

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Sarah J. Carrillo

Department 2	August 28, 2026	8:30 am	DA Case #	Date Filed
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1	CV66389	David Perry Ashton et al vs. American Family Connect Ins Co et al		08/27/2024
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David Perry Ashton

Attorney: Evangeline Grossman

Mary Jane Ashton

Attorney: Evangeline Grossman

American Family Connect Property an Casualty Insurance Company

Attorney: Joshua Kastan

Ameriprise Auto & Home Insurance

IDS Property Casualty Insurance Company

Alacrity Solutions Group

Attorney: Adriana Valdez

Alacrity Solutions Group

Attorney: Carla Braunstein

Shaun Piazza d/b/a Eagle Construction

Attorney: Anahita Yamouti

Shaun Piazza d/b/a Eagle Construction

Attorney: Shivani Bommakanty

Tony Martin d/b/a Eagle Construction

Attorney: Anahita Yamouti

Tony Martin d/b/a Eagle Construction

Attorney: Shivani Bommakanty

OSC Hearing - Sanctions

Attorney Evangeline Grossman, Attorney Joshua Kastan, and Attorney Adriana Valdez

Case Management Conference

Federal Court update

08/27/2024 Complaint

File Tracking

08/12/2025 High Density

This is an insurance bad faith case. Following a partial settlement with certain local contractor defendants, the remaining defendants had the action removed to federal court. The state case was stayed, and an annual review hearing was set.

On 06/26/2026, Judge Beyersdorf conducted that review hearing. No parties appeared, which caused the Court to issue orders to show cause re: sanctions against the parties/lawyers. As correctly noted in a filing by all parties, the Court had no authority to issue orders to show cause because with removal "the state court shall proceed no further unless and until the case is remanded." 28 U.S.C. §1446(d); in accord, *Spanair S.A. v. McDonnell Douglas Corp.* (2009) 172 Cal.App.4th 348. Although the attorneys agreed to a review hearing in a year and then failed to (1) file a dismissal in this Court once the federal action was fully resolved, or (2) appear at the review hearing to keep this Court informed, the OSC issued on 06/26/2026 must be vacated. Moreover, this state action should be dismissed with prejudice.

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Sarah Carrillo

Department 2

August 28, 2026

8:30 am

DA Case #

Date Filed

3 CV68318

Denise Renee Cargill vs. Wal-Mart Associates Inc et al

04/14/2026

Denise Renee Cargill

Attorney: Yet Not Entered

Wal-Mart Associates Inc

Megan Bally

Demurrer

Case Management Conference

04/14/2026 Complaint

File Tracking

04/17/2026 High Density

This is a "hostile" workplace action. Before the Court this day is a demurrer to plaintiff's fifth cause of action for harassment under FEHA.

Under the FEHA, an employer is prohibited from harassing an employee based on a protected characteristic. See Govt. Code §12940. Unlike discrimination claims, "harassment often does not involve any official exercise of delegated power on behalf of the employer," but rather "focuses on situations in which the social environment of the workplace becomes intolerable because the harassment (whether verbal, physical, or visual) communicates an offensive message to the harassed employee." *Roby v. McKesson Corp.* (2009) 47 Cal.4th 686, 706. To prevail on a harassment claim based on a hostile work environment, the plaintiff must show: (1) she is a member of a protected class; (2) she was subjected to unwelcome harassment; (3) the harassment was based on her protected status; (4) the harassment unreasonably interfered with her work performance by creating an intimidating, hostile, or offensive work environment; and (5) defendants are liable for the harassment. The conduct must be severe enough or sufficiently pervasive to alter the conditions of employment and create a work environment that qualifies as hostile or abusive to employees. It must be more than annoying, and it cannot be occasional, isolated, sporadic, or trivial. However, a single incident of harassing conduct is sufficient to create a triable issue "if the conduct has unreasonably interfered with the plaintiff's work performance or created an intimidating, hostile, or offensive working environment." Govt. Code §12923(b); in accord, *Alexander v. Community Hospital of Long Beach* (2020) 46 Cal.App.5th 238; *Ortiz v. Dameron Hospital Assn.* (2019) 37 Cal.App.5th 568, 581; *Cornell v. Berkeley Tennis Club* (2017) 18 Cal.App.5th 908, 940.

