</p> <p>Defendant's concerns about proprietary or sensitive documents are adequately addressed by this protective order: The parties shall keep all produced documents confidential and use them only for this litigation. The parties are welcomed to supersede this with a stipulated protective order.</p> <p><b><u>Motion to Compel: Form Rogs</u></b> Plaintiff's motion is granted.</p>

Defendant shall serve complete, code-compliant, verified further responses without objection to plaintiff's form interrogatories #1.1, 2.8, 2.11, 4.1, 4.2, 7.1-7.3, 9.1, 9.2, 12.1-12.7, 13.1, 13.2, 14.1, 14.2, 15.1, 17.1, 20.1, 20.2, 20.9, and 50.1-50.6 within 30 days.

Defendant's opposition was due 4/15/24 but not filed until 4/23/24, leaving plaintiff no time to reply. The court disregards the opposition. (See Cal. Rules of Court, rule 3.1300(d).)

**Motion to Compel: RFAs**

Plaintiff's motion is granted.

Defendant shall serve complete, code-compliant, verified further responses without objection to plaintiff's requests for admissions (set one) #1-17 within 30 days.

The court disregards defendant's untimely 4/23/24 opposition. (See Cal. Rules of Court, rule 3.1300(d).)

**Motion to Compel: Special Rogs**

Plaintiff' motion is granted.

Defendant shall serve complete, code-compliant, verified further responses without objection to plaintiff's special interrogatories (set one) #1-36 within 30 days.

Plaintiff adequately met and conferred. (See Le decl. ¶¶ 6-11 & Exs. 6-11.) The requested documents are relevant to the subject matter of the litigation, including allegations of willfulness. (See *Lopez, supra*, 246 Cal.App.4th at pp. 590-591; *Kwan, supra*, 23 Cal.App.4th at pp. 184-185; *Santana, supra*, 56 Cal.App.5th at pp. 346-347.)

GM's responses were untimely, waiving all objections. (See Le decl. Exs. 3-5 [request served 7/5/23; response served 12/4/23]; see also Code Civ. Proc., § 2030.290, subd. (a).) In any event, defendant has not substantiated its objections.

**Motion to Compel: RPDs**

Plaintiff's motion is granted.

Defendant shall serve complete, code-compliant, verified further responses without objection to plaintiff's requests for production (set one) #1-40 and produce all responsive documents within 30 days.

Plaintiff adequately met and conferred. (See Le decl. ¶¶ 13-25 & Exs. 1-11.) The requested documents are relevant to the subject matter of the litigation, including allegations of willfulness. (See *Lopez, supra*, 246 Cal.App.4th at pp. 590-591; *Kwan, supra*, 23 Cal.App.4th at pp. 184-185; *Santana, supra*, 56 Cal.App.5th at pp. 346-347.)

		<p>GM's responses were untimely, waiving all objections. (See Code Civ. Proc., § 2031.300, subd. (a); see also Le decl. Exs. 3-5 [request served 7/5/23; response served 12/4/23].) In any event, defendant has not substantiated its objections.</p> <p>Defendant's concerns about proprietary or sensitive documents are adequately addressed by this protective order: The parties shall keep all produced documents confidential and use them only for this litigation. The parties are welcomed to supersede this with a stipulated protective order.</p> <p>Plaintiff shall give notice.</p>
4	Galustian v. Anaheim Healthcare Center	<p><b><u>Motion to Compel: Sun Mgmt. Form Rogs (ROA #60)</u></b> Plaintiff Deborah Galustian's motion is granted.</p> <p>Defendant Sun Mar Management Services LLC shall serve a complete, code-compliant, verified further response to plaintiff's form interrogatories (set one) #12.1 within 30 days.</p> <p>The interrogatory asks Sun Mar to identify witnesses.</p> <p>Sun Mar responded that "it does not have personal knowledge sufficient to respond fully to this interrogatory." But it neither identified any witness nor denied knowledge of any witness. In its further response, it should do one of these.</p> <p>Sanctions were not noticed; none are imposed.</p> <p><b><u>Motion to Compel: Anaheim Healthcare Form Rogs (ROA #67)</u></b> Plaintiff's motion is denied as moot except as to sanctions. (See <i>Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants</i> (2007) 148 Cal.App.4th 390, 409; Cal. Rules of Court, rule 3.1348; see also Ho decl. [ROA #100] ¶¶ 6 &amp; Ex. A.)</p> <p>Defendant Anaheim Healthcare Center LLC shall pay \$760 in discovery sanctions to plaintiff, who would not have received the supplemental responses without filing this motion.</p> <p><b><u>Motion to Compel: Anaheim Healthcare Special Rogs</u></b> Plaintiff's motion is granted.</p> <p>Anaheim Healthcare shall serve complete, code-compliant, verified further responses to plaintiff's special interrogatories (set one) #36-37 within 30 days.</p> <p>Plaintiff's roommates, visitors, and contact persons are reasonably likely to be witnesses. Plaintiff's legitimate litigation need for their names and contact information outweighs any intrusion into their privacy rights. (See <i>Williams v. Superior Court</i> (2017) 3 Cal.5th 531, 552 [balancing test]; <i>Puerto v.</i></p>

*Superior Court* (2008) 158 Cal.App.4th 1242, 1249-1250 [“The disclosure of the names and addresses of potential witnesses is a routine and essential part of pretrial discovery”].)

Sanctions were not noticed; none are imposed.

**Motion to Compel: Anaheim Healthcare RPDs (ROA #79)**

Plaintiff’s motion is granted.

