

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN MATEO

Law and Motion Calendar

Judge: HONORABLE LELAND DAVIS, III  
Department 1

400 County Center, Redwood City  
Courtroom 4C

Friday, February 22, 2019

IF YOU INTEND TO APPEAR ON ANY CASE ON THIS CALENDAR  
YOU MUST DO THE FOLLOWING:

1. YOU MUST CALL (650) 261-5019 BEFORE 4:00 P.M. TO  
INFORM THE COURT OF YOUR INTENT TO APPEAR.
2. You must give notice before 4:00 P.M. to all  
parties of your intent to appear pursuant to  
California Rules of Court 3.1308(a) (1) .

Failure to do both items 1 and 2 will result in no  
oral presentation.

Notifying CourtCall with your intent to appear is not  
an alternative to notifying the court.

All Counsel are reminded to comply with California  
Rule of Court 3.1110. The Court will expect all  
exhibits to be tabbed accordingly.

Case

Title / Nature of Case

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9:00

LINE: 1

16-CIV-02858 VICKY CHON HARRIS VS. SASHI P. SMITH, ET AL.

VICKY CHON HARRIS  
SASHI P. SMITH

DENNIS ZELL

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ELEVATION HOMES, LLC'S MOTION TO AMEND AND TO SET TRIAL AND FIRST  
AMERICAN TITLE COMPANY, INC.'S MOTION FOR JOINDER

**TENTATIVE RULING:**

**On the Court's own motion, Elevation Homes, LLC's motion to amend and to set trial and First American Title Company, Inc.'s motion for joinder are CONTINUED to Monday, May 6, 2019, at 9:00 a.m. At that time, the Court will know whether Cross-Defendants Terrace Associates, Inc. and Russel are represented and, if not, whether they have made efforts to obtain substitute counsel. The Court finds Elevation and First American have not demonstrated they will be prejudiced by the continuance.**

**If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Elevation Homes, LLC shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.**

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9:00

LINE: 2

18-CIV-01309 DOE MARY VS. ST. MATTHEW'S EPISCOPAL DAY SCHOOL, ET AL.

DOE MARY  
ST. MATTHEW'S EPISCOPAL DAY SCHOOL

JOSEPH C. GEORGE  
RYAN C. MCKIM

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PLAINTIFF MA DOE MOTION FOR ORDER TO DISCLOSE ALL WRITTEN RECORDS,  
DOCUMENTARY EVIDENCE AND VIDEO AND AUDIO MATERIALS OF DEFENDANT PRE-K  
TEACHER MR. ANTHONY SATRIANO AND ALL WITNESSES

**TENTATIVE RULING:**

**Plaintiff's Motion for Order to Disclose All Written Records, Documentary Evidence and Video and Audio Materials of Defendant Teacher Mr. Anthony Satriano and All Witnesses is DENIED. Plaintiff has not complied with the procedure for enforcement of the California Public Records Act.**

**If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Defendant shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.**

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9:00

LINE: 3

18-CIV-05380      RIE HIRABARU RUBIN VS. STEPHEN M. PETERS, ET AL.

RIE HIRABARU RUBIN  
STEPHEN M. PETERS

BRIAN DANITZ  
KENDALL A. LAYNE

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DEMURRER

**TENTATIVE RULING:**

**Pursuant to an order from the Presiding Judge, this matter will be heard in Department 10. The parties shall contact the clerk in Department 10 at (650) 261-5110 to reschedule the hearing date.**

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9:00

LINE: 4

18-CIV-05380 RIE HIRABARU RUBIN VS. STEPHEN M. PETERS, ET AL.

RIE HIRABARU RUBIN  
STEPHEN M. PETERS

BRIAN DANITZ  
KENDALL A. LAYNE

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MOTION TO SEAL

**TENTATIVE RULING:**

**Pursuant to an order from the Presiding Judge, this matter will be heard in Department 10. The parties shall contact the clerk in Department 10 at (650) 261-5110 to reschedule the hearing date.**

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9:00

LINE: 5

19-CIV-00313 COUNTY OF SAN MATEO SHERIFF CARLOS BOLANOS VS.  
VSEVOLOD CHITOV

COUNTY OF SAN MATEO SHERIFF CARLOS BOLANOS JOHN C. BEIERS  
VSEVOLOD CHITOV

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PETITIONER'S MOTION TO SEAL RECORDS

**TENTATIVE RULING:**

**The motion is GRANTED. The information contained in Ex. A is private in nature and this privacy interest constitutes an overriding interest that overcomes the public right of access and supports sealing. The proposed sealing is narrowly tailored and there is no less restrictive means to protect the privacy interest. Absent sealing, the private information would be publicly available.**

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9:00

LINE: 6

CIV530285 RENE GLOVER CHANTLER, et al. VS. FARIN NAMDARAN  
YEGANEH, et al.

