



**Court of California
County of San Benito**

Tentative Decisions for January 26, 2026

Courtroom #1: Judge J. Omar Rodriguez

CU-24-00008 Stateline Farms, Inc. vs. Berry People, LLC et al.

Plaintiff's Motion for Terminating Sanctions against Defendant Berry People, LLC is GRANTED as requested. The Case Management Conference and OSC are continued to April 27, 2026 at 10:30 a.m.

The failure to obey a discovery order allows the court to impose appropriate sanctions. Pursuant to Code of Civil Procedure section 2023.030(d), there are four types of terminating sanctions, which are: 1) striking pleadings in whole or in part; 2) staying further proceedings by a party until it obeys a discovery order; 3) dismissing the action, or part of it; and 4) rendering default judgment. The court also has the authority pursuant to the common law to impose terminating sanctions for discovery abuses (*Department of Forestry & Fire Protection v. Howell* (2017) 18 Cal.App.5th 154, 197. Terminating Sanctions under the Discovery Act may only be imposed after a court order was issued compelling the other party to comply with a discovery request, the party subject to that order has disobeyed that order, and the party has been given an opportunity to be heard regarding their disobedience. (*J.W. v. Watchtower Bible & Tract Soc'y of New York, Inc.* (2018) 29 Cal.App.5th 1142, 1166-1171.) Further, terminating sanctions are appropriate only where the party's failure to obey a court order has prejudiced the opposing party. (*Moofly Prods., LLC v. Favila* (2020) 46 Cal.App.5th 1, 11.) In determining whether to impose a terminating sanction the following factors are to be considered by the court: whether the party's actions were willful; the detriment to the party seeking discovery; and, the number of formal and informal unsuccessful attempts to obtain

discovery. A party's failure to respond to discovery and comply with the court's orders compelling discovery provides sufficient grounds for the court to impose terminating sanctions. (*Jerry's Shell v. Equilon Enters., LLC* (2005) 134 Cal.App.4th 1058, 1059.)

Plaintiff faced challenges in this matter, which were caused, in part, by Defendants' counsel's substitution of attorneys. Defendant Berry People, LLC ("Defendant") is a corporate entity. Corporations may not represent itself. Counsel for Defendant nevertheless filed a substitution of attorney listing co-defendant Jerald Downs as the representative of Defendant, which would be "representing self." This is not permitted. There are only two exceptions to the rule announced in *Merco Construction Engineers, Inc. v. Municipal Court* (1978) 21 Cal. 3rd 724. A legal entity may be represented by a non-lawyer in a small claims action, which is inapplicable in this case. (Cal. Code of Civ. Proc. §116.540 (b).) The second exception occurs when a non-lawyer appears for a corporation at a judgment debtor's examination pursuant to Code of Civil Procedure Section 708.150(d). This exception is also inapplicable. Jerald Downs is not an attorney licensed to practice law in this state, nor is he admitted pro hac vice. Mr. Downs, as an individual, is presently protected by the automatic stay in bankruptcy. Nevertheless, Plaintiff used the address Mr. Downs provided to mail a letter to address the enforcement of this court's order. The letter was returned to Plaintiff as undeliverable.

The actions of Defendant BP has placed Plaintiff in a precarious position: Diemer & Wei, LLP refused to comply with the Court's discovery orders by refusing to provide necessary information and refusing to pay sanctions, Diemer & Wei, LLP improperly withdrew as Counsel, and Plaintiff is unable to contact Defendant using the contact information placed on file by his former attorneys. As such, Defendant BP has shown that it does not care if it is ordered to answer discovery or pay monetary sanctions, and that they will drag this matter out for as long as they are permitted to do so.

As to the issue of the request for terminating sanctions, the court notes that the statute and relevant case law requires that the party against whom sanctions are sought must have notice and the opportunity to respond to the request, given the severity of the penalties which may be imposed. Here the court and the party requesting the sanctions have provided ample opportunity to respond. The requirements for terminating sanctions have been met. This

court ordered Defendant to provide responses to discovery on October 16, 2024. There has been no compliance with this court's orders whatsoever. The absolute failure to comply with the orders made by the court means that Plaintiff lacks the factual information necessary to properly analyze and prepare for this case, inhibiting their ability to either try or settle the matter. Similarly, the repeated attempts to address the failure to comply with discovery are fully detailed by Plaintiff's counsel. The problem is further compounded by the withdrawal of counsel for Defendant, a corporate entity, leaving no one who has the legal capacity to represent it in these proceedings. Whether this was an innocent oversight or gamesmanship of the most extreme nature has not been determined, but it remains that Defendant was ordered to comply with discovery over a year ago and has utterly failed to do so. It is thus proper to draw the inference that this ongoing and persistent failure to comply and thus this abuse of discovery is willful. Defendant's conduct is sufficiently egregious to warrant the imposition of the terminating sanctions as requested including monetary sanctions against Defendant in the amount of \$14,143.50.

