

ARIZA v LAKESIDE VENTURES, LLC, et al

22CV46059

PLAINTIFF'S MOTION FOR RECONSIDERATION

This matter involves a lengthy and ongoing dispute over the sale of a mobile home estate located at 1475 Railroad Flat Road, Mokelumne Hill, CA ("Mobile Home Estate.")

On April 24, 2026, the Court granted a motion for terminating sanctions filed by Lakeside Ventures, LLC and Bonnie K. Tuckerman-Aho (Hurley) ("Defendants.") At the same time, the Court denied Plaintiff's motion for relief from an earlier order imposing sanctions against her related to an expert deposition.

Now before the Court is Plaintiff's motion for reconsideration pursuant to Code Civil Procedure section 1008.

Code of Civil Procedure section 1008(a) provides, in relevant part:

(a) When an application for an order has been made to a judge, or to a court, and refused in whole or in part, or granted, or granted conditionally, or on terms, any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order. The party making the application shall state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown.

Section 1008(e) provides further that "no application to reconsider any order or for the renewal of a previous motion may be considered by any judge or court unless made according to this section."

In applying this subdivision, Courts require the moving party to first demonstrate that there are grounds for reconsideration because of new or different facts, circumstances or evidence. (*New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212.) Second, the moving party must "provide a satisfactory explanation for the failure to produce the evidence at an earlier time." (*Ibid.*)

As she has repeatedly argued throughout this case, Plaintiff reiterates her position that the Defendants unlawfully allowed her to pay for a property they never intended to sell her because of alleged fraud or deceit. However, the

motion is devoid of any new facts, circumstances and evidence that would require the court to reconsider the order granting terminating sanctions. While Plaintiff presents evidence that she was ill and confused on the hearing date, this is insufficient to meet the burden established by Code Civil Procedure section 1008.

Accordingly, Plaintiff's motion for reconsideration is **DENIED**.

Additionally the Court notes that CCP Section 1008 (d) provides that any violation of this section – such as filing a motion for reconsideration without any supporting new facts or law, including a declaration detailing how and why these facts or law could not have been determined before the prior hearing – may be punished as contempt and with sanctions as allowed by CCP Section 128.7. However, noting the ruling in question terminated plaintiff's case and exposes her to provable damages pursuant to the cross-complaint, the Court finds in the interests of justice and equity that no further sanctions should be assessed.

The Court will proceed with the scheduled Default Hearing on damages related to the cross-complaint.

The clerk shall provide notice of this ruling to the parties forthwith. Defendants to submit formal Orders complying with Rule 3.1312 in conformity with this Ruling.

SANCHEZ, et al v SIMPSON, JR, et al

22CV46351

PLAINTIFF’S MOTION TO STRIKE OR TAX COSTS

This matter involves a real property dispute between Antone Sanchez, Carol Sanchez, and Linda Andrus (“Plaintiffs”) and Russel Simpson, Jr., Stacy Simpson, and Placer Title Company, Inc. (“Defendants.”) The matter went to arbitration on February 20, 2026, and the arbitrator decided in favor of Defendants. The Court entered judgment in accordance with the arbitration award on March 23, 2026.

Now before the Court is Plaintiffs’ motion to strike or tax costs. Plaintiffs seek the following reductions:

- One filing fee in the amount of \$435.00 instead of \$930.00
- Reduction of deposition and travel costs from \$8,892.60 to a maximum of \$1,000.00
- \$49.78 in electronic filing fees

The motion is opposed.

I. Legal Standard

Code of Civil Procedure section 1032(b) provides that a prevailing party is entitled to recover costs as a matter of right. Section 1033.5 itemizes costs that are recoverable and subsection (c) specifies that costs must be reasonably necessary to the conduct of litigation, rather than merely convenient or beneficial to its preparation, and the costs must be reasonable in amount.

“If the items appearing in a cost bill appear to be proper charges, the burden is on the party seeking to tax costs to show that they were not reasonable or necessary. On the other hand, if the items are properly objected to, they are put in issue and the burden of proof is on the party claiming them as costs.” (*Ladas v. California State Auto Assn.* (1993) 19 Cal.App.4th 761, 774.)

II. Discussion

Defendants initially oppose the Plaintiffs’ motion on the grounds that it is not timely. California Rule of Court section 3.1700(b)(1) requires that a motion to tax costs be filed within 15 days of service of the cost bill. Defendants filed their memorandum of costs on March 18, 2026, and served the statement on Plaintiffs’ counsel via regular U.S. mail.

