SUPERIOR COURT OF CALIFORNIA

COUNTY OF TUOLUMNE

DEPT. 2 TENTATIVE RULINGS FOR OCTOBER 30, 2026

JUDICIAL OFFICER: SARAH J. CARRILLO

If you wish to appear for oral argument, pursuant to California Rules of Court, rule 3.1308, you must notify the court and opposing counsel by 4:00 p.m., the court day before the hearing. The court telephone number for such notification to Dept. 1 is (209) 588-2316, to Dept. 2 is (209) 588-2382, and to Dept. 3 is (209) 588-2383.

The Tentative Ruling will become the ruling of the court if the court has not directed oral argument by its Tentative Ruling, and notice of intent to appear has not been given.

Case No.: **CVL67045**
Case Title: **Bank of Stockton v. Nicholas Stevens**
Case Type: **Breach of Contract, Money Judgment**
Hearing Type: **Motion to Vacate Judgment, Quash Service**

This case arises from alleged breach of contract for an installment loan used to finance the purchase of a vehicle. Plaintiff Bank of Stockton ("Plaintiff") sought to recover money damages from Defendant Nicholas Stevens ("Defendant"). Judgment was entered in Plaintiff's favor in January 2026 following default. Defendant moves to vacate judgment and to quash service of summons.

Having reviewed Defendant's Notice of Motion to Vacate Judgment and Quash Service of Summons, Memorandum of Points and Authorities, Plaintiff's Memorandum of Points and Authorities in Opposition, Declaration of Spencer D. Sinclair, Declaration of Sandra A. Huckaby, and other materials on file, and in accordance with California Rules of Court, rule 3.1308(a)(1) and Local Rule 3.11.0, the Court issues the following tentative ruling:

Defendant's Motion to Vacate Judgment and Quash Service is **DENIED**.

Relevant Procedural and Factual Background

On March 10, 2025, Plaintiff filed a verified complaint stating four causes of action. Plaintiff alleged Defendant entered into a retail installment sale contract in July 2021 for funds used to purchase a vehicle. Defendant last made an installment payment in August 2023 without repaying all borrowed funds and late fees.

On August 11, 2025, Plaintiff filed a Proof of Service of Summons. This indicated Defendant was served on July 24, 2025, via substituted service at an address in Sonora, California, on Defendant's brother-in-law. In the process server's Declaration of Reasonable Diligence, she reports brother-in-law stated Defendant lived in the apartment, and that he would give the case documents to Defendant.

On September 8, 2025, Plaintiff filed a Request for Entry of Default as to Defendant. The Clerk entered default that same day.

On January 12, 2026, Plaintiff filed a Request for Court Judgment against Defendant in the amount of $28,804.43 along with the Declaration of Spencer D. Sinclair regarding the calculation of the judgment request and the Declaration of Joshua Geren regarding Plaintiff's business recordkeeping practices and authenticating the subject contract and related accounting records. The Clerk entered the request that same day.

On January 30, 2026, Judgment by Default by the Court was filed in favor of Plaintiff for $28,804.43. The Court signed the Judgment that same day.

On February 17, 2026, Plaintiff filed Notice of Entry of Judgment with proof of service by mail on Defendant.

On April 8, 2026, in response to Plaintiff's request, an Abstract of Judgment was issued.

On August 12, 2026, Defendant filed a Motion to Vacate Judgment and Quash Service of Summons ("Motion").

On September 22, 2026, Plaintiff filed an opposition to the Motion.

Defendant has not filed a reply.

Legal Standards

"The court may, upon any terms as may be just, relieve a party or the party's legal representative from a judgment, dismissal, order, or other proceeding taken against the party through the party's mistake, inadvertence, surprise, or excusable neglect." Cal. Code Civ. P. § 473(b). Additionally, the moving party must include a copy of the answer or the "application shall not be granted". *Id*. Any motion must be made "within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken." *Id*.