CU-24-00126 Thompson, et al vs. San Benito Health Care District, et al.

Defendant's Motion to Renew Motion for Summary Judgment and/or Reconsider Order is DENIED.

A motion premised on Code of Civil Procedure section 1008 for renewal is not allowed where there are no new facts, new laws, or legal theory upon which to proceed. (*Le Francois v. Goel* (2005) 35 Cal.4th 1094, 1096.) While the statute does not limit the court’s ability to reconsider its previous interim orders on its own motion, this goes beyond the permitted suggestion that the court may wish to revisit a prior ruling. A party is not permitted to file written motions to reconsider under 1008 where it does not meet the statutory framework for such a motion. (*Id.* at 1108.) “Unless the requirements of section 437c(f)(2) or 1008 are satisfied, any action to reconsider a prior interim order must formally begin with the court on its own motion. In order to be fair to the parties, if the court is seriously concerned that one of its prior interim rulings might have been erroneous, and thus it might want to reconsider that ruling on its own motion, it should inform the parties, solicit briefing, and hold a hearing. (citations omitted) Then, and only then, would a party be expected to respond to

another party's suggestion that the court should reconsider a previous ruling. Thus, *Le Francois* strikes a balance between the conflicting goals of limiting repetitive litigation and permitting the court to correct its own erroneous interim orders." (*Id.* at 1108-1109.) If there are no new facts or law which would satisfy section 1008 or Code of Civil Procedure section 437c(f)(2), then any action to reconsider a prior interim order begins, formally, with the court on its own motion. (*Ibid.*) That has not occurred here. Moreover, such a renewal as premised in *Le Francois*, is something that occurs where a court is concerned that a prior ruling is erroneous, and when that occurs should then notify the parties, request briefing, and hold a hearing on the matter.

Code of Civil Procedure section 437c(f)(2) limits a party's ability to renew a summary judgment motion, providing "[a] party may not move for summary judgment based on issues asserted in a prior motion for summary adjudication and denied by the court, unless that party establishes to the satisfaction of the court, newly discovered facts or circumstances or a change of law supporting the issues reasserted in the summary judgment motion." No newly discovered facts or circumstances or a change of laws were presented in support of this motion.

Here, Defendant seeks to re-argue the same facts and legal theories that the court rejected previously. Notably, the motion refers to the same facts and exhibits presented previously and seeks the exact same legal relief that it sought on its initial motion and does not provide any new or different law or fact that was not presented previously. As a request for renewal, pursuant to Code of Civil Procedure section 1008 (b) or for reconsideration under subdivision (a), it fails.

CU-25-00178 Ramirez-Lopez vs. Joe Perry Company, et al.

The Case Management Conference is continued to March 23, 2026 at 10:30 a.m. Plaintiff to provide notice of the hearing.

CU-25-00258 In the Matter of Espinoza, Alisha Daisy

The Petition is APPROVED as requested.

CU-25-00261 In the Matter of CSAA IE

In light of the Case Management Conference Statement, the Case Management Conference is off calendar.

CU-25-00262 In the Matter of Zaragoza, John David

The Petition is DENIED without prejudice. Petitioner did not file proof of publication.

PR-23-00086 Guardianship of Isaiah Andrew Martinez

The Court has read and considered the Status Report and takes the matter off calendar. The Court will schedule a review hearing to be held in approximately two years. The Court will provide notice of the hearing. No appearances are necessary on January 26, 2026.

PR-24-00123 Estate of Dean A. Smith

The Petition for Final Distribution is APPROVED as requested.

PR-24-00135 Guardianship of Ian Kenneth MacGregor Conly

The Court has read and considered the Status Report and takes the matter off calendar. The Court will schedule a review hearing to be held in approximately two years. The Court will provide notice of the hearing. No appearances are necessary on January 26, 2026.

PR-24-00136 Guardianship of George Mahlon Conly

The Court has read and considered the Status Report and takes the matter off calendar. The Court will schedule a review hearing to be held in approximately two years. The Court will provide notice of the hearing. No appearances are necessary on January 26, 2026.

PR-25-00005 In the Matter of Frank, Covarrubias

The Court notes that a Third and Final Account and Report of Trustee was filed late on January 22, 2026. As a result, the hearing is continued to March 2, 2026, at 10:30 a.m. to permit sufficient time for the Court and Petitioner Frank Covarrubias to review and file any response, if necessary.

PR-25-00052

In the Matter of Munoz, Sixta Martinez

The Court has read and considered the Status Report and continues the Status Review to April 6, 2026 at 10:30 a.m.

END OF TENTATIVE DECISIONS

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****Please contact Judicial Courtroom Assistant, Lesley Pace, at
(831) 636-4057 x127 or lpase@sanbenitocourt.org with
any objections or concerns.**