

**ARIZA v LAKESIDE VENTURES, LLC
22CV46059**

**PLAINTIFF'S REQUEST TO DISQUALIFY ATTORNEY;
PLAINTIFF'S MOTION TO COMPEL**

This matter involves a lengthy dispute over the sale of a mobile home estate located at 1475 Railroad Flat Road, Mokelumne Hill, CA ("Mobile Home Estate.") Before the Court is the motion to disqualify attorney Kathleen E. Finnerty, Esq., who has been retained to represent Defendants Lakeside Ventures LLC ("Lakeside") and Bonnie Hurley (aka Tuckerman-Aho) ("Tuckerman-Aho") (collectively, "Defendants").

Motion to Disqualify

A disqualification motion involves a conflict between a client's right to chosen counsel and the need to maintain ethical standards of professional responsibility. (*Clark v. Sup. Ct.* (2011) 196 Cal.App.4th 37, 47- 48.) A motion to disqualify is an equitable motion that "requires consideration of numerous factors, including a client's right to counsel of its choice, an attorney's interest in representing a client, the financial burden on the client to replace counsel, and interests beyond the interest of the parties." (*Antelope Valley Groundwater Cases* (2018) 30 Cal.App.5th 602, 613– 614.)

"A 'standing' requirement is implicit in disqualification motions. Generally, before the disqualification of an attorney is proper, the complaining party must have or must have had an attorney-client relationship with that attorney."

(*Great Lakes Construction, Inc. v. Burman* (2010) 186 Cal.App.4th 1347, 1356 [citation omitted].)

However, a minority view holds that a nonclient might have standing to bring a disqualification motion if the nonclient establishes a "personal stake" in the motion to qualify that is sufficient to meet the standing requirement. (*Ibid.*)

Plaintiff's motion to disqualify lacks any showing that she has standing to bring this motion. First, there was clearly never an attorney-client relationship between Plaintiff and Finnerty. Second, the motion is completely devoid of any evidence (or coherent allegation) that Plaintiff has a personal stake in Ms. Finnerty's disqualification or any purported reason for the disqualification. The only stake Plaintiff has alleged is her general interest in the outcome of the litigation itself.

Even if the standing issue were to be resolved in Plaintiff's favor, the motion remains meritless. The primary basis for Plaintiff's motion appears to be that Finnerty was representing Lakeside during a period of time when Lakeside was out of compliance with the Secretary of State. However, Plaintiff provides no legal authority to support granting a motion to disqualify, brought by a non-client, against an attorney on this basis. Moreover, Ms. Finnerty avers that when she was retained on March 21, 2025 and prior to accepting representation, she confirmed with the Secretary of State and the California Franchise Tax Board that Lakeside was in good standing. (Declaration of Kathleen E. Finnerty ("Finnerty Decl.") ¶ 3.)

Tuckerman-Aho avers that she received notice, from a third party, that Lakeside was out of compliance in or about early April, 2025. (Declaration of Bonnie Tuckerman-Aho ("Tuckerman-Aho") ¶ 3.) In order to confirm, she had to create a FTB account which took until April 18 because she had to wait for a pin number to be mailed to her. (*Ibid.*) Ms. Tuckerman-Aho avers that she never received notice of unpaid taxes and penalties but upon learning of the deficiencies her CPA prepared them and then filed them on April 28, 2025. (*Id.* ¶ 4.) As of May 1, 2025, Lakeside has returned to good standing. (*Ibid.*)

Plaintiff's also complains that Ms. Finnerty should be disqualified because Tuckerman-Aho's ex-husband is paying Lakeside's legal bills. However, Plaintiff provides zero evidence that this is the case, nor any legal authority to suggest this would be grounds to disqualify Ms. Finnerty even if true.

Accordingly, Plaintiff's motion to disqualify is **DENIED**.

Motion for Sanctions

Defendants' counsel served Plaintiff with a Notice of Motion for Sanctions pursuant to Code of Civil Procedure § 128.7 on May 16, 2025, triggering the 21-day safe harbor period under the statute. (Finnerty Decl. ¶ 5.) Counsel asked Plaintiff if she would be willing to withdraw the Motion to Disqualify after being served with the motion for sanctions and Plaintiff declined to do so. (*Id.* at ¶ 6.) As of the date of this ruling, Plaintiff has not withdrawn the motion.

