

Tentative Rulings for July 14, 2026 Department 6

**To request oral argument, you must notify Judicial Secretary
Crystal Marias at (760) 904-5722
and inform all other counsel no later than 4:30 p.m.**

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at [Riverside Superior Court-Tentative Rulings](#). If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department 6 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

For information and instructions on remote appearances via **ZOOM**, visit the court's website at [Riverside Superior Court-Remote Appearances](#)

You may also make a Telephonic Appearance: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252,
1-669-216-1590, 1-551-285-1373 or 1-646-828-7666
- Meeting Number: **161 830 3643**

Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.

1.

CASE #	CASE NAME	HEARING NAME
CVRI2506635	BURDETT VS HOME DEPOT USA	MOTION FOR PREFERENTIAL TRIAL SETTING BY MARLYS BURDETT

Tentative Ruling:

Moving party: Plaintiff Marlys Burdett
Responding party: Defendant Home Depot U.S.A., Inc.

This premises liability action arises from injuries sustained by Plaintiff Marlys Burdett ("Plaintiff") at premises ("Premises") owned, operated, managed, or controlled by Defendant Home Depot U.S.A., Inc. ("Defendant").

In the Complaint, Plaintiff alleges that on September 24, 2025, she was walking through the aisles on the Premises when she was struck by Defendant's employee, Doe 1, who was pushing a large cart. Plaintiff alleges that she fractured her left hip and left leg as a result of the collision and fall.

On November 25, 2025, Plaintiff filed a Complaint against Defendant, alleging a cause of action for general negligence.

On March 17, 2026, Defendant filed its Answer to the Complaint.

Plaintiff now moves for preferential trial setting under C.C.P. § 36(a), contending that she is over 70 years of age, as she is currently 85 years old. Plaintiff asserts that as a result of the leg fracture she sustained in the incident, she developed a blood clot that traveled to her lung, which prompted further hospitalization. Plaintiff states that she is permanently disabled, remains in an inpatient rehabilitation facility, and will need treatment, care, and assisted living for the rest of her life. The motion is supported by a declaration from Plaintiff's counsel, which attaches copies of Plaintiff's medical records.

In opposition, Defendant argues that Plaintiff's chronic conditions are manageable and do not meet the requirements under C.C.P. § 36(a), which Defendant alleges requires a risk of death or incapacity. Defendant further contends that because Plaintiff asserts that she requires a future procedure as a result of her hip surgery, it makes more sense to allow Plaintiff to undergo any treatments and enter the medical billing information into evidence rather than rely on expert testimony to hypothesize future medical expenses.

In reply, Plaintiff argues that C.C.P. § 36(a) does not require a showing of risk of death or incapacity. Plaintiff further contends that she requires a walker for mobility and is scared to leave her house in fear of falling again.

Analysis

Plaintiff brings this motion pursuant to C.C.P. § 36(a), which provides that a party who is over 70 years of age may petition the court for preference, “which the court *shall* grant if the court makes both of the following findings: (1) The party has a substantial interest in the action as a whole. (2) The health of the party is such that a preference is necessary to prevent prejudicing the party’s interest in the litigation.” (C.C.P. § 36(a) [emphasis added].)

Where a party meets the requisite standard for calendar preference based on the party’s health and status as more than 70 years of age, preference must be granted; no weighing of interest is involved. (*Fox v. Superior Court* (2018) 21 Cal.App.5th 529, 534.) The legislative purpose of trial preference under C.C.P. § 36(a) is “to safeguard litigants beyond a specified age against the legislatively acknowledged risk that death or incapacity might deprive them of the opportunity to have their case effectively tried and the opportunity to recover their just measure of damages or appropriate redress.” (*Kline v. Superior Court* (1991) 227 Cal.App.3d 512, 515.) Upon granting such a motion, the court shall set the matter for trial not more than 120 days from that date. (C.C.P. § 36(f).)