"[A] default judgment entered against a defendant who was not served with a summons in the manner prescribed by statute is void. Under section 473, subdivision (d), [of the California Code of Civil Procedure], the court may set aside a default judgment which is valid on its face, but void, as a matter of law, due to improper service." *Ellard v. Conway* (2001) 94 Cal.App.4th 540, 544 ("*Ellard*") (internal citations omitted).

Analysis

Defendant argues the judgment in this case must be vacated pursuant to California Code of Civil Procedure section 473(d) and 473.5 because service was improper on Defendant, thereby depriving the Court of personal jurisdiction over him. He claims the place of service was not his "residence or usual place of abode." He also argues service did not give him actual notice in time to defend

himself, that service was not effected within 60 days of filing, and that the proof of service for the Notice of Entry of Judgment is also deficient.

Plaintiff argues the Motion should be denied because Defendant was properly served by substituted service, the evidence supplied regarding Defendant's place of residence does not pertain to the timeframe when he was served, and for procedural reasons.

1. The Court Finds Defendant Has Not Sufficiently Rebutted the Proof of Service of Summons and Complaint.

Substituted service is a valid method of serving a party with a summons and complaint:

> "If a copy of the summons and complaint cannot with reasonable diligence be personally delivered to the person to be served… a summons may be served by leaving a copy of the summons and complaint at the person's dwelling house, usual place of abode, usual place of business, or usual mailing address other than a United States Postal Service post office box, in the presence of a competent member of the household… a least 18 years of age, who shall be informed of the contents thereof, and by thereafter mailing a copy… to the person to be served."

Cal. Code Civ. P. § 415.20(b)(1). Substituted service must be made upon a person whose relationship with the person to be served makes it more likely than not that they will deliver process to the named party. *Ellard*, 94 Cal.App.4th at 546.

Defendant contends he was not properly served with a summons and complaint in this case. He denies ever residing at the address where substituted service was effected, instead providing an address in Copperopolis, California as his address. P&A 2:16-18. Defendant contends the address of service is his sister's residence, not his. Decl. Stevens ¶ 5. In support, he filed several Verizon bills for service from August 28, 2025, through March 27, 2026, and from June 28 to July 27, 2026, as evidence of his address elsewhere. Decl. Stevens, Ex. A.

Plaintiff provides information detailing the effort to identify Defendant's address, which included running a credit report, speaking to a neighbor who confirmed he lived there with his girlfriend, and speaking to Defendant's brother-in-law, who also confirmed Defendant lived at the subject residence. Opp. 2:4-15; Decl. Sinclair; Decl. Huckaby. Plaintiff argues Defendant has failed to establish he was *not* a resident at the service address in July 2025 and that he has not established he was already a resident of the address in Copperopolis by that date.

Given the efforts made to establish the subject address as Defendant's residence, especially the confirmation by two uninvolved people, and Defendant's failure to produce evidence of his actual residence during the time in question, the Court finds the validity of the substituted service has not been adequately rebutted. Defendant's brother-in-law has a sufficient type of relationship that one would expect it is more likely than not would give the documents to the intended recipient.

2. The Court Cannot Find Defendant Was Deprived of Actual Notice.

"When service of a summons has not resulted in actual notice to a party in time to defend the action and a default or default judgment has been entered against the party in the action, the party may serve and file a notice of motion to set aside the default or default judgment and for leave to defend the action. The notice of motion shall be served and filed within a reasonable time, but in no event exceeding the earlier of: (i) two years after entry of a default judgment against the party; or (ii) 180 days after service on the party of a written notice that the default or default judgment has been entered." Cal. Code Civ. P. § 473.5(a). This type of motion must be filed with an affidavit under oath that the moving party's lack of actual notice "was not caused by the party's avoidance of service or inexcusable neglect." Cal. Code Civ. P. § 473.5(b).

Defendant argues a judgment must be set aside when service did not result in actual notice. He further contends he first learned of the case on March 8, 2026, when he "discovered mail regarding this judgment at [his] sister's address." P&A 2:23-24; Decl. Stevens ¶ 13. He then filed within 180 days, as required.

