

## **Tentative Rulings –October 19, 2006**

**To request a hearing on any matter on this calendar, you must call the Court at (209) 223-6360 by 4:30 p.m. today. Notice of the intention to appear must also be given to all other parties. If the clerk is not notified of a party's intention to appear, there will be no hearing and the tentative ruling becomes the order of the court.**

### **Baseline Financial Services v. Johnson: 06CV4171**

#### ***Plaintiff's Motion to Compel Responses to Form Interrogatories and Motion for Order Deeming Matters Admitted and for Monetary Sanctions***

Plaintiff's Motion to Compel Responses to Form Interrogatories and Motion for Order Deeming Matters Admitted are granted.

Upon a failure to make a timely response to interrogatories, the propounding party may move the court for an order compelling a response. (C.C.P. §§ 2030.290, subd. (b).) The failure to serve a timely response waives any objection to the interrogatories, including those based upon privilege and work product doctrine. (C.C.P. §§ 2030.290, subd. (a).) The court may only grant relief from the waiver of objections upon a showing that the responding party has subsequently provided appropriate responses and the party's failure to make a timely response was based upon mistake, inadvertence, or excusable neglect. (C.C.P. §§ 2030.290, subd. (a).)

The court shall impose a monetary sanction against any party who unsuccessfully makes or opposes a motion to compel a response to discovery, unless the court finds that the party subject to the sanction acted with substantial justification or other circumstances exist to make the imposition of sanctions unjust. (C.C.P. §§ 2030.290, subd. (c).) In addition, the court may award sanctions under the Discovery Act in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed. (Cal. Rules of Ct., Rule 341, subd. (a).)

Moreover, upon failure to make a timely responses to request for admissions, the propounding party may move for an order that the genuineness of documents and the truth of any of the matters specified in the request be deemed admitted. (C.C.P. §2033.280, subd. (b).) The court shall make such an order, unless it finds that the person who failed to serve the timely response, before the time for the hearing on the motion, serves a response in substantial compliance with the discovery provisions. (C.C.P. §2033.280, subd. (c).) The person who fails to make a timely response to the request for admission also waives all objections to said requests. (C.C.P. §2033.280, subd. (a).)

The court is required to impose monetary sanctions against any party whose failure to serve a timely response to requests for admissions necessitates a motion to compel. (C.C.P. §2033.280, subd. (c).)

As the defendant failed to submit timely verified responses to form interrogatories and request for admissions, the motion is hereby granted. The defendant is ordered to submit verified responses to form interrogatories to the plaintiff within 20 days of the date of the instant order. In addition, the truth of the matters and genuineness of the documents specified in the Request for Admissions are deemed admitted for the purposes of this action.

Plaintiff is awarded sanctions in the amount of \$1,052.00.

Unless a hearing is requested, this minute order is effective immediately. No formal order per California Rules of Court, Rule 391 is needed, nor is further notice of this ruling required.

**Brown v. Knowles: 06CV4377**

***Defendants' Demurrer to Complaint***

There is no tentative ruling in this matter, pursuant to Local Rule 4.03 (F).

**Mizrahi v. Gibbs: 05CV4007**

***Defendant's Motion to Expunge Lis Pendens***

Defendant's Motion to Expunge Lis Pendens is hereby continued, on the court's own motion, to November 9, 2006 at 3:15 p.m. in Department 2. Defendant's Notice of Motion fails to comply with Local Rule 4.03. Defendant is to file and serve an amended notice, in compliance with Rule 4.03, no later than October 31, 2006.

**Qualls v. Clegg: 06CV4128**

***Plaintiff's Motion to Compel Defendant Marianne Clegg to Respond to Discovery***

Plaintiff's Motion to Compel Defendant Marianne Clegg to Respond to Discovery is hereby continued, on the court's own motion, to November 9, 2006 at 3:15 p.m. in Department 2. Plaintiff's Notice of Motion fails to comply with Local Rule 4.03. Plaintiff is to file and serve an amended notice, in compliance with Rule 4.03, no later than October 31, 2006.