On a demurrer, the Court is obliged to accept as true all adequately pled facts, even if those facts might be subject to differing interpretations by the ultimate trier of fact. Plaintiff avers in pertinent part that defendant(s) repeatedly pulled away or moved plaintiff's chair while she was working when she was authorized to have a chair as an accommodation. Plaintiff avers that she was injured on the job, required surgery, and ultimately some accommodation. Though her knee/back pain were arguably distinct from the injuries subsumed within the workers compensation claim, it was apparently known amongst the supervisors that plaintiff needed a chair from time to time. Given that she was assigned to the "self-check" and "receipt checker" positions, the question is why was the stool/chair repeatedly moved away from plaintiff. There may be a valid business reason, but defendant will need to offer such reason in opposition to the claim by filing an Answer to the Complaint.

Demurrer overruled. Defendant to answer in 10 days.

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Sarah Carrillo

Department 2

August 28, 2026

8:30 am

DA Case #

Date Filed

6 CV67737 Seana Hood vs. Twin Pines MHP

10/14/2025

Seana Hood

Attorney: Yet Not Entered

Twin Pines MHP

Case Management Conference

Motion Hearing - Compel

10/14/2025 Complaint

File Tracking

10/16/2025 High Density

This is a personal injury and property damages action. Before the court today is a motion to compel arbitration by the defendants and a request for the Court to stay the remaining action until the arbitration proceeding has been concluded. No opposition was filed. The Court will hear from the parties and likely continue this matter for additional review.

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Sarah Carrillo

Department 2

August 28, 2026

8:30 am

DA Case #

Date Filed

8 CV67334 Thomas Knowlton vs. Henry Speeth

06/11/2025

Thomas Knowlton

Attorney: Colin Jones

Henry Speeth

Attorney: Marissa
Vandersluys

Henry Speeth

Attorney: Marissa
Vandersluys

Motion Hearing - Compel

Dumurrer

Case Management Conference

FURTHER

06/11/2025 Complaint

File Tracking

07/22/2025 High Density

This is a personal injury action, arising out of an automobile accident. Before the Court this day is defendant's motion to compel plaintiff's attendance at an independent medical examination with a neuropsychologist. The parties do not disagree regarding the propriety of an DME in the abstract; rather, they disagree over plaintiff's right to audiotape the examination and/or receive copies of testing material.

The right to audiotape the examination is a given. The Legislature has already made plain that plaintiff "shall have the right to record a mental examination by audio technology." CCP §2032.530(a); in accord, *Carpenter v. Superior Court* (2006) 141 Cal.App.4th 249, 271. Since plaintiff can bring in a device to record the examination, and leave with the device, plaintiff can obviously retain a recording thereof. The protective order keeps plaintiff and his attorney from sharing the recording with others. It hardly seems that different from a deposition.

The harder question is whether this Court should exercise its discretion to order the release of the raw testing materials and data. The decision in *Randy's Trucking, Inc. v. Superior Court* (2023) 91 Cal.App.5th 818, which both parties cite, holds only that neither CCP §2032.610 nor federal regulations impose any prohibitions against a trial court's presumed authority to order disclosure of these items. *Id.* at 848 ["Defendants and amici curiae urge us to create a bright-line rule limiting transmission of neuropsychological and psychological testing materials and raw test data, as well as audio recordings of examinations, to licensed neuropsychologists or psychologists ... The Legislature, however, has not codified the expert-to-expert limitation advocated by defendants and amici curiae. On this writ, our role is simply to determine whether, based on the rules of evidence, the trial court abused its discretion in ordering transmission of these materials to plaintiffs' attorney subject to a protective order."] As noted last year by the Iowa Supreme Court in *Burton v. West Bend Mutual Ins. Co.*, 17 N.W.3d 340, 345 (2025): "these cases allow disclosure based on a balancing of one party's need for the information against the ethical restraints imposed on licensed psychologists, the commercial interests of the testing companies, and the need to protect the scientific validity of the testing instruments – which could be impaired from wide disclosure of the testing material." However, the Nevada Supreme Court this year, citing *Randy's*, thought the concerns were overblown: "Just as the courts in *Randy's Trucking*, *Wright*, *Cook*, and *Glennon* found, (1) disclosure of data to those other than a neuropsychologist is proper, as plaintiffs should not be required to hire a neuropsychologist to attack the credibility of defense experts and effectively cross-examine the experts; (2) a protective order can effectively alleviate confidentiality concerns; and (3) speculative concerns about disclosure do not outweigh the right of the plaintiff to access the data." *Powers v. District Court County of Clark*, 142 Nev. Adv. Op. 35 at *7 (2026).