Here, there is no dispute that Plaintiff is 85 years old. (Gaines Decl., Exh. 1.) However, the Court must also find that Plaintiff has a substantial interest in the action and her health is such “that a preference is necessary to prevent prejudicing the party’s interest in the litigation.” (C.C.P. § 36(a)(1)-(2).) There is also no dispute that Plaintiff has a substantial interest in this action, as she is the sole plaintiff. The salient question is whether Plaintiff’s health makes preference “necessary to prevent prejudicing her interest in the litigation.” (*Id.*)

Here, Plaintiff’s medical records show that she has a medical history of hypertension, chronic kidney disease, Type 2 diabetes mellitus, and osteoporosis, and wears bilateral hearing aids. (Gaines Decl., Exh. 2.) On September 24, 2025, Plaintiff suffered a left intertrochanteric hip fracture after her fall, which required immediate surgical intervention. (Gaines Decl., Exhs. 1 and 2.) On October 5, 2025, Plaintiff was hospitalized for chest pain, SIRS [Systemic Inflammatory Response Syndrome] criteria, acute renal failure, and uremia. (Gaines Decl., Exh. 4.) On November 5, 2025, Plaintiff presented to the Emergency Department with abdominal pain, and a CT scan revealed a segmental pulmonary embolism in the right lower lobe of her lung. (Gaines Decl., Exh. 3.) Plaintiff’s counsel attests that Plaintiff has been living at an inpatient rehabilitation facility since her hip surgery, requires a walker for mobility, and is “scared to leave her house in fear of falling again.” (Gaines Decl., ¶ 5; Gaines Decl. II, ¶ 2.) Plaintiff’s counsel further argues that Plaintiff is permanently disabled and will need treatment, care, and assisted living for the rest of her life. Although Plaintiff’s counsel also argues that her “doctors are concerned that she may succumb to her injuries,” there is no evidentiary support for this contention in counsel’s declaration or Plaintiff’s medical records. (Motion, p. 3.)

Defendant argues that Plaintiff is required to show a risk of “death or incapacity” to obtain relief under C.C.P. § 36(a). However, the *Fox* court expressly rejected

Defendant's argument, explaining, "[s]ection 36, subdivision (a), says nothing about 'death or incapacity'...The issue under subdivision (a) is not whether an elderly litigant might die before trial or become so disabled that she might as well be absent when trial is called. Provided there is evidence that the party involved is over 70, all subdivision (a) requires is a showing that that party's '*health ... is such that a preference is necessary to prevent prejudicing [her] interest in the litigation.*' (Italics added.) [Defendant's] proposed reading of subdivision (a), requiring a showing of what amounts to likely unavailability for trial, sets the prejudice standard too high." (*Fox, supra*, 21 Cal.App.5th at 496-497 [original emphasis].)

Given the above, Plaintiff has sufficiently established that her health makes trial setting preference necessary to prevent prejudicing her interest in the litigation. (C.C.P. § 36(a)(2).) Thus, the Court **GRANTS** Plaintiff's motion for trial preference setting and orders trial to be set not more than 120 days from the date of the Court's order.

Summary:

Grant the motion for trial preference. Trial is set for **10/30/2026** at 8:30 a.m. in Dept. 6.

2.

CASE #	CASE NAME	HEARING NAME
CVPS2507137	MONROY VS FREDERICK EKO	MOTION TO COMPEL FURTHER RESPONSES TO REQUEST FOR PRODUCTION, SET ONE

Tentative Ruling:

Moving party: Plaintiff Myra Monroy
Responding party: Defendant Fredrick Eko, M.D.

This is a medical malpractice action. Plaintiff Myra Monroy ("Plaintiff"), acting in pro per, alleges that Defendant Fredrick Eko, M.D. ("Defendant") performed an unnecessary medical procedure on her on 6/27/22, without obtaining proper informed consent or maintaining complete medical records. The operative First Amended Complaint, filed 2/2/26, asserts: (1) medical negligence, (2) lack of informed consent, (3) negligence, and (4) negligent infliction of emotional distress.

Now, Plaintiff moves to compel further responses from Defendant to her Request for Production (RFP), set one. Her motion did not identify any specific discovery requests or responses, did not include a separate statement, and did not attach a meet-and-confer declaration. Plaintiff argues in general that Defendant's responses are evasive, contain boilerplate objections, and that Defendant withheld key documents. Specifically, Plaintiff alleges that Defendant's "Exhibit A" failed to produce internal communications, photographs, policies and protocols, and incident reports. Plaintiff

generally asserts that good cause exists and that Defendant's produced records show inconsistencies. Plaintiff requests sanctions but did not specify an amount.

In opposition, Defendant argues that Plaintiff's motion is defective as it fails to attach a separate statement or show adequate meet and confer. Defendant argues that he produced more than 200 pages of medical records and photographs on 3/24/26, followed by supplemental verified responses and additional insurance and billing records on 4/3/26. Defendant asserts that Plaintiff relies entirely on speculation that additional records exist.

No reply is available on e-court for review.