Pursuant to Code Civil Procedure section 1013, Plaintiffs had an additional five days to file their motion. The motion was filed on April 7, 2026, and is therefore timely.

A. Filing Fees

Plaintiffs first take issue with the fact that Defendants claim \$435.00 as an initial filing fee for Russell Simpson and \$435.00 as an initial filing fee for Stacy Simpson, totaling \$870.00 in initial filing fees, and an additional \$60.00 filing fee for the (successful) motion to compel arbitration. Plaintiffs argue that because the Simpsons were both represented by the same counsel and filed a joint response to the Complaint, the two filing fees were unnecessary.

Pursuant to Government Code section 70612(a), each defendant must pay the initial filing fee regardless of whether they file an answer jointly or separately. Accordingly, Plaintiffs' argument is meritless.

The motion to tax one filing fee in the amount of \$435.00 is denied.

B. Deposition/Travel Costs

Defendants claim deposition costs totaling \$8,982.60, consisting of \$5,220.40 for the deposition of Russell Simpson and \$3,762.20 for the deposition of Stacy Simpson. The deposition costs for Russell Simpson include taking (reporter) fees of \$2,887.50, transcribing fees of \$1,282.90, and travel costs of \$1,050.00. The deposition costs for Stacy Simpson include taking (reporter) fees of \$1,837.50, transcribing fees of \$874.70, and travel costs of \$1,050.00.

Plaintiffs assert that the taking and transcribing fees are inappropriate because Plaintiffs paid those costs up front. This argument is meritless because costs "are allowable if incurred, whether or not paid." (Code Civ. Proc. §1033.5(c)(1).) Thus, because those costs were incurred – whether paid for by Defendants or not—they are allowable costs under the statute. (*Litt v. Eisenhower Medical Center* (2015) 237 Cal.App.4th 1217, 1222 [citation omitted] ["under the code's cost-shifting provisions, there is 'no requirement that a party claiming costs must have personally incurred the obligations enumerated in the memorandum.' "])

Plaintiffs also assert that the travel fees are excessive because there is no explanation as to why each defendant would have incurred over \$1,000 in traveling costs to their own depositions. In response, Defendants assert that they offered to have the depositions done over video, but that Plaintiffs insisted the depositions take place in person. In response, Plaintiffs argue that they only insisted on in-person depositions because the Defendants had repeatedly postponed or canceled the depositions.

Travel costs are allowable where they are reasonable. Here, Plaintiffs simply argue that the travel costs were unreasonable but do not provide any evidence or proof that those claimed costs are not recoverable. (*Seever v. Copley Press, Inc.* (2006) 141

Cal.App.4th 1550, 1557.) Thus, without more, the Court cannot find that Plaintiffs have adequately placed the burden on Defendants to justify those costs.

Accordingly, the Court denies the motion to tax costs related to depositions and travel.

C. Electronic Filing Fees

Plaintiffs object to \$49.78 in electronic filing fees. Code Civil Procedure section 1033.5(a)(14) allows electronic filing fees to be included as costs if the electronic filing was ordered by the Court. There is no order from the Court requiring the use of electronic filing; therefore, defendants' decision to electronically file was for their own convenience. Accordingly, the motion to tax electronic filing fees is granted.

III. Conclusion

Plaintiffs' motion to strike or tax costs is GRANTED IN PART and (mostly) DENIED. The Court orders the following costs as allowable and owed by Plaintiff: 1) \$930 in filing fees and 2) \$8,982.60 in deposition costs. The Court is cognizant of Plaintiffs' financial status and the burden this order may impose upon them. However, the Court has no authority to consider the Plaintiffs' financial status when considering a motion to tax costs. (*LAOSD Asbestos Cases (2018) 25 Cal.App.5th 1116, 1124.*)

Plaintiffs are to pay Defendants \$9,912.60 in awarded costs within fifteen (15) calendar days of this Ruling.

The clerk shall provide notice of this ruling to the parties forthwith. Defendants to submit a formal Order complying with Rule 3.1312 in conformity with this Ruling.

TAYLOR, et al v RITCHIE

25CV47902

PLAINTIFFS' MOTION TO DEEM REQUESTS ADMITTED

This case involves a property dispute between Plaintiffs Kelly and Matthew Taylor ("Plaintiffs") and Lavina Richie ("Defendant.") Now before the Court is Plaintiff's Motion to Deem Requests for Admissions Admitted.

Defendant has not filed an opposition.