The Court has remaining questions to be answered by the parties: What is the good cause" offered by plaintiff for needing the raw data and testing materials? What does possession of the raw data do for counsel in preparing for the case? Plaintiff has not adequately explained the good cause for needing this, nor has defendant explained the lack of good cause for releasing it. The Court may consider an in camera review of the matter, but will hear additional argument from counsel.

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Sarah Carrillo

Department 2

August 28, 2026

8:30 am

DA Case #

Date Filed

9 CV65497

Christi Kolberg vs. Estate of James Walsh et al

08/11/2023

Christi Kolberg

Pro Per

Estate of James Walsh

Caroline Walsh Snook

Attorney: Timothy Trujillo

Motion Hearing - Summary Judgment

Case Management Conference

FURTHER

Motion Hearing - Other

FURTHER- Terminate Sanctions Against Plaintiff

08/11/2023 Complaint

File Tracking

07/28/2025 Dept. 1 Calendar/Clerk

This is a family dispute regarding equitable ownership of certain real property located on Lynn Lane in Sonora, or a monetary equivalent thereto. The property was owned by John Walsh, who died on 05/17/2021. His brother James commenced an *intestate* probate proceeding on John's behalf (see PR12140), despite John allegedly having a will leaving everything to his non-relative live-in caregiver (see PR12029). During that administration, James died, leaving his own intestate estate to be administered (see PR12267). Meanwhile, John's live-in caregiver (Christi) filed this civil action claiming that John promised her that if she moved in and provided him with care/comfort in his waning years, that upon his passing he would gift her his home. Since James caused that property to be inventoried as part of John's *intestate* estate, the clear implication here is that the home would eventually go to family, not Christi.

Before the Court this day are two UNOPPOSED DISPOSITIVE motions filed by the defense. This court ordered defense counsel to provide courtesy copies of all moving papers to Plaintiff's physical address (in addition to the general mail box they have been using). For reasons which remain a mystery, plaintiff – possessed of at least some arguable claim to a portion of the subject property (see TR dtd 10/18/2024 and 04/25/2025) – has failed to heed this court's warnings and elected to face these dispositive motions with no opposition. To make matters worse, she failed to respond to discovery, prompting this Court to grant various discovery motions – including the "death knell" motion deeming all of the RFAs admitted. Finally, because plaintiff has continued to abuse the discovery process by refusing to comply with this Court's order to supply verified responses to written discovery *other than* RFAs, she is faced with serious evidence sanction concerns.

Discovery Motion – Granted in part

Trial courts enjoy broad discretion in selecting which discovery sanction to impose in the face of discovery abuses. When evaluating what type of sanction is warranted, trial courts obviously consider the aggravating factors like time lost waiting for compliance, the materiality of the information sought, the responding party's knowledge and ability to comply, and any history of discovery shenanigans. On the flip side, a trial court cannot impose sanctions as vengeance. The sanction must be appropriate to the dereliction and not a windfall to the propounding party. When in doubt, trial courts are to adhere to a "lesser sanction first" philosophy, to wit: only if lesser sanctions fail to curb misuse should a trial court consider something like a terminating sanction. See *City of Los Angeles v. PricewaterhouseCoopers, LLP* (2024) 17 Cal.5th 46, 63; *Valencia v. Mendoza* (2024) 103 Cal.App.5th 427, 447; *Victor Valley Union High School Dist. v. Superior Court* (2023) 91 Cal.App.5th 1121, 1158; *Cornerstone Realty Advisors, LLC v. Summit Healthcare REIT, Inc.* (2020) 56 Cal.App.5th 771, 800. Plaintiff's refusal to comply with a court order obligating her to provide verified responses to an RPD must be addressed with an evidence sanction barring her from introducing or offering any evidence relevant to that RPD that might disclose the existence of a triable issue of fact on the pending MSJ.