RENE GLOVER CHANTLER  
FARIN NAMDARAN YEGANCH

EMILY MAXWELL

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DEFENDANT RAMIN YEGANEH'S MOTION FOR SUMMARY ADJUDICATION  
**TENTATIVE RULING:**

**The Court reminds Plaintiff Chantler's counsel that papers must include full citations to evidence. Plaintiff's omission of the evidence on which she relies (See Opposing P&A at 20:23-24, 21:12, 22:16-17, 24:8, 25:21, places an unreasonable burden on the Court.**

**The Court acknowledges Plaintiff's objection to Defendant's purported attempt to file a moving Memorandum of Points and Authorities of excessive length by manipulating typeface size and line spacing. (Opp. P&A at 1 and n.1). The Court also notes that Plaintiff's extensive use of footnotes brings her Opposing brief to a word-count nearly identical to that of Defendant.**

**The motion for summary adjudication is DENIED as to Issues 1, 2, and 3.**

**A. Issue 1 – Damages**

**1. *The Motion Fails to Dispose of a Cause of Action.***

**Summary adjudication cannot be granted unless the motion completely disposes of a cause of action or a claim for punitive damages. Further, section 437c, subdivision (f)(1) does not permit summary adjudication of a single item of compensatory damage which does not dispose of an entire cause of action. (*DeCastro W. Chodorow & Burns, Inc. v. Superior Court* (1996) 47 Cal. App. 4th 410, 422.) Defendant is named in the third through seventh and ninth causes of action. The motion does not identify which cause(s) of action is/are addressed by this motion. The motion fails to meet its moving burden of establishing that any cause of action is entirely eliminated by a finding that Defendant owned no interest in any of the properties.**

**2. *Yeganeh's Argument Regarding Admissions Has no Merit.***

**A party may not use his own responses to Requests for Admissions as a sword. An admission is binding only against the admitting party, not the requesting party. (Code of Civ. Proc. § 2033.410 subd. (a) & (b).) Yeganeh's "admissions" that he owns no interest in the properties are not admissible evidence against Plaintiff.**

**3. *Yeganeh's Estoppel Argument Has no Merit.***

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The motion does not argue that the defense of estoppel bars any cause of action. Rather, it argues that Plaintiff is merely “estopped” from “contending” that Yeganeh owns/owned a property interest in any of the property. The argument does not warrant summary adjudication of damages, because Yeganeh does not identify what cause of action he is attacking. Further, the motion does not explain how estopping Plaintiff from “contending” that Yeganeh owns any interest in the properties disposes of any cause of action.

**B. Issue 2 – 3<sup>rd</sup> Cause of Action  
(Conspiracy to Commit Fraudulent Transfers)**

1. The cases addressing undue influence concern incidents in which one person used undue influence to gain an “unfair advantage over the other.” In the present case, there is no issue of Defendant Yeganeh gaining an unfair advantage over his parents. He contends only that he coerced them into signing documents to facilitate the transfers. The existence of undue influence, if any, does not obviate the allegation that Yeganeh entered into an agreement with his parents to commit the fraudulent transfers.

2. A conspiracy may exist notwithstanding one person’s use of coercion to force others into the conspiracy agreement. (*See City of Vernon v. Southern California Edison Co.* 955 F.2d 1361, 1371 (9th Cir. 1992) (“a conspiracy to monopolize may exist even where one of the conspirators participates involuntarily or under coercion”).)

3. Plaintiff raises a triable issue of fact by offering contradictory evidence that Yeganeh’s mother testified that she and her husband initially helped Yeganeh not because of threats, but based upon concern for their son and pleading and pressure from their son and his attorney. (Maxwell Decl., Ex. 3 (Yeganeh Declaration to Withdraw Admissions) para. 80; see also Maxwell Decl., Ex. 11 (Yeganeh Good Faith Settlement Declaration) para. 20 (same statement).)