On February 23, 2026, Plaintiffs served, by mail, "Plaintiff Kelley Taylor's Request for Admissions to Defendant Lavina Ritchie, Set One 1" ("RFA") on Defendant. (Declaration of Justin P. Swierczek ("Swierczek Decl.") ¶ 3, Ex. 1.) Defendant never responded nor communicated with Plaintiffs' counsel about the RFAs. (*Id.* ¶¶ 4, 5.)

Pursuant to Code Civ. Proc. section 2033.280, if a party to whom requests for admission are directed fails to serve a timely response, the following rules apply:

(a) The party to whom the requests for admission are directed waives any objection to the requests, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:

1) The party has subsequently served a response that is in substantial compliance with Sections 2033.210, 2033.220, and 2033.230.

2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

Further, the Court shall deem the facts admitted as truth, unless it finds that the party to whom the RFAs were directed, "has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220." (Code Civ. Proc. § 2033.280(c).)

A party moving to compel initial responses under this section is not required to meet and confer. (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 411.)

Plaintiffs served Defendant with RFAs on February 23, 2026. Defendant has not responded to the RFAs and has not filed any opposition to this motion.

Accordingly, the Court **GRANTS** Plaintiffs' motion to deem the facts as admitted as truth. Requests 1 through 28 attached as Exhibit "1" to the Declaration of Justin Swierczek are all deemed admitted for all further case purposes.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiffs to submit a formal Order complying with Rule 3.1312 in conformity with this Ruling.

FARIDI v TDS TRUSTEE SERVICES

25CV48053

PLAINTIFF'S MOTION FOR DETERMINATION OF STANDING AND CORRECTION OF CLERICAL AND ADMINISTRATIVE ERROR

Plaintiff Tariq Jamil Faridi ("Plaintiff") filed his Complaint arising out of a real property dispute with Defendant Steve Carlson ("Carlson").

Now before the Court is Plaintiff's motion for a determination of Plaintiff's standing and a motion to correct a clerical error pursuant to Code Civil Procedure section 473(b).

Plaintiff filed his First Amended Complaint on July 3, 2025, against Carlson and "TDS Trustee Services" ("TDS.")¹ In the FAC, Plaintiff alleged that on or about March 7, 2025, TDS recorded a Trustee's Deed Upon Sale naming Carlson as grantee and thereafter Carlson evicted Plaintiff from the premises. On July 11, 2025, Plaintiff filed a notice of dismissal pursuant to which he dismissed Carlson as a defendant on all causes of action, with prejudice. Carlson is no longer a party to this action.

Plaintiff's current motions are confusing and meritless. Plaintiff complains that the service of the FAC on Carlson should show service on January 16, 2026, instead of the date shown on the docket (Jan 23, 2026.) The docket, however, clearly shows that the Court filed the proof of service on January 23 but shows that service occurred on January 16, 2026. It is unclear what error Plaintiff is asserting nor how the alleged error has impacted this case.

Plaintiff also asks the Court to determine that he has standing to bring the matter. However, what Plaintiff is ultimately asking the Court to determine is that he has provided sufficient evidence to show that he is entitled to prevail on his claims against Carlson and TDS. First, Plaintiff dismissed Carlson, with prejudice, on his own accord. Plaintiff does not allege that he made a mistake or error in doing so nor does he cite to any legal authority that would allow him to continue to pursue claims against Carlson after dismissing him with prejudice. (See *Kim v. Reins International California, Inc.* (2020) 9 Cal.5th 73, 91 ["dismissal with prejudice is considered a judgment on the merits preventing subsequent litigation between the parties on the dismissed claim."]) Second, the relief sought by Plaintiff in his motion cannot be determined by a finding of standing alone. Thus, the motion is inappropriate.

¹ TDS asserts that its true name is TD Specialists.

Plaintiff's motion for determination of standing and for remedy of a clerical error are **DENIED**.

The clerk shall provide notice of this ruling to the parties forthwith. Defendant to submit a formal Order complying with Rule 3.1312 in conformity with this Ruling.

HAND v DeMATTEO, et al

25CV48423

DEFENDANT ATTA HOME HEALTHCARE'S DEMURRER TO FIRST AMENDED COMPLAINT

This case involves claims for medical malpractice brought by William Hand ("Plaintiff") against Amanda DeMatteo ("DeMatteo") and Atta Home Healthcare ("Atta.")

Now before the Court is a demurrer brought by Atta. The demurrer is opposed.