Accordingly, Defendants **may file** their motion for sanctions for consideration by the Court.

Motion to Compel:

On February 11, 2025, Plaintiff filed a motion to compel production of documents against the named Defendants. Defendants, including Lakeside, filed a joint opposition to the motion to compel. On March 19, 2025, Plaintiff filed an amended motion to compel, adding non-parties Gilbert Mink, Rashel Rosa and Pamela Canessa. On April 4, 2025 the Court denied the motion based on Plaintiff's failure to include the requisite language in Local Rule 3.3.7. In the April 4, 2025 ruling, the Court admonished Plaintiff of the need to comply with the Local Rules and to review the mandatory requirements for filing motions to compel found at California Rule of Court 3.1112 and Code of Civil Procedure section 2031.310.

Now before the Court is Plaintiff's motion which is titled "Motion to Compel for Production of Documents and Admission from Garrett Smith, Scott Nordyke, Arthur Trillo and non-party Pamela Canessa." The motion is opposed by Defendants Smith, Nordyke and Trillo.

Plaintiff's motion is deficient for multiple reasons. First, Plaintiff attempts to bring two separate motions to compel – one for production of documents, and one for admissions – in a single motion. A party moving to compel discovery must file a separate motion for each type of discovery sought. (Dunbar v. Mir Fashion, LLC (2025) 2025 Cal.Super.LEXIS 4391.)

Second, the motion fails to comply with Code of Civil Procedure section 2031.310 for two reasons. First, Plaintiff failed to provide the required declaration showing her attempt to "meet and confer" with the other parties prior to filing the motion to compel. (Code Civ. Proc. § 2031.310(b)(2).) The failure to provide a meet and confer declaration is considered discovery misconduct. (Code Civ. Proc. § 2023.010(i).)

Second, Plaintiff's motion fails to comply with section 2031.310(b) subsections (1) and (3). The motion completely fails to set forth "specific facts showing good cause justifying the discovery sought by the demand." (Id., subsection (b)(1).) Instead, the motion is simply a cut and paste of the discovery being sought and the responses provided. Further, the motion fails to provide the mandatory separate statement required by California Rule of Court 3.1345. (CCP § 2031.310(b)(3).) California Rule of Court 3.1345 sets out the specific information required by a separate statement in support of any motion to compel. Plaintiff's motion lacks any of the required information, making it impossible for the Court to ascertain what aspects of the discovery responses Plaintiff deems insufficient. The failure to provide a separate statement is alone sufficient grounds for denial of the motion. (St. Mary v. Superior Court (2014) 223 Cal.App.4th 762, 778.)

Accordingly, Plaintiff's motion to compel is **DENIED**.

Defendant Smith seeks sanctions from Plaintiff. Pursuant to Code Civil Procedure section 2023.020(a) the Court may impose sanctions for the misuse of the discovery

process. Plaintiff failed to provide a declaration of any attempt to meet and confer with the other parties or their attorneys, which constitutes misconduct. (Code Civ. Proc. §2030.010(i).) Additionally, Code of Civil Procedure section 2023.050(a) mandates an award of sanctions in the amount of \$1,000.00 for failing to meet and confer. However, where the party, as here, represents herself, the Court must presume the Plaintiff was acting in good faith, unless otherwise demonstrated by clear and convincing evidence. (Id., subd. (e).)

In this case, the Court is cognizant that Plaintiff is representing herself, however, she has also been repeatedly warned of the need to review and comply with the relevant Rules of Court and Code of Civil Procedure. Accordingly, the Court **GRANTS** Defendant Smith's request for sanction in the reduced amount of **\$500.00**, to be paid within 10 (ten) Court days.

The clerk shall provide notice of this ruling to the parties forthwith. Defendants to prepare a formal Order in compliance with CRC 3.1312 in conformity with this ruling.

HUGHES v FCA US, LLC

24CV47640

DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS

This case involves a dispute over a vehicle warranty dispute. Now before the Court is Defendant FCA US LLC's motion for judgment on the pleadings.

The Motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

3.3.7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence is limited pursuant to Local Rule 3.3. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

Pursuant to Local Rule 3.3.7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court [emphasis in original.]

Failure to include this language in the notice may be a basis for the Court to deny the motion.

Accordingly, the motion is **DENIED** without prejudice to refile.

The clerk shall provide notice of this ruling to the parties forthwith. Petitioner to prepare a formal Order.