

**Dept. 1**

**Civil Law and Motion Tentative Rulings for Friday, April 12, 2024 at 8:30 a.m.**

If you wish to appear for oral argument, you must so notify the Court at (209) 533-6633 and (209) 588-2316, and all other parties by 4:00 p.m. on the court day preceding the hearing, consistent with CRC 3.1308. The tentative ruling will become the ruling of the Court if notice for oral argument has not been provided.

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**1. CV65213**

**Bishop v. Bishop**

Hearing on: Motion to Compel Further SRogs  
Moving Party: Plaintiff  
Tentative Ruling: DENIED WITHOUT PREJUDICE

This is a family dispute over intestacy instruments, representative powers and management of proceeds from the sale of a residence. Before the Court this day is plaintiff's motion to compel co-defendant Shane Bishop to provide further responses to a set of Special Interrogatories aimed at said proceeds. Plaintiff previously sought judicial intervention to secure *initial* responses.

The Special Interrogatories at issues are:

- No. 16: identify the beneficial expenditures made with the Umpqua \$180,378.60
- No. 17: identify all other expenditures made with the Umpqua \$180,378.60

The purpose of these interrogatories is akin to an accounting from defendant of the money spent following the 03/03/21 withdrawal of funds from the Umpqua Bank account held by Elsie Smith. Defendant's initial response to both was as follows: "Discovery is ongoing and defendant will forward any information acquired or learned after these responses are produced upon receipt." After meeting and conferring, defendant amended his response by providing the following information: he took \$5,000 for his own use, and put the balance (\$175,378.60) into a different account at Umpqua Bank. Defendant did not provide any explanation for what came of the funds after placement into a different account at the bank.

The party responding to interrogatories has an obligation to provide responses which are "as complete and straightforward" as possible, which obligates the party to make a "reasonable and good faith effort to obtain the information" from sources within its reach/control. CCP §2030.220. The supplemental responses provided is manifestly inadequate and not Code-compliant. As such, a basis for a further responses is shown. However, there are three anomalies that need to be addressed.

**First**, a motion to compel further responses must be accompanied by a separate statement. CRC 3.1345(c); see *St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 778-779. There is no separate statement with this motion.

**Second**, a motion to compel further responses must be accompanied by a declaration demonstrating a "serious effort" to resolve the dispute. *Townsend v. Superior Court*

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(1998) 61 Cal.App.4th 1431, 1438. It effort must be “more than the mere attempt by the discovery proponent to persuade the objector of the error of his ways ... the law requires that counsel attempt to talk the matter over, compare their views, consult, and deliberate.” *Clement v. Alegre* (2009) 177 Cal.App.4th 1277, 1294. The failure to properly meet and confer can be addressed in any of the following ways: (1) denying the motions outright; (2) continuing the motions for further meet and confer efforts; and/or (3) imposing monetary sanctions against the moving party. See CCP §2023.010(i). Counsel’s meet and confer declaration here shows that defense counsel agreed to a meeting, but that plaintiff decided on his own that the meeting would be fruitless. See Hamilton Decl para 4. There is no not a good faith meet and confer effort.

**Third**, a motion to compel further responses must include Proof of Service and proper notice. On 05/19/24, counsel for plaintiff filed the within motion. There is no opposition filed, even though defendant is represented by counsel. Upon closer review, it would appear that counsel for plaintiff has *yet again* failed to attach any proof that Shane Bishop was provided (1) a copy and (2) timely notice of this motion.

While this Court does not seek to exalt form over substance, there are only so many procedural defects this Court will reasonably overlook. Moreover, the information sought is better accomplished with records and a deposition. As such, the motion to compel further responses to SRogs 16 and 17 is denied without prejudice.

<b>2. CV64196</b>	<b>Chavolla v. Sierra Pacific Industries</b>
Hearing on:	Summary Judgment/Adjudication
Moving Party:	Vito Trucking (XΔ)
Tentative Ruling:	Motion Withdrawn Per Settlement

This is a personal injury action involving an auto v. pedestrian accident. Before the Court this day was to be the hearing on Vito’s hotly-contested motion for summary adjudication/judgment. This Court dedicated considerable time working through the voluminous papers and complex legal issues, only to learn this day that the parties settled their differences. The hearing is now vacated, and an Order to Show Cause re: dismissal is hereby set for May 24, 2024, at 9:30 a.m.