The Proof of Service of Summons, filed August 11, 2025, includes a Declaration of Mailing. Copies of the summons and complaint were mailed to the same residence a neighbor and Defendant's brother-in-law claimed were Defendant's residence. There is no evidence that any materials were returned as undeliverable. In fact, Defendant "discovered" mail at that residence that was kept for him, which implies a sufficiently close relationship between the family members to ensure delivery of other mail. Under these facts, with no evidence to the contrary, the Court cannot find Defendant did not receive actual notice of the case well before March 2026. Further, Defendant did not provide the required affidavit under oath pertaining to avoidance of service and inexcusable neglect.

3. <u>The Court Declines to Decide Whether the Motion Was Made Within a Reasonable Period of Time</u>.

Plaintiff argues in opposition that the Motion was not made within a reasonable period of time and should be denied on that basis alone. Opp. 3:24-4:13.

Any motion must be made "within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken." Cal. Code Civ. P. § 473(b). The six-month limit is a mandatory time bar. *Arega v. Bay Area Rapid Transit Dist.* (2022) 83 Cal.App.5th 308, 316. Within the six-month limit, "[w]hat constitutes a 'reasonable time' depends on the circumstances of each case but definitively requires a showing of diligence in making the motion after the discovery of the default. Whether a party has acted diligently is a factual question for the trial court, which exercises a great deal of discretion in making that determination." *Id*. (internal citations omitted).

Judgment was entered on January 30, 2026; Notice of Entry of Judgment was filed on February 17, 2026. It is unclear from that record what date Plaintiff served Defendant with the Notice; as Defendant notes, the proof of service filed with the court is unsigned and undated. Defendant, who is self-represented, and has shown he resided elsewhere at least from August 2025 on, "discovered" documents related to this case in March 2026.

As the Court has already declined to grant Defendant's motion on other grounds, it is not necessary to determine whether Defendant acted in a reasonably diligent manner.

4. Defendant Failed to File a Proposed Answer, Providing Another Basis for Denying the Motion; the Court Declines to Reach This Decision.

Plaintiff also argues in opposition that the Motion must be denied because Defendant failed to file a proposed answer with the Motion. Opp. 4:14-18.

When seeking to set aside a judgment, the moving party must include a copy of the answer or the "application shall not be granted". Cal. Code Civ. P. § 473(b).

This procedural bar further justifies denial of the Motion, but is also not a necessary finding as the Court has already declined to grant Defendant's motion on other grounds.

Case No.: **CV67962**
Case Title: **Megan Gallegos v. Peter Edward Bippart, M.D.**
Case Type: **Medical Malpractice**
Hearing Type: **Motion to Compel Discovery Responses**

This medical malpractice case arises from a medical procedure provided to Plaintiff Megan Gallegos ("Plaintiff") in October 2024 by Defendant Peter Edward Bippart, M.D. ("Doctor") at Defendant Sonora Community Hospital dba Adventist Health Sonora's ("Hospital") facility (collectively "Defendants"). Doctor seeks to compel Plaintiff to respond to requests for production and requests sanctions.

Having reviewed Doctor's Notice of Motion and Motion to Compel Plaintiff's Responses to Request for Production, Set One, Memorandum of Points and Authorities in Support of the Motion, Declaration of Mark Hirschberg, and other materials on file, and in accordance with California Rules of Court, rule 3.1308(a)(1) and Local Rule 3.11.0, the Court issues the following tentative ruling:

> Doctor's Motion to Compel Production is **GRANTED**. Plaintiff must produce all responsive medical records, photographs, videos, and handwritten "napkin" no later than November 4, 2026.
>
> Doctor's request for sanctions is **GRANTED**, but the Court needs updated information from Doctor's counsel regarding the amount.
>
> The Court desires oral argument regarding the appropriate amount of sanctions and an update on whether Plaintiff has produced any records since the instant motion was filed on August 14, 2026.