Undue influence and coercion do not necessarily negate the formation of an agreement to commit civil conspiracy. Triable issues of material fact exist about whether Yeganeh coerced or otherwise caused his parents to enter into the civil conspiracy involuntarily.

**C. Issue 3 – Fourth Cause of Action (Civil RICO)**

**1. *A Triable Issue of Material Fact Exists About the Existence of an Enterprise.***

Defendant Yeganeh’s initial argument is simply that the alleged wrongful acts “are not the actions of a member of an association-in-fact enterprise” and that his parents “were not participating in this ‘enterprise’ nor were they adding any ‘direction’ element to it.” (Moving P&A at 19:13-18.) The argument fails because “issues of ongoing organization, continuing membership and an enterprise existing apart from the underlying pattern of racketeering are factual questions for the jury.” (*United States v. Sanders* (10th Cir. 1991) 928 F.2d 940, 943; *United States v. Irizarry* (3d Cir. 2003) 341 F.3d 273, 286 [existence of enterprise must be resolved by jury].)

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**2. A Triable Issue of Material Fact Exists Whether a "Pattern" of Activity Existed.**

Existence of a pattern is a question of fact for the jury. (*Resolution Tr. Corp. v. Stone* (10th Cir. 1993) 998 F.2d 1534, 1543.) The motion fails to demonstrate that the facts lead to only one reasonable conclusion that a pattern of activity existed. Therefore, the question is one of fact for the jury.

**3. A Triable Issue of Material Fact Exists About Causation.**

"Causation ... is ordinarily a question of fact which cannot be resolved by summary judgment. The issue of causation may be decided as a question of law only if, under undisputed facts, there is no room for a reasonable difference of opinion." (*Ambriz v. Kelegian* (2007) 146 Cal. App. 4th 1519, 1531–32.) Yeganeh's burden is to negate causation. Instead, he argues only that Plaintiff "does not explain" the causal link between the wrongful acts and Plaintiff's damages. (See UMF 69 & 72.) Other arguments are mere conclusions without citation to any evidence. (See Moving P&A at 24:13-14 ("none of this 'Extortion' activity could have caused" harm); *Id.* at 24:20-21 ("YEGANEH is at a loss as to how Plaintiff Chantler has been harmed by these 'Obstruction of Justice' allegations"); *Id.* at 25:4-6 ("How Plaintiff Chantler could have been harmed by this activity is anyone's guess").) The motion fails to establish that none of the RICO acts caused damage to Plaintiff.

**4. The Motion Fails to Show that the Statute of Limitations Bars the RICO Claim.**

The statute of limitations does not bar a RICO claim if overt acts occur within the limitations period. The Ninth Circuit applies the rule of "separate accrual," wherein a "cause of action accrues when new overt acts occur within the limitations period, even if ... other acts were committed outside the limitations period." (*State Farm Mutual Automobile Ins. Co. v. Ammann* (9th Cir.1987) 828 F.2d 4, 5; *Beneficial Standard Life Ins. Co. v. Madariaga* (9th Cir.1988) 851 F.2d 271, 275.) The motion does not demonstrate that none of the alleged RICO overt acts occurred within four years before the complaint was filed. Therefore, the statute of limitations argument does not dispose of the cause of action.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Plaintiff shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.

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9:00

LINE: 7

CIV530285 RENE GLOVER CHANTLER, et al. VS. FARIN NAMDARAN  
YEGANEH, et al.

RENE GLOVER CHANTLER  
FARIN NAMDARAN YEGANCH

EMILY MAXWELL

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RENE GLOVER CHANTLER'S MOTION FOR SUMMARY ADJUDICATION

**TENTATIVE RULING:**

**On the court's own motion, Plaintiff Renee Chantler's motion for summary adjudication is CONTINUED to February 28, 2019, at 9:00 a.m. in the Law & Motion Department. Moving party Plaintiff shall serve written notice to all parties.**