Analysis

Separate Statement

As a preliminary matter, Plaintiff failed to file a separate statement in support of her motion. California Rule of Court, rule 3.1345 requires separate statements to accompany motions to compel further responses to a demand for inspection of documents or tangible things. (Cal. Rules of Court, rule 3.1345(a)(3).)

"The separate statement must be full and complete so that no person is required to review any other document in order to determine the full request and the full response. Material must not be incorporated into the separate statement by reference. The separate statement must include—for each discovery request (e.g., each interrogatory, request for admission, deposition question, or inspection demand) to which a further response, answer, or production is requested—the following: (1) The text of the request, interrogatory, question, or inspection demand; (2) The text of each response, answer, or objection, and any further responses or answers; (3) A statement of the factual and legal reasons for compelling further responses, answers, or production as to each matter in dispute; (4) If necessary, the text of all definitions, instructions, and other matters required to understand each discovery request and the responses to it..." (Cal. Rules of Court, rule 3.1345(c).)

The Court has discretion to deny Plaintiff's motion to compel based on the failure to file a separate statement. (See *Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 893 [affirming the denial of a motion to compel for failing to comply with former rule 335, now rule 3.1345, where the separate statement did not set forth the full responses to the requests for production and the statement of factual and legal reasons for compelling further responses was combined in one section that did not indicate which of the specific discovery requests they related to].)

Here, Plaintiff failed to submit a separate statement, nor did she set forth the specific requests and responses within her motion. Her motion lists only some documents she believes are missing without providing any factual support or arguments as to each dispute. The court denies the motion as there is no meaningful way to review any individual discovery requests.

Meet and Confer

Code of Civil Procedure § 2031.310(b)(2) requires that a motion to compel further responses be accompanied by a meet-and-confer declaration under Code of Civil Procedure §2016.040. The declaration must state facts showing a reasonable and good faith effort *in person, by telephone, or by videoconference* to informally resolve the disputes. (Code Civ. Proc., §2016.040(a).) A good faith meet and confer attempt requires more than just an attempt to persuade the objector of the error of his or her ways, it requires counsel to talk the matter over, compare their views, consult, and deliberate. (*Clemente v. Alegre* (2009) 177 Cal.App.4th 1277, 1294.)

Here, Plaintiff did not attach a meet-and-confer declaration to her moving papers. Plaintiff asserts only conclusory statements in her motion that she made a good faith effort to resolve the issues informally. Plaintiff did not describe any letters or phone calls to show that she identified the deficiencies to Defendant prior to filing. The court denies the motion.

Summary

Deny the motion due to the absence of a mandatory separate statement and a meet-and-confer declaration.

3.

CASE #	CASE NAME	HEARING NAME
CVPS2302950	REAL ADVANTAGE TITLE INSURANCE VS BARKER	MOTION TO COMPEL DEFENDANT AND CROSS-COMPLAINANT MICHAEL BARKER'S COMPLIANCE WITH RESPONSES TO REQUEST FOR PRODUCTION OF DOCUMENTS

Tentative Ruling:

Moving party: Plaintiffs/Cross-Defendants Real Advantage Title Insurance Company and Orange Coast Title Company of Southern California

Responding party: Defendant/Cross-Complainant Janice Baker

This action arises out of Plaintiffs Real Advantage Title Insurance Company ("RATIC") and Orange Coast Title Company of Southern California ("OCTSC") (collectively "Plaintiffs") seeking indemnity from Defendant Janice Barker, Special Administrator of the Estate of Michael Barker, Deceased ("Barker") under a 2019 Indemnity Agreement, following Plaintiffs' \$10.5 million settlement of an underlying action by BOBS LLC.

Barker has filed an operative First Amended Cross-Complaint ("FACC") asserting causes of action for breach of contract, negligence, breach of fiduciary duty, and

declaratory relief. Among the central disputed issues are the reasonableness of the settlement, the allocation of the \$10.5 million between RATIC (a covered party) and OCTSC (an uncovered party under the Indemnity Agreement), and any reinsurance recovery.

Plaintiffs contend that in response to request for production of documents, requests one, two, and three, Barker provided responses and documents but failed to label what requests the documents were responsive to. Due to this, Plaintiffs seek to compel compliance and seeks sanctions in the amount of \$18,355.

In opposition, Barker argues that this motion is really a motion to compel further responses. It argues that it is not code compliant because it was not brought within the required 45-day time period and no separate statement is provided. It asserts that even if the 45-day deadline does not apply, the motion should still be denied because the delay in seeking recourse has prejudiced Barker. It argues that sanctions are not warranted.