Relevant Procedural and Factual Background

On January 3, 2026, Plaintiff filed her Complaint stating four causes of action for medical negligence, corporate negligence, negligent hiring, retention, and supervision, and for negligent infliction of emotional distress. She alleges Doctor performed an emergency caesarean section at the Hospital, that the procedure was not completed according to the relevant standard of care, and that Hospital failed in its obligations pertaining to hiring and supervising on-call medical providers. Plaintiff alleges she sustained injuries and incurred damages as a result.

On July 9, 2026, Defendants filed their Answer to Complaint, which contains a general denial and ten affirmative defenses.

On August 14, 2026, Doctor moved to compel Plaintiff to respond to Requests for Production, Set One. Doctor also seeks $1,845 in sanctions. Doctor contends he propounded Requests for Production, Set One (RFP1), on Plaintiff on May 7, 2026. Responses referenced documents and things that were not produced. He granted several extensions of time to make the production and verbally stipulated to confidentiality of sensitive images.

Plaintiff did not file an opposition to the Motion.

Legal Standards

A party that has propounded a demand for inspection may move for an order compelling a response to the demand if the party to whom the demand is made fails to timely serve a response to the demand. Cal Code Civ. P. § 2031.300(b). Additionally, a party may move to compel *further* responses if a statement of compliance is incomplete, a representation of inability to comply is inadequate, incomplete, or evasive, or an objection in the response is without merit or too general. *Id*. at 2031.310(a). Finally, if a party replies to an inspection demand with a statement of compliance and then *fails to permit inspection*, the demanding party may move to compel compliance. *Id*. at 2031.320(a).

Analysis

Based on the record, Plaintiff has disengaged from the discovery process and has not provided any reason or justification for doing so.

1. Doctor's Motion to Compel Document Production Is Granted.

Doctor propounded written discovery to Plaintiff on May 7, 2026, including Requests for Production, Set One. Decl. Hirschberg ¶ 3, Ex. A. Doctor granted Plaintiff five additional weeks to respond. *Id*. at ¶¶ 5-6. In her response, made on July 17, 2026, Plaintiff agreed to produce medical records, photographs, videos, and a copy of a handwritten napkin purportedly containing contact information for Doctor; no records were attached. P&A 2:22-28; Decl. Hirschberg ¶ 7. Plaintiff subsequently made a partial production. Decl. Hirschberg ¶ 9. Plaintiff then became

nonresponsive to further communication. *Id*. at ¶¶ 9-11. Plaintiff has also failed to respond to the instant motion to compel.

Doctor is entitled to an order compelling further production because Plaintiff specifically identified responsive records, agreed to produce the records, then failed to do so. See Cal Code Civ. P. § 2031.320(a). Therefore, the motion is granted.

2. Doctors Request for Monetary Sanctions Is Granted.

"Misuses of the discovery process include… (d) "Failing to respond or to submit to an authorized method of discovery… (f) Making an evasive response to discovery…[and] (i) Failing to confer or to attempt to confer, in person, by telephone, or by videoconference with an opposing party or attorney in a reasonable and good faith attempt to resolve informally any dispute concerning discovery, if the section governing a particular discovery motion requires the filing of a declaration stating facts showing that an attempt at informal resolution has been made." Cal. Code Civ. P. § 2023.010.

The court *may* impose a monetary sanction for attorneys' fees and expenses incurred as a result of misuse of the discovery process. *Id*. at 2023.030. Additionally, the court *shall* impose a monetary sanction against a party who unsuccessfully opposes a motion to compel compliance with a demand for production unless substantially justified or other circumstances make the imposition of the sanction unjust. *Id*. at 2031.320(b).

In this case, sanctions for drafting the motion to compel and for counsel's appearance are warranted. Doctor's counsel initially sought sanctions for the filing fee, the time spent drafting the motion, reviewing opposition, drafting a reply, and appearing at the hearing. Decl. Hirschberg ¶¶ 12-13. Plaintiff did not, however, oppose the motion. As a result, the Court cannot determine the appropriate amount of sanctions. Updated information is required from counsel about the time spent on this matter.