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9:00

LINE: 8

CIV532927 TOP GAINS MINERALS MACAO COMMERCIAL OFFSHORE LIMITED  
VS. SONQUIANG CHEN, ET AL

TOP GAINS MINERALS MACAO COMMERCIAL  
OFFSHORE LIMITED  
SONG QIANG CHEN

JONATHAN R. DOOLITTLE

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JUDGMENT CREDITOR'S ("CREDITOR" OR "PLAINTIFF") MOTION FOR CHARGING  
ORDER OF DEFENDANTS INTERESTS IN TWO LIMITED LIABILITY COMPANIES

**TENTATIVE RULING:**

**Plaintiff / Judgment Creditor TOP GAINS MINERALS MACAO COMMERCIAL OFFSHORE LIMITED's Motion for Charging Order is DENIED.**

**A motion for charging order must be served on "the judgment debtor" and "all members" of the LLC in which the judgment debtor purportedly owns an interest. (Code of Civ. Proc. § 708.320(a).) The Proof of Service does not show that this motion was served on Judgment Debtor METAMINING, INC., or on any members of Spiro Mining, LLC, or Coal Creek, LLC. It shows service on the LLCs, but the statute requires service on the LLCs' "members." This defect in service was pointed out in the Court's prior Orders of August 24, 2017 and February 26, 2018, yet Plaintiff continues to fail to comply with the statute.**

**Further, the motion once again lacks merit. The evidence does not demonstrate that either Judgment Debtor SONG QIANG CHEN or METAMINING, INC. owns any interest in Spiro Mining, LLC or Coal Creek, LLC. Plaintiff relies solely on unauthenticated emails purportedly from Judgment Debtor Chen. (Exhibits 1 and 2 to Declaration of leong Kun Fo.) Moreover, Plaintiff contends that Coal Creek LLC is "a wholly owned subsidiary of Spiro." (Declaration of leong ¶ 22). Since Spiro purportedly owns all of Coal Creek, then Coal Creek cannot be owned by either Chen or Metamining.**

**If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, Plaintiff shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.**

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9:00

LINE: 9

CLJ521251 WELLS FARGO BANK, N.A. VS. REGINA OBIAJULU

WELLS FARGO BANK, N.A.  
REGINA OBIAJULU

MATTHEW W. QUALL  
PRO/PER

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REGINA OBIAJULU'S MOTION TO SET ASIDE AND VACATE DEFAULT JUDGMENT AND  
ENTER ANOTHER AND DIFFERENT JUDGMENT

**TENTATIVE RULING:**

**The motion is DENIED on several grounds. First, it is untimely. The default and default judgment were entered more than four years ago on August 20, 2014. CCP §473(b) requires a motion for relief to be filed within a reasonable time, in no case exceeding six months. Second, defendant has not provided a proposed responsive pleading as required by the statute. Finally, defendant has not offered evidence to support a finding that the default was entered as a result of her mistake, surprise, inadvertence of excusable neglect.**

**If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Plaintiff shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.**

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9:01

LINE: 10

CIV534203 JONATHAN MCDUGALL VS. MANUEL SEDILLO, ET AL.

JANE DOE #1  
COUNTY OF SAN MATEO

JENNY D. SMITH  
DAVID A. LEVY

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COUNTY OF SAN MATEO'S MOTION FOR ADDITIONAL TIME TO COMPLETE PLAINTIFF  
JANE DOE #1'S DEPOSITION

**TENTATIVE RULING:**

**Defendant County of San Mateo's Motion for Additional Time to Complete Plaintiff Jane Doe #1's Deposition, filed 2-14-19, is GRANTED-IN-PART. The County may depose Plaintiff for an additional five (5) hours of on-the-record time. Counsel shall meet and confer in good faith to schedule the remaining portion of the deposition. For the reasons stated in the County's moving papers, and given the Court's 2-11-19 Order compelling Plaintiff to serve further discovery responses by 3-1-19 and to authorize the County to subpoena additional third-party documents (including cellular phone records), an additional five hours of deposition time is warranted.**

**In her papers, Plaintiff has offered to permit Defendant Corbett Group Homes 45 additional minutes of deposition time (9-14-19 Ketchum Decl., ¶31), which Corbett has accepted. See Corbett's 2-19-19 Opposition brief at 3. Corbett's additional 45 minutes shall be in addition to the County's additional five (5) hours.**

**If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Defendant shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.**

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9:01

LINE: 11

CIV534203 JONATHAN MCDUGALL VS MANUEL SEDILLO, ET AL.