Summary Judgment - Granted

Pursuant to CCP §437c(b)(3), the opposing party's failure to file a separate statement in opposition to the motion may, in the court's discretion, constitute a sufficient ground for granting the motion. Filing an opposition serves to aid the trial court in discharging its statutory duties, assists the court in focusing and articulating the evidentiary basis for a ruling and without an opposition a trial court is not burdened to determine the existence and significance of facts not mentioned by a party. See *Batarse v. Service Employees Internat. Union, Local 1000* (2012) 209 Cal.App.4th 820, 829; *Whitehead v. Habig* (2008) 163 Cal.App.4th 896, 902; *North Coast Business Park v. Nielsen Construction Co.* (1993) 17 Cal.App.4th 22, 31-32; compare *Thatcher v. Lucky Stores, Inc.* (2000) 79 Cal.App.4th 1081, 1085-1086. Additionally, based on the history of plaintiff's failure to respond to discovery despite multiple court orders to do so, this court has reason to believe no opposition papers would be filed even if the plaintiff was afforded another opportunity to do so. For all the reasons set forth in the memorandum, the problems previously analyzed by this Court in its rulings from 10/18/2024 and 04/25/2025, the fact that plaintiff is now deemed via the RFA order to have admitted all adverse facts, and given the evidence sanction barring her from introducing new evidence here, defendant met their burden and are entitled to summary judgment. Motion GRANTED.

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Sarah Carrillo

Department 2

August 28, 2026

8:30 am

DA Case #

Date Filed

10 CV64893

David Kuffler vs. North American Beverages, LLC et al

10/25/2022

David Kuffler

Attorney: Donald Murphy

North American Beverages, LLC

Oscar Gonzalez

New Bern Transportation Corp.

Attorney: Dale Allen, Jr

Motion Hearing - Summary Judgment

10/25/2022 Complaint

File Tracking

07/28/2025 Dept. 1 Calendar/Clerk

Other Cases

PR12289

This is a personal injury action with a lengthy history here in this Court, and in Department 5 for a related limited conservatorship proceeding. The essence of the dispute is this: David Kuffler was reportedly struck by defendant's commercial vehicle while he was "jaywalking" against traffic signals. In the early days of this litigation, the parties had been discussing a settlement, but it never came to formal fruition. Meanwhile, David disappeared, and has yet to be heard from. This Court issued an evidence sanction barred David from presenting any favorable evidence at trial due to his failure to participate in discovery, but in civil litigation that does not end the case because a plaintiff is not required to personally participate in the trial.

Plaintiff's delay in filing opposition papers is harmless error since defendant has filed a sufficient reply to the opposition. The delay is unfortunate, but ostensibly understandable as a personal circumstance owing to the attorney. It is no grounds to strike the opposition and grant defendant a windfall.

Defendant has moved for summary judgment on the sole basis that without plaintiff's *direct* evidence, no case could ever be established. Plaintiff counters that there are other sources of evidence, namely witnesses at the scene, law enforcement officers, treating physicians, etc. Plaintiff is correct that a case could in theory be presented without evidence from plaintiff, but the law in this state is that a party may not create a triable issue of fact for purposes of summary judgment by pointing solely to hearsay or other evidence that will be inadmissible at trial. See *Perry v. Bakewell Hawthorne, LLC* (2017) 2 Cal.5th 536, 543; *Murphy v. Pina* (2025) 115 Cal.App.5th 305, 314-319; *Sanchez v. Bezos* (2022) 80 Cal.App.5th 750, 775; *Forest Lawn Memorial-Park Assn. v. Superior Court* (2021) 70 Cal.App.5th 1, 8; *Fernandez v. Alexander* (2019) 31 Cal.App.5th 770, 779. This would ordinarily cover the police report and the deposition of Officer Kremsdorf, and would be the death knell for plaintiff on a dispositive motion. However, the defense has elected to use these items in support of the motion, thereby waiving any objection to *plaintiff's* use in opposition to the motion. Since defendant still had a "duty to exercise due care for" plaintiff's safety while running across the street outside a crosswalk (Veh. Code §21954(b), and plaintiff's duty to yield only existed as to "vehicles upon the roadway so near as to constitute an immediate hazard," reference to the deposition transcript and police report permits a triable issue of fact regarding breach, causation and damages. See, e.g., *Leo v. Dunham* (1953) 41 Cal.2d 712; *Kalfus v. Frazee* (1955) 136 Cal.App.2d 415; *Foti v. Morrissey* (1943) 57 Cal.App.2d 328; *Casalegno v. Leonard* (1940) 40 Cal.App.2d 575.

Motion denied. Any parties not yet served with summons are hereby dismissed with prejudice pursuant to CCP §583.250.