Anaheim Healthcare shall serve a complete, code-compliant, verified further response to plaintiff’s request for production (set one) #52 and produce all responsive documents within 30 days.

Anaheim Healthcare has not met its “burden of showing that the evidence it seeks to suppress is within the terms” of Evidence Code section 1157. (*Santa Rosa Memorial Hospital v. Superior Court* (1985) 174 Cal.App.3d 711, 727.)

“Section 1157 ‘applies only to records of and proceedings before medical investigative committees.’ [Citation.] Information developed or obtained by hospital administrators or others which does not derive from an investigation into the quality of care or the evaluation thereof by a medical staff committee, and which does not disclose the investigative and evaluative activities of such a committee, is not rendered immune from discovery under section 1157 merely because it is later placed in the possession of a medical staff committee or made known to committee members.” (*Santa Rosa, supra*, 174 Cal.App.3d at p. 724.)

Anaheim Healthcare has not shown the withheld “concern/grievance reporting forms” (Opp. [ROA #98], Ex. A [privilege log]) derive from an investigation or evaluation “by a medical staff committee.” They appear to be documents that defendant instead maintains as part of its administrative duty to document, investigate, and report resident grievances. (See 42 CFR § 483.10(j).)

Sanctions were not noticed; none are imposed.

**Motion to Compel: Sun Mar RPDs (ROA #73)**

Plaintiff’s motion is denied.

Plaintiff shall pay \$2000 in discovery sanctions to Sun Mar.

Plaintiffs seeks production of Sun Mar’s nursing department recommendations and nurse consultant clinical reports for Anaheim Healthcenter.

Sun Mar has met its burden to show shown its nursing consulting is an integral part of AH’s peer review process. (See *Santa Rosa, supra*, 174 Cal.App.3d at pp. 724, 727; see also

		<p>Acuna decl. [ROA #102] ¶¶ 6-11; Ho decl. [ROA #102] ¶¶ 10-14.)</p> <p>Plaintiff shall give notice of all rulings.</p>
5	Liu v. JM International Group	<p>Plaintiff Jin Liu's motion for assignment is granted.</p> <p>Defendants James Turco and Margaret Turco shall assign to plaintiff any right to payment of real estate commissions until the \$143,959.23 judgment is satisfied. (See Code Civ. Proc., § 708.510(a)(3), (c); see also 8/2/22 judgment; 1/25/24 Greenbaum decl. ¶¶ 2-3.)</p> <p>Plaintiff shall give notice.</p>
6	American Express v. Donnell	<p>Plaintiff American Express National Bank's motion to vacate/enter judgment is granted. (See Code Civ. Proc., § 664.6; see also Keith decl. ¶¶ 5-13 &amp; Exs. A-C.)</p> <p>The 12/9/21 stipulated judgment is vacated.</p> <p>The court will sign plaintiff's proposed judgment (ROA #60) and enter judgment for plaintiff and against defendant Charles J. Donnell in the amount of \$12,593.64.</p> <p>Plaintiff shall give notice.</p>
7	Ford Motor Credit Company v. Harrington	<p>Plaintiff's motion for entry of judgment is taken off calendar. (See 4/25/24 notice.)</p>
8	Michenaud v. Ricci	<p>Plaintiff Aneta Michenaud's motion to tax costs.</p> <p>The court invites the parties to focus their arguments on the \$29,535 in expert witness fees and the reasonableness of the defendants' Section 998 offer. (See Costs memo, Item 8(b).)</p> <p>The other challenged costs appear to be reasonable. The deposition costs for Brooke Hargrove and Karie McMurray appear proper on their face; plaintiff has not shown otherwise. (See <i>Nelson v. Anderson</i> (1999) 72 Cal.App.4th 111, 131 [burden]; Code Civ. Proc., § 1033.5, subd. (a)(3); see also Carlton decl.; Wong decl. ¶ 24.) Court reporter fees are recoverable in the court's discretion. (See Cal. Rules of Court, rule 2.956(c)(1); Code Civ. Proc., § 1033.5, subd. (c)(4); see also Wong decl. ¶ 27, Ex. H.) All of the remaining costs of \$24,476.47 were reasonably necessary to the conduct of the litigation and reasonable in amount. (See Code Civ. Proc., § 1033.5, subds. (a), (c).)</p>

9	<p>Barton v. State Farm General Ins. Co.</p>	<p>Defendant State Farm General Insurance Company's motion for summary adjudication is denied.</p> <p>Assuming defendant met its initial burden, plaintiffs have met their shifted burden to show that trial issues of material fact. (See Code Civ. Proc., § 437c, subd. (p)(2) [burden]; <i>Aguilar v. Atlantic Richfield Co.</i> (2001) 25 Cal.4th 826, 849-850 [same]; <i>Wilson v. 21st Century Ins. Co.</i> (2007) 42 Cal.4th 713, 720-721 [bad faith elements], 723-724 [triable issues regarding genuine dispute rule]; <i>Fadeeff v. State Farm General Insurance Co.</i> (2020) 50 Cal.App.5th 94, 109 [bad faith evidence was also clear and convincing evidence of malice, oppression, or fraud]; <i>Marderosian v. Nationwide Mutual Insurance Company</i> (C.D. Cal. 2020) 2020 WL 4787998, *10 [applying Cal. law; "the majority of courts find that genuine disputes of material fact regarding an insurer's bad faith conduct similarly create a genuine dispute as to an award of punitive damages"]; see also Pl. Resp. to Def. SSUF #8, 11; Pl. Add'l SSUF #4-7, 9, 15-22, 25-32, 37-42, 45-47.)</p> <p>Defendant shall give notice.</p>
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