JANE DOE #1  
COUNTY OF SAN MATEO

JENNY D. SMITH  
DAVID A. LEVY

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PIAINTIFF JANE DOE #1'S MOTION FOR PROTECTIVE ORDER RE JANE DOE 1'S DEPOSITION

**TENTATIVE RULING:**

**Plaintiff Jane Doe #1's Motion for Protective Order, filed 2-14-19, is GRANTED-IN-PART and DENIED-IN-PART, as set forth below.**

***Additional Deposition time***

**On the issue of additional deposition time, Plaintiff's Motion for Protective Order is GRANTED-IN-PART and DENIED-IN-PART. The County may depose Plaintiff for an additional five (5) hours of on-the-record time. For the reasons stated in the County's Motion for Additional Time to Complete Plaintiff Jane Doe #1's Deposition (filed concurrently with this motion), and given the Court's 2-11-19 Order compelling Plaintiff to serve further discovery responses by 3-1-19 and to authorize the County to subpoena additional third-party documents (including cellular phone records), an additional five hours of deposition time is warranted.**

**Plaintiff has offered to give Defendant Corbett Group Homes 45 additional minutes of deposition time (9-14-19 Ketchum Decl., ¶31), which Corbett has accepted. See Corbett's 2-19-19 Opposition brief at 3. Corbett's additional 45 minutes shall be in addition to the County's additional five hours.**

***Questions regarding Plaintiff's intimate/sexual relations with third parties***

**As to questions relating to Plaintiff's intimate/sexual relations with third parties, Plaintiff's motion is DENIED. Plaintiff seeks to prohibit questions regarding her intimate/sexual relations with third parties after the time of Defendant Sedillo-Messer's alleged abuse. Such questions are permissible discovery.**

**First, Plaintiff's citations to the Evidence Code are not dispositive, because discovery rights are broader than the issue of admissibility at trial. *Williams v. Superior Court* (2017) 2017 Cal.5th 531, 554 ("Under the Legislature's "very liberal and flexible standard of relevancy," any "doubts as to relevance should generally be resolved in favor of permitting discovery.") Admissibility at trial is *not* required for purposes of discovery. The test is whether the information sought might reasonably lead to other evidence that would be admissible. *Volkswagen of America, Inc. v. Sup.Ct.* (2006) 139 Cal.App.4th 1481, 1490-1491.**

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Second, for the reasons stated in both the County's and Corbett's 2-19-19 Opposition briefs, Plaintiff's privacy rights under the circumstances are outweighed by the direct relevance of these questions, and Plaintiff has placed them at issue in the case. Plaintiff has stated in discovery responses, for example, that her injuries include the "impaired ability to form intimate relationships," and has alleged that such impairment is "ongoing, not subsiding, and affect[s] her on a daily basis." See 2-19-19 Corbett Opposition and accompanying Finn Decl; *Vinson v. Superior Court* (1987) 43 Cal.3d 833, 842 ("plaintiff cannot be allowed to make her very serious allegations without affording defendants an opportunity to put their truth to the test."). Plaintiff has opened the door to these questions through her asserted claims/damages and discovery responses.

*Questions regarding Plaintiff's "financial matters"*

As to questions relating to Plaintiff's "financial matters," Plaintiff's motion is DENIED. Although Plaintiff's motion refers vaguely to "financial matters," the only apparent deposition question at issue pertained to whether Plaintiff is currently receiving financial support to care for her child. Again, discovery rights are broader than admissibility issues. Whether such discovery will ultimately be admissible at trial is a separate issue. And although parties do generally have privacy rights with respect to "financial matters," under the circumstances, including Plaintiff's wage loss and future earnings capacity claims, the question at issue is permissible discovery.

*Plaintiff's request for written deposition questions regarding the age 9 incident*

Plaintiff argues she should not be compelled to answer the County's questions in oral deposition regarding her alleged abuse at age 9, and that such questions should instead be posed to her in writing due to their sensitive nature. See Code Civ. Proc. § 2025.420. The motion is DENIED. Due process concerns militate in favor of permitting the County to depose Plaintiff orally on these issues (Corbett has apparently reached an alternative agreement with Plaintiff). Written deposition questions are a poor substitute for in-person testimony. This entire case involves sensitive subject matter. As to the County, the Court finds insufficient grounds to exclude this line of inquiry from the oral deposition.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Defendant shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.

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