

1. QUINT v. BAYON, ET AL., 23CV1099**Default Judgment Prove-Up**

Default was entered on October 26, 2023. Currently before the court is plaintiff's request for court entry of default judgment.

The court is required to render default judgment only "for that relief ... as appears by the evidence to be just." (Code Civ. Proc., § 585, subd. (b).) "The only evidentiary facts that have a place at a prove-up hearing are those concerning the damages alleged in the complaint. [Citations.]" (*Carlsen v. Koivumaki* (2014) 227 Cal.App.4th 879, 899–900.) Where a cause of action is stated in the complaint, plaintiff merely needs to introduce evidence establishing a prima facie case for damages. (*Johnson v. Stanhiser* (1999) 72 Cal.App.4th 357, 361.) " 'Prima facie evidence is that which will support a ruling in favor of its proponent if no controverting evidence is presented.' " (*People v. Zamora* (2022) 73 Cal.App.5th 1084, 1091.)

Plaintiff has not submitted a summary of the case identifying the parties and the nature of plaintiff's claims, as required under California Rules of Court, rule 3.1800, subdivision (a)(1). Additionally, plaintiff has not submitted a declaration or other admissible evidence in support of the judgment requested, as required under California Rules of Court, rule 3.1800, subdivision (a)(2). Therefore, the request for default judgment is denied without prejudice.

TENTATIVE RULING # 1: THE REQUEST FOR DEFAULT JUDGMENT IS DENIED WITHOUT PREJUDICE. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR

**MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE
MUST BE FILED PRIOR TO OR AT THE HEARING.**

2. GUTIERREZ v. TAHOE SEASONS RESORTS, ET AL., 22CV1290**(A) Motion to Compel Deposition of Plaintiff and for Monetary Sanctions****(B) Motion to Compel Deposition of Joel Ruelas and for Monetary Sanctions****(C) Motion to Compel Deposition of Sophia Gutierrez and for Monetary Sanctions****Motion to Compel Deposition of Plaintiff and for Monetary Sanctions**

The parties have informed the court that plaintiff's deposition was completed on April 15, 2024 (after defendants filed the instant motion). Therefore, the motion to compel plaintiff's deposition is moot.

Still, defendants claim that plaintiff misused the discovery process by failing to appear at deposition on February 22, 2024. (See Code Civ. Proc., § 2023.010, subd. (d) [misuses of the discovery process include failing to respond or to submit to an authorized method of discovery].) Code of Civil Procedure section 2023.030 provides in relevant part: "The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct." (*Id.*, subd. (a).)

Defendants request that the court order plaintiff and/or plaintiff's counsel to pay defendants \$6,766.00 for fees and costs allegedly incurred as a result of plaintiff's nonappearance at the February 22, 2024, deposition in Riverside, California. (Mace Decl., ¶ 13.) Mr. Mace's declaration states that he incurred: (1) eight hours of billable time on February 22, 2024¹ (Mace Decl., ¶ 10); (2) approximately four hours of travel time from Riverside to Sacramento, California, on February 24, 2024 (Mace Decl., ¶ 10); (3) \$860.00 for a roundtrip flight from Sacramento to Riverside² (Mace Decl., ¶ 11); (4) \$529.00 for

¹ Mr. Mace's declaration states, "Plaintiff failed to appear at deposition on February 21, 2024, thereby causing defense counsel to waste 8 billable hours that day." (Mace Decl., filed May 13, 2024, ¶ 14.)

² Defendants submitted a further declaration from Mr. Mace stating that he actually flew from Sacramento to Long Beach, California (due to an issue with rental car availability in

two nights at a hotel in Riverside (Mace Decl., ¶ 11); (5) \$487.00 for a rental car in Riverside (Mace Decl., ¶ 11); (6) approximately six hours of billable time preparing the instant motion (Mace Decl., ¶ 11); and (7) an anticipated six hours of billable time preparing for and appearing at the hearing on this motion. (Mace Decl., ¶ 11.) Mr. Mace's hourly rate on this matter is \$175.00 per hour. (Mace Decl., ¶ 12.)