I. Background

Atta is a licensed home health agency engaged in the business of providing home health care services to patients at their residences, including wound care, nursing assessments, and wound vacuum-assisted closure ("wound Vac") therapy. (FAC ¶ 2.) DeMatteo is a licensed vocational nurse ("LVN") and at all relevant times was an employee of Atta. (*Id.* ¶¶ 3-4.) Plaintiff has diabetes mellitus ("diabetes") which causes a "materially elevated risk for peripheral vascular insufficiency, impaired wound healing, neuropathy and serious extremity wound infections, including progression to gangrene and limb loss if infection is not timely identified and treated." (*Id.* ¶10.) Atta and DeMatteo were aware of Plaintiff's diabetes diagnosis. (*Id.* ¶ 11.)

In or around January 2024, Plaintiff developed a small ulcerative sore on his right foot. (FAC ¶ 12.) The wound was slow to heal and Plaintiff's treating physician prescribed Wound Vac therapy, a treatment modality that uses controlled negative pressure to promote healing of complex or chronic wounds. (*Ibid.*) The standard of care for wound VAC therapy requires that the wound VAC dressing be changed at regular intervals, customarily every three days, to prevent bacterial colonization and infection, permit clinical assessment of wound status, and promote healing. (*Id.* ¶ 13.) Failure to change the dressing at regular intervals is an established risk factor for wound infection and deterioration, particularly in diabetic patients. (*Ibid.*)

Because no local provider was available, Plaintiff initially traveled from his home in Calaveras County to Sacramento every three days for the wound Vac treatment. (FAC ¶ 14.) However, because the travel was difficult on Plaintiff, his care team sought out a local home health agency to provide the service. (*Ibid.*) Plaintiff engaged Atta to provide home health care services to him at his Calaveras County residence. (*Id.* ¶ 15.) The prescribed services included, but were not limited to, taking vital signs; assessing weight; monitoring blood glucose levels; clinically assessing the wound; performing wound VAC dressing changes; photographically documenting the wound; and advising

Plaintiff regarding wound status, wound care, and wound VAC treatment ("Services.") (*Ibid.*) Atta assigned DeMatteo to provide the Services. (*Id.* ¶ 16.)

An Atta supervisor made the first visit to Plaintiff and DeMatteo the next eight visits, making a total of nine (9) home visits to Plaintiff's residence, on the following dates: June 7, 11, 19, 21, and 25, 2024, and July 2, 5, 12, and 19, 2024. (FAC ¶ 17.) During each visit, the supervisor or DeMatteo performed some or all of the Services. (*Ibid.*) DeMatteo did not change the wound VAC dressing every three days as prescribed and as required by the standard of care. (*Id.* ¶ 18.) Instead, the wound Vac dressing was changed at inconsistent intervals of two days to as many as eight days between changes. (*Ibid.*)

Over the course of treatment by Atta and DeMatteo, the wound became infected. (FAC ¶ 21.) DeMatteo observed and recorded the development and progression of the infection. (*Id.* ¶ 22.) Plaintiff had no access to those records, nor means of understanding what was contained in those records. (*Ibid.*) DeMatteo did not notify Plaintiff that the wound was infected, did not advise Plaintiff to seek medical care, did not notify Plaintiff's doctor, and did not take any other action except to continue changing the wound Vac dressing. (*Id.* ¶ 23.) A wound Vac should not be used on an infected wound and the primary contraindication for using a wound Vac is the presence of necrotic tissue. (*Id.* ¶ 24.) Any dead or infected tissue must first be completely and aggressively removed to establish a sterile wound field before the wound Vac is applied. (*Ibid.*)

DeMatteo's last visit to Plaintiff was on July 19, 2024. (FAC ¶ 27.) During that visit, she assessed the wound, changed the wound VAC dressing, and departed without advising Plaintiff of any infection or recommending that he seek medical care. (*Ibid.*) On July 20, 2024, Plaintiff presented to the emergency room for the wound on his right foot. (*Id.* ¶ 28.) Plaintiff's wound had progressed to gangrene and he was taken into surgery within approximately fifteen (15) minutes of arrival where his right leg was amputated. (*Ibid.*) At or around that time, Plaintiff was advised by a treating surgeon that if he had sought care a few weeks earlier, his leg might have been saved. (*Id.* ¶ 29.) Plaintiff did not register that this might have been related to Atta or DeMatteo's care because he assumed it was associated with his diabetes. (*Ibid.*) Plaintiff was admitted to the Veterans' Administration ("VA") hospital and then inpatient rehabilitation for several months. (*Id.* ¶ 30.)

While at the VA, Plaintiff participated in an activity called "My Story," in which VA personnel conducted interviews with patients to understand their personal histories, circumstances, and experiences. (FAC ¶ 31.) As a result of these interviews, which took place in or around December 2024, Plaintiff began to realize that the care he received from Atta and DeMatteo may have contributed or caused his infection and resulting amputation. (*Id.* ¶ 32.)

