

TENTATIVE RULINGS FOR DECEMBER 19, 2024
Department S29 - Judge Nicole Quintana Winter

This court follows California Rules of Court, rule 3.1308(a) (1) for tentative rulings. (See San Bernardino Superior Court Local Emergency Rule 8.) Tentative rulings for each law & motion will be posted on the internet (<https://www.sb-court.org>) by 3:00 p.m. or 7:00 p.m. on the court day immediately before the hearing.

If you wish to submit on the ruling, call the Court, check-in and state that you will be submitting on the Tentative, and your continued appearance is not necessary. However, you must check in. If both sides do not appear, the tentative will simply become the ruling. If any party submits on the tentative, the Court will not alter the tentative and it will become the ruling. If one party wants to argue, Court will hear argument but will not change the tentative. If the Court does decide to modify tentative after argument, then a further hearing for oral argument will be reset for both parties to be heard at the same time by the Court. This procedure is meant to minimize your waiting time in Court.

NW Logistics, LLC

V.

Chahal Brothers, Inc., et al.

CIVSB2312435

Motion(s): **1. Motions to Compel Responses to Form Interrogatories and Sanctions, and**
2. Motion to Deem Requests for Admissions Admitted and Sanctions.

Movant(s): **Plaintiff NW Logistics, LLC**

Respondent(s): **Defendants Chahal Brothers, Inc.; Malkit S. Chahal; and Kuldip Chahal**

ANALYSIS

Motion to Compel Responses to Form Interrogatories

Nationwide has moved to compel responses to the form interrogatories under Code Civ. Proc. § 2030.290. If a party to whom interrogatories were directed fails to serve a timely response, the propounding party may move for an order compelling responses and for a monetary sanction. (Code Civ. Proc. § 2030.290, subs. (b) & (c).) The failure to provide timely responses waives any objections. (Code Civ. Proc. § 2030.290, subd. (a).) There is no time limit for a motion to compel where no responses have been served. (Code Civ. Proc. § 2030.290.) All that need be shown is that a set of interrogatories was properly served on the moving party, that the time to respond has expired, and that no response of any kind has been served. (*Leach v.*

Superior Ct. (1980) 111 Cal.App.3d 902, 905-906.) The moving party is not required to show a reasonable and good faith attempt to resolve the matter informally before filing the motion. (Code Civ. Proc. § 2030.290.) The court shall impose monetary sanctions against the losing party on the motion to compel unless it finds that party acted with substantial justification or other circumstances make the imposition of sanctions unjust. (Code Civ. Proc. § 2030.290, subd. (c).)

Here, Nationwide has established that it served Defendants with sets of form interrogatories. The form interrogatories are attached as Exhibit D to the motion. Nationwide's counsel, Xai C. McDonald, has submitted his declaration stating that no responses had been served when these motions were filed.

In opposition, Defendants argue that this motion was filed only two weeks after a request for an extension was made and there was no attempt to meet and confer. Defendants' arguments fail. First, the request for an extension of time to respond was made on the day the responses were due. In addition, Nationwide was willing to reconsider an extension of time if attorney fees were paid but Defendants did not respond. Second, there is no requirement to meet and confer when initial responses have not been served and no requirement to file a meet and confer declaration. Finally, Defendants assert in their counsel's declaration that responses have now been served.

In its reply, Nationwide argues the responses are insufficient and refer to the wrong date of loss. It requests supplemental responses, but after responses have been served, the parties should now meet and confer to work out as many of these issues as possible. It further requests the court to deny consideration of the late opposition. The court, in its discretion, may refuse to consider late-filed papers in ruling on a motion. In such event, the court's minutes or order must so indicate. (Cal. Rules of Court, rule 3.1300, subd. (d).) A court's discretion to disregard late-filed papers may not be exercised arbitrarily. (*Kapitanski v. Von's Grocery Co.* (1983) 146 Cal.App.3d 29, 32-33.) The Court denies Plaintiff's request that the court refuse to consider the Defendants' opposition and has considered the opposition and declaration for this tentative ruling.

Based on the above, the Court grants the motion to compel responses to form interrogatories as to monetary sanctions only in the amount of \$1,285. Defendants are ordered to pay the sanctions within 30 days of the date of the final order on this motion.

Motion to Deem Requests for Admissions (RFAs) Admitted

Nationwide has moved to deem the RFAs admitted under Code Civ. Proc. § 2033.280. Under Code Civ. Proc. § 2033.280, subd. (b), if the responding party fails to serve a timely response, the responding party may move for an order that the genuineness of documents and the truth of any matters specified in the requests be deemed admitted, as well as monetary sanctions. Under Code Civ. Proc. § 2033.280, subd. (c), the court shall grant a motion to have requests for admissions deemed admitted unless it finds that prior to the hearing the party to whom the requests for admissions have been directed has served a proposed response that is in substantial compliance with Code Civ. Proc. § 2033.100, the provision governing responses. It is enough that the responses "substantially" comply with Code Civ. Proc. § 2033.100, i.e., that some of the responses are less than clear or complete does not detract from that conclusion. (*Tobin v. Oris* (1992) 3 Cal.App.4th 814, 827.)

As discussed above, Plaintiff has established that it served the discovery and no responses had been served when this motion was filed. In opposition, Defendants make the same arguments as above and state that responses have now been served.

Unlike the sanctions provisions of Code Civ. Proc. §§ 2030.290, subd. (c) and 2031.300, subd. (c), sanctions under Code Civ. Proc. § 2033.280, subd. (c) are mandatory. Regardless of the reason or excuse for the delay or failure to respond, it is mandatory that the court impose a monetary sanction under Code Civ. Proc. §2023.010 on the party whose failure to serve a timely response to requests for admissions necessitated the motion. (Code Civ. Proc. § 2033.280, subd. (c); *Appleton v. Superior Ct.* (1988) 206 Cal.App.3d 632, 634.)

Based on the above analysis, the Court grants the motion to deem RFAs admitted as to monetary sanctions only in the amount of \$760. Defendants are ordered to pay the sanctions within 30 days of the date of the final order on this motion.

RULINGS

1. The Court **GRANTS** the motion to compel responses to form interrogatories as to monetary sanctions, **ONLY**, in the amount of \$1,285. Defendants are ordered to pay the sanctions within 30 days of the date of the final order on this motion.
2. The Court **GRANTS** the motion to deem RFAs admitted as to monetary sanctions, **ONLY**, in the amount of \$760. Defendants are ordered to pay the sanctions within 30 days of the date of the final order on this motion.

Dated: December 19, 2024

Judge N. Quintana Winter