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Sarah Carrillo

Department 2

August 28, 2026

8:30 am

DA Case #

Date Filed

12 CV67641

Bryan Sherbino vs. Sierra Pacific Industries

09/15/2025

Bryan Sherbino

Attorney: Adam Stewart

Sierra Pacific Industries

Attorney: Randall Davis

Motion Hearing - Reconsideration

RESERVED by Def's Counsel

7/8/26 - Reserved by Def's counsel (TF) - spoke w/ Joanne Stevens @ Dunn
& Martinek (sp)

09/15/2025 Complaint

File Tracking

09/19/2025 High Density

This is a personal injury action involving a workplace injury. On June 18, 2026, Commissioner Streger issued an order overruling Defendant's demurrer to the First Amended Complaint. On July 8, 2026, Defendant moved for reconsideration of the Court's order overruling the demurrer. Commissioner Streger is unavailable to hear this motion, as he is no longer employed by this Court and this matter has been assigned to the Honorable Sarah J. Carrillo.

The prior order indicated the Court was treating this demurrer as alleging the complaint does not state facts sufficient to constitute a cause of action, which is permitted under Code of Civil Procedure sections 430.10(e). The Court articulated its decision as set forth in the June 18, 2026, Order Overruling Demurrer to First Amended Complaint. CCP section 1008 requires the moving party to present new or different facts, circumstances or law to support reconsideration of an order, and requires the defendant to provide a satisfactory explanation for the failure to produce the claimed new evidence at an earlier time. Yolo County Dep't of Child Support Servs. v Myers (2016) 248 CA4th 42, 50. The contract was available at the time of the original motion and is not new evidence, nor new facts and the court does not find the reason it was not presented as satisfactory.

Additionally, Defendant has provided exhibits which it argues show that the action is barred by the Worker's Compensation Exclusive Remedy Rule. There is no request for judicial notice of any worker's compensation action or of any other matter the court could take judicial notice of under the Evidence Code. As noted in National Auto Ins. Co. v. Winter (1943) 58 Cal.App.2d 11, 16-17, 136 P.2d 22: " 'Matters of defense not apparent in the pleading are not available upon demurrer. On the hearing of a demurrer, therefore, the court is bound by the facts as alleged in the pleading attacked by demurrer, and it is not entitled to consider facts presented to it through the medium of an affidavit.' " "It is an elementary rule that the sole function of a demurrer is to test the sufficiency of the challenged pleading. It cannot, properly, be addressed to or based upon evidence or other extrinsic matters." (Childs v. State of California (1983) 144 Cal.App.3d 155, 163.)

The Motion for Reconsideration is DENIED.

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Sarah Carrillo

Department 2

August 28, 2026

8:30 am

DA Case #

Date Filed

13 CV67134

Petition of Kevin Starks

04/11/2025

Kevin Starks

Pro Per

School District of Curtis Creek
Elementary

Attorney: Erin Hamor

Motion Hearing - Reconsideration

04/11/2025 Petition

File Tracking

12/26/2025 High Density

This matter will be continued so the court has additional time to review and consider the motion.

Superior Court of California, County of Tuolumne

Consolidated Calendar

Hon: Sarah Carrillo

Department 2	August 28, 2026	9:30 am	DA Case #	Date Filed
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14	CV65132	Richard Bennett vs. Golden Living Congregate Nor-Cal Corp et al		02/24/2023
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Richard Bennett

Attorney: William Artigliere

Golden Living Congregate Nor-Cal Corp

Senior Care of California, LLC

Michael Maloney

Pro Per

Katryna Hunt

Pro Per

Maranda Escobedo

Michael Maloney

Pro Per

Golden Living Congregate Nor-Cal Corp

Senior Care of California, LLC

Georgina Rodriguez Ramirez

Asok Mukhopadhyay

Attorney: Andrew Cross

OSC Hearing - Sanctions

Georgina Ramirez

Case Management Conference

Further

Motion Hearing - Compel

Prepared Interrogatories, Monetary Sanctions

Motion Hearing - Compel

Production of Documents, Monetary Sanctions

09/08/2023 Cross Complaint

File Tracking

08/08/2025 High Density

The Court notes no opposition to the motions were filed and the minute order from June 12, 2026, indicated the parties were engaged in discussions regarding the discovery motions. The Court requests a status update as to the discovery motions and if needed, will continue the matter to a future date for the motions to compel to be heard.