II. Legal Standard

“A demurrer tests the sufficiency of a complaint and admits all facts properly pleaded.” (*Setliff v. E.I. Du Pont de Nemours & Co.* (1995) 32 Cal. App. 4th 1525, 1533.) The court assumes the truth of the allegations asserted but does not assume the truth of “contentions, deductions, or conclusions of law.” (*California Logistics, Inc. v. State of California* (2008) 161 Cal. App. 4th 242, 247.) The court can further look at those facts that “reasonably can be inferred from those expressly pleaded, and matters of which judicial notice has been taken.” (*MKB Management, Inc. v. Melikian*, (2010), 184 Cal.App.4th 796, 802.) If a complaint does not sufficiently state a cause of action, “but there is a reasonable probability that a defect can be cured by amendment, leave to amend must be granted.” (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal. 4th 26, 38.)

“A demurrer tests the pleadings alone and not the evidence or other extrinsic matters. Therefore, it lies only where the defects appear on the face of the pleading or are judicially noticed.” (*SKF Farms v. Superior Court* (1984) 153 Cal.App.3d 902, 905.) “The only issue involved in a demurrer hearing is whether the complaint, as it stands, unconnected with extraneous matters, states a cause of action.” (Hahn, *supra*, at p. 747.)

Defendant asserts that the Plaintiff’s FAC is subject to demurrer because it is barred by the statute of limitations found in Code of Civil Procedure section 340.5.

III. Discussion

A. Statute of Limitations

Code of Civil Procedure states in pertinent part:

In an action for injury or death against a health care provider based upon such person’s alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first.

There is no dispute among the parties that this statute applies to Plaintiff’s claims against the defendants. There is also no dispute that Plaintiff served a Notice of Intent as required by statute. (Code Civ. Proc. § 364(a).)

The statute also provides, “If the notice is served within 90 days of the expiration of the applicable statute of limitations, the time for the commencement of the action shall be extended 90 days from the service of the notice.” (Code Civ. Proc. § 364(d).)

Atta argues that the claims are barred by the one-year statute of limitation because Plaintiff knew, or should have known, about the negligent cause of his injury in July 2024. (*Carillo v. County of Santa Clara*, (2023) 89 Cal. App. 5th 227, 232 [statute of

limitations is triggered either when the plaintiff had actual suspicion or when a reasonable person would have suspected the injury was caused by wrongdoing].)

Plaintiff contends that his claims are timely based on the discovery rule, “which postpones accrual of a cause of action until the plaintiff discovers, or has reason to discover, the cause of action.” (*Fox v. Ethicon Endo-Surgery, Inc.* (2005) 35 Cal.4th 797, 807.) To plead the delayed discovery rule, “[a] plaintiff whose complaint shows on its face that his claim would be barred without the benefit of the discovery rule must specifically plead facts to show (1) the time and manner of discovery and (2) the inability to have made earlier discovery despite reasonable diligence.’ [Citation omitted.]” (*Fox*, supra, 35 Cal.4th at 808.) Whether a plaintiff has exercised reasonable diligence necessarily depends on the facts of the individual case. (*Artal v. Allen* (2003) 111 Cal.App.4th 273, 280.)

“The harm resulting from medical treatment may not always be objectively appreciable to the layperson, thus its discovery may be delayed until someone with expertise uncovers it.” (*Brewer v. Remington* (2020) 46 Cal.App.5th 14, 14.) Here, Plaintiff alleges that he did not suspect that his infection and subsequent amputation were the result of the LVN’s negligence because he reasonably believed that these were simply complications from diabetes. (FAC ¶29.) Plaintiff further alleges that he had no reason to suspect that the care he received was the cause of his infection because, he alleges, DeMatteo and Atta concealed the true nature of his injury from him. These allegations distinguish this case from the factual allegations in the *Carillo* case relied upon by Atta because in that case the plaintiff knew the nurse had done something to his foot and he did not allege that he had any underlying disease which would lead him to believe that the disease – not incompetence – led to his injury. At the demurrer stage, the Court accepts all the alleged facts in the Complaint as true and does not weigh their credibility. (*17421 Magnolia LLC v. V.* 2022 Cal.Super.LEXIS 26263.)

Given the foregoing, the Court finds that at this stage of the pleadings, the Plaintiff has sufficiently alleged facts supporting delayed discovery and that his claims are timely. Accordingly, Atta’s demurrer is **OVERRULED**.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff to submit a formal Order complying with Rule 3.1312 in conformity with this Ruling.