A reply brief was filed 7/7/26.

Analysis

The parties disagree about whether this is a motion to compel further responses or a motion to compel compliance. A motion to compel further responses requires a meet and confer attempt, a separate statement, a showing of good cause, and a 45-day deadline. (CCP § 2031.310.) A motion to compel compliance does not require any of these things. There are no filing deadlines and no meet and confer requirements in CCP § 2031.320.

CCP § 2031.280(a) requires “[a]ny documents or category of documents produced in response to a demand for inspection, copying, testing, or sampling shall be identified with the specific request number to which the documents respond.” Plaintiffs assert that documents in response to requests for production sets one, two, and three have been produced, but they have failed to comply with CCP § 2031.280(a) because the documents do not identify what requests they are responsive to. Barker contends that since documents have been provided, there is no compliance to compel. It points to the language in CCP § 2031.320. This code section provides: “[i]f a party filing a response to a demand for inspection, copying, testing, or sampling under Sections 2031.210, 2031.220, 2031.230, 2031.240, and 2031.280 thereafter fails to permit the inspection, copying, testing, or sampling in accordance with that party’s statement of compliance, the demanding party may move for an order compelling compliance.” (CCP § 2031.320(a).) Baker contends that they agreed to produce and have done so, which means this motion does not fall within CCP § 2031.320.

Motions to compel further responses to requests for production can be brought if upon receipt of the responses, the propounding party is not satisfied with the responses and would like further responses because the statement of compliance is incomplete; the representation of inability to comply is inadequate, evasive, or incomplete; or objections are made without merit or are too general. (CCP § 2031.310(a).) Plaintiffs

are not dissatisfied with Baker's written responses, but with the way documents were produced. The statute which authorizes a motion compelling compliance specifically reference to CCP § 2031.280, the statute Plaintiffs contend Barker has failed to comply with. (CCP § 2031.320(a).) Since Barker agreed to produce documents, it seems reasonable to infer that it was agreeing to comply with the code sections that discuss how documents are to be produced, including CCP § 2031.280(a). As such, a motion to compel compliance appears to be the proper motion to seek compliance with CCP § 2031.280. In *Kayne v. The Grande Holdings Limited* (2011) 198 Cal.App.4th 1470, 1476, the Court found that a motion to compel compliance was the proper motion to bring when a party had failed to comply with CCP § 2031.280(a). Due to this, Barker's arguments regarding the failure to provide a separate statement or bring this motion within the 45-day deadline set forth in CCP § 2031.310 fail.

Barker argues that even if the 45-day deadline is not applicable, this motion should still be denied because Plaintiffs have waived their right to seek compliance. As discussed above, CCP § 2031.320 does not contain a deadline for seeking compliance. Barker points to no authority that has read any deadline into CCP § 2031.320 or has allowed for a right to bring a motion under this section to be waived. While Barker argues that it will face unnecessary burden and expense in having to go back and comply with CCP § 2031.280(a), it is unclear why requiring Barker to comply now would cause any additional burden than it would have had Baker complied in the first place. As such, this argument lacks merit.

The parties agree that Barker has failed to comply with CCP § 2031.280(a). As such, the **motion is granted**.

Plaintiffs seek sanctions under CCP § 2031.320(b). Under this code section, the court shall impose monetary sanctions against any party who unsuccessfully makes or opposes a motion to compel compliance unless it finds that doing so would be unjust or the losing party acted with substantial justification. Barker sets forth no reasons as to why imposing sanctions would be unjust and it does not appear to have been substantially justified in opposing this motion. As such, sanctions in a reasonable amount are allowed. The amount sought by Plaintiffs is not reasonable, however. They seek \$18,355. The moving memorandum of points and authorities is only 8 pages long. This is a straightforward motion. Accordingly, the Court imposes \$2,030 (\$400 x 5 hours + \$30 in filing fees and expenses).in sanctions payable within 30 days of this order.

4.

CASE #	CASE NAME	HEARING NAME
CVPS2302950	REAL ADVANTAGE TITLE INSURANCE VS BARKER	MOTION TO BIFURCATE ON COMPLAINT FOR BREACH OF CONTRACT/ WARRANTY OF REAL ADVANTAGE TITLE INSURANCE COMPANY

Tentative Ruling:

The motion to bifurcate the interpretation of the indemnity agreement in advance of the jury trial is granted as unopposed.

Phase 1 is set for the currently set trial date of 10/2/2026. The parties and the Court will set a date for Phase 2 jury trial once Phase 1 is concluded.