Plaintiff argues that the maximum amount the court should award is \$1,000.00 (Opp. at 2:5–6), reasoning that defense counsel failed to confirm the deposition beforehand and failed to call plaintiff's counsel when plaintiff did not appear at the deposition. (Opp. at 3:14–17, 4:7–9.) Defendants argue that prior confirmation is not required under the Code of Civil Procedure. The court agrees.

However, defendants have not shown that they actually incurred eight hours of billable time on February 22, 2024 (the date of the deposition). Rather, Mr. Mace declares that plaintiff's failure to appear at deposition caused him to waste eight billable hours that day. There also appears to be some task-padding related to the alleged six hours spent preparing the instant motion and the anticipated six hours to prepare for and attend the hearing on this motion.

Having reviewed and considered Mr. Mace's declaration, the court finds that a monetary sanction in the amount of \$2,401.00 is reasonable to cover the flight, hotel, rental car, and three hours of billable time. The monetary sanction must be paid no later than 30 days after the date of service of the notice of entry of order.

Motion to Compel Deposition of Joel Ruelas and for Monetary Sanctions

When a nonparty is served with a deposition subpoena but fails to attend the deposition or refuses to be sworn as a witness, the party that served the subpoena may move for an order directing compliance with the subpoena and imposing other terms or

Riverside) and drove from Long Beach to Riverside to attend the deposition. (Mace Decl., filed May 13, 2024, ¶¶ 12, 13.)

conditions as the judge considers appropriate. (Code Civ. Proc., § 1987.1, subd. (a).) Plaintiff does not dispute that Mr. Ruelas failed to appear at his deposition on February 23, 2024. However, the parties have met and conferred, and Mr. Ruelas's deposition is currently set to take place on June 17, 2024. (Perez Decl., ¶ 18.) The court orders Mr. Ruelas to appear for deposition as scheduled on June 17, 2024.

Notwithstanding the above, defendants claim that Mr. Ruelas misused the discovery process by failing to appear at deposition on February 23, 2024. (See Code Civ. Proc., § 2023.010, subd. (d) [misuses of the discovery process include failing to respond or to submit to an authorized method of discovery].) “[I]n making an order pursuant to motion made ... under Section 1987.1, the court may in its discretion award the amount of the reasonable expenses incurred in making ... the motion” unless the motion was “made ... in bad faith or without substantial justification.” (Code Civ. Proc., § 1987.2, subd. (a).)

Defendants request that the court order Mr. Ruelas and/or plaintiff's counsel pay defendants \$5,638.50 for fees and costs allegedly incurred as a result of Mr. Ruelas's nonappearance at the deposition. (Mace Decl., ¶ 13.) Specifically, Mr. Mace's declaration states that he incurred: (1) four hours of billable time on February 22, 2024 (Mace Decl., ¶ 10); (2) approximately four hours of travel time from Riverside to Sacramento on February 24, 2024 (Mace Decl., ¶ 10); (3) \$860.00 for a roundtrip flight from Sacramento to Riverside³ (Mace Decl., ¶ 11); (4) \$529.00 for two nights at a hotel in Riverside (Mace Decl., ¶ 11); (5) \$487.00 for a rental car in Riverside (Mace Decl., ¶ 11); (6) approximately 3.5 hours of billable time preparing the instant motion (Mace Decl., ¶ 12); and (7) an anticipated six hours of billable time preparing for and appearing at the hearing on this motion. (Mace Decl., ¶ 12.) Mr. Mace's hourly rate on this matter is \$175.00 per hour. (Mace Decl., ¶ 12.)

³ As previously mentioned, Mr. Mace actually flew from Sacramento to Long Beach and drove from Long Beach to Riverside to attend the deposition. (Mace Decl., filed May 13, 2024, ¶¶ 8, 9.)