Case No.: **CV67270**
Case Title: **William Wilson, Sr. v. Dark Goddess, Inc.**
Case Type: **Real Property – Quiet Title, Adverse Possession**
Hearing Type: **Motion to Set Aside Default**

This quiet title case arises from the alleged adverse possession by Plaintiffs William Vuki Wilson, Sr., William Vuki Wilson, Jr., and Robert Wilson ("Plaintiffs") of real and personal property located within Tuolumne County. Plaintiffs seek to quiet title against Defendants Dark Goddess, Inc. ("Dark Goddess"), Russell Bates ("Bates"), and all successors or assigns (collectively "Defendants"). Default was entered in Plaintiffs' favor in September 2026. Defendants move to set aside default due to mistake, inadvertence, surprise, or neglect or Defendants' counsel. The motion is unopposed.

Having reviewed Defendants' Notice of Motion and Motion to Set Aside Default, Memorandum of Points and Authorities, Declaration of Niranjan Pande, and other materials on file, and in

accordance with California Rules of Court, rule 3.1308(a)(1) and Local Rule 3.11.0, the Court issues the following tentative ruling:

> Defendants' Motion to Set Aside Default is **GRANTED**; Default entered against Defendants on August 27, 2026, is set aside and vacated. Defendants' Answer to Plaintiffs' First Amended Complaint is deemed filed on October 30, 2026.

Relevant Procedural and Factual Background

On May 13, 2025, Plaintiffs filed a verified complaint to quiet title on property located within Tuolumne County they allege to have acquired via adverse possession.

Following various other proceedings, the parties stipulated to allow Plaintiffs to file a verified First Amended Complaint. The First Amended Complaint was filed and served by e-mail on July 2, 2026. This complaint added a cause of action to quiet title as to personal property, including heavy equipment for mining, against Bates. The original cause of action to quiet title to real property due to adverse possession was brought only against Dark Goddess.

On August 27, 2026, Plaintiffs filed a Request for Entry of Default as to Dark Goddess and Bates. The Clerk entered default that same day.

On September 8, 2026, Defendants filed the instant Motion to Set Aside Default ("Motion"). In an accompanying declaration, counsel attests the default was entered due to attorney error with file management, not by either defendant. Decl. Pande ¶¶ 2, 8-10, 13.

No opposition has been filed.

Legal Standards

"The court may, upon any terms as may be just, relieve a party or the party's legal representative from a judgment, dismissal, order, or other proceeding taken against the party through the party's mistake, inadvertence, surprise, or excusable neglect." Cal. Code Civ. P. § 473(b). Additionally, the moving party must include a copy of the answer or the "application shall not be granted". *Id*. Any motion must be made "within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken." *Id*. When filed within six months of entry of judgment and accompanied by an attorney's sworn affidavit attesting to the attorney's mistake, inadvertence, surprise, or neglect, the court must vacate the default, *unless* the court finds the default was *not* caused by the attorney. *Id*. In this instance the court shall "direct the attorney to pay reasonable compensatory legal fees and costs to opposing counsel or parties." *Id*.

Analysis

Defendants seek to set aside default due to the counsel's admitted mistakes in file management. Counsel intended to timely review and file the draft answer to the First Amended Complaint, did not, and then the file was transferred to another handling attorney without notice of the unfiled responsive pleading. Decl. Pande ¶¶ 2, 8-10, 13. The Motion was filed within two weeks of

default, well within the six-month requirement established by the Code of Civil Procedure. Plaintiffs have not filed a written opposition. Under these circumstances, no fault can be attributed to the Defendants themselves. Therefore, the Court grants the motion and sets aside and vacates the default entered on August 27, 2026, against Defendants.

Although the Code provides for "reasonable legal fees and costs to opposing counsel or parties" (Cal. Code Civ. P. § 473(b)), Plaintiffs did not oppose the Motion and have not identified any fees or costs incurred. Therefore, the Court declines to impose fees and costs on Defendants.
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