The court declines to award the requested sanctions. A significant portion of the alleged costs is duplicative of the costs that defendants are requesting for plaintiff's nonappearance (i.e., the plane flight, hotel, and rental car). Plus, defendants have not shown that the four hours of billable time on February 22, 2024 (the date of the deposition) were actually incurred. Mr. Mace's further declaration states, "[Mr. Ruelas] failed to appear at deposition on February 23, 2024, thereby causing defense counsel to waste 4 billable hours that day." (Mace Decl., filed May 13, 2024, ¶ 10.) Lastly, the court considers the fact that the deponent is a nonparty witness and plaintiff's counsel represents that Mr. Ruelas's nonappearance was "an oversight" by plaintiff's counsel's office. (Mace Decl., ¶ 9.)

Motion to Compel Deposition of Sophia Gutierrez and for Monetary Sanctions

The parties have informed the court that Ms. Gutierrez's deposition was completed on April 15, 2024 (after defendants filed the instant motion). Therefore, the motion to compel Ms. Gutierrez's deposition is moot.

Still, defendants claim that Ms. Gutierrez misused the discovery process by failing to appear at deposition on February 23, 2024. (See Code Civ. Proc., § 2023.010, subd. (d) [misuses of the discovery process include failing to respond or to submit to an authorized method of discovery].) Defendants request that the court order Ms. Gutierrez and/or plaintiff's counsel pay defendants \$5,376.00 for fees and costs allegedly incurred as a result of Ms. Gutierrez's nonappearance at the deposition. (Mace Decl., ¶ 13.) Specifically, Mr. Mace's declaration states that he incurred: (1) four hours of billable time on February 22, 2024 (Mace Decl., ¶ 10); (2) approximately four hours of travel time from Riverside to Sacramento on February 24, 2024 (Mace Decl., ¶ 10); (3) \$860.00 for a roundtrip flight from Sacramento to Riverside⁴ (Mace Decl., ¶ 11); (4) \$529.00 for two

⁴ As previously mentioned, Mr. Mace actually flew from Sacramento to Long Beach and drove from Long Beach to Riverside to attend the deposition. (Mace Decl., filed May 13, 2024, ¶¶ 12, 13.)

nights at a hotel in Riverside (Mace Decl., ¶ 11); (5) \$487.00 for a rental car in Riverside (Mace Decl., ¶ 11); (6) approximately two hours of billable time preparing the instant motion (Mace Decl., ¶ 12); and (7) an anticipated six hours of billable time preparing for and appearing at the hearing on this motion. (Mace Decl., ¶ 12.) Mr. Mace's hourly rate on this matter is \$175.00 per hour. (Mace Decl., ¶ 12.)

The court declines to award the requested sanctions. A significant portion of the alleged costs is duplicative of the costs that defendants are requesting for plaintiff's nonappearance (i.e., the plane flight, hotel, and rental car). Plus, defendants have not shown that the four hours of billable time on February 23, 2024 (the date of the deposition) were actually incurred. Mr. Mace's further declaration states, "[Ms. Gutierrez] failed to appear at deposition on February 23, 2024, thereby causing defense counsel to waste 4 billable hours that day." (Mace Decl., filed May 13, 2024, ¶ 14.) Lastly, the court considers the fact that the deponent is a nonparty witness and plaintiff's counsel represents that Ms. Gutierrez's nonappearance was "an oversight" by plaintiff's counsel's office. (Mace Decl., ¶ 9.)

TENTATIVE RULING # 2: THE MOTIONS TO COMPEL PLAINTIFF'S AND SOPHIA GUTIERREZ'S ATTENDANCE AT DEPOSITION ARE MOOT. THE MOTION TO COMPEL JOEL RUELAS'S ATTENDANCE AT DEPOSITION ON JUNE 17, 2024, IS GRANTED. THE COURT IMPOSES A MONETARY SANCTION OF \$2,401.00 AGAINST PLAINTIFF AND PLAINTIFF'S COUNSEL, AND IN FAVOR OF DEFENDANTS, TO BE PAID NO LATER THAN 30 DAYS AFTER THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER. THE COURT DECLINES TO IMPOSE SANCTIONS AGAINST MR. RUELAS AND MS. GUTIERREZ.

NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY

TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.