

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

**Department 12
Honorable Nahal Iravani-Sani, Presiding**

Ryan Nguyen, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: (408) 882-2230

DATE: 1/23/2026 TIME: 9:00 A.M. and 9:01 A.M.

TO CONTEST THE RULING: Before 4:00 p.m. today (1/22/2026) you must notify the:

- (1) Court by calling (408) 808-6856 and
- (2) Other side by phone or email that you plan to appear and contest the ruling.
(California Rule of Court 3.1308(a)(1) and Local Rule 8.E.)

TO APPEAR AT THE HEARING: The Court prefers in-person appearances or by Teams. If you appear virtually, please use video.

FOR YOUR NEXT HEARING DATE: Please reserve your next hearing date using Court Schedule—an online scheduling tool that can be found on the Santa Clara County court website.

FINAL ORDERS: The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.) **Please Note:** Any proposed orders must be submitted with the Judicial Council Form EFS-020 Proposed Order (Cover Sheet). Please include the date, time, dept., and line number.

COURT REPORTERS: The Court no longer provides official court reporters. If any party wants a court reporter, the appropriate form must be submitted. See court website for policy and forms.

LINE #	CASE #	CASE TITLE	RULING
LINE 1	23CV416938	BHARAT PATEL vs DILIP PATEL et al.	Motion: Continue Trial Date and All Related Deadlines and Cut Offs by Cross-Defendant Hoge, Fenton, Jones & Appel, Inc. [**Set per Ex Parte Order**] Scroll down to Calendar Line 1
LINE 2	23CV426083	N.R. WATERLOO, LLC et al vs FIRST COMMERCE, LLC et al	Motion: Order Of Judicial Reference by Defendants America First Federal, Inc. and First Commerce, LLC Scroll down to Calendar Line 2
LINE 3	25CV457483	Richard Chamberlain vs Jason Chamberlain	Motion: Sanctions Scroll down to Calendar Line 3

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LINE 4	25CV477676	LINDA JOHNSON et al vs HANFORD HOTELS, INC., a California corporation et al	Motion: Order for Preferential Trial Date Scroll down to Calendar Line 4
LINE 5			
LINE 6			
LINE 7			
LINE 8			
LINE 9			
LINE 10			
LINE 11			
9:01 A.M. Line 1	24CV443419	411 FAIRCHILD, LP vs KELLY-MOORE PAINT COMPANY, INC.	Hearing: Order of Examination Against Defendant Kelly-Moore Paint Company, Inc. by Plaintiff 411 Fairchild, LP. [Proof of personal service filed 11/10/2025.] APPEAR in person or by remote.

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Calendar Line 1

Motion: Continue

Trial Date and All Related Deadlines and Cut Offs by Cross-Defendant Hoge, Fenton, Jones & Appel, Inc.
[**Set per Ex Parte Order**]

Cross-defendant Hoge, Fenton Jones & Apel, Inc. (Hoge Fenton)'s motion for continuance of the trial by is GRANTED IN PART and DENIED IN PART.

Hoge Fenton's motion was filed on 12/29/2025 and current trial date is 2/23/2026. No other party has requested a continuance. The alternative suggested in the opposition to sever the cross-complaint against Hoge Fenton and try it later is the best means to address the problem Hoge Fenton is having in getting the cross-complainants to respond to discovery regarding the severed cross-complaint. As such:

The cross-complaint filed on 7/10/2024 for (1) implied/equitable indemnity; (2) contribution; and (3) professional negligence against Hoge Fenton is severed for trial (the severed cross-complaint) and will be tried *after* the trial of all other claims presently set for 2/23/2026.

The claims for indemnity may become moot depending on the outcome of the trial of all the other claims presently set for 2/23/2026.

The only party not ready for trial on 2/23/2026 is cross-defendant Hoge Fenton.

The defendants Dilip Patel, Devyani Patel and Gaurang J. Patel, individually and derivatively on behalf of [nominal defendant] Krishna Mountain View, Inc. are the cross-complainants against Hoge Fenton in the cross-complaint filed on 7/10/2024.

The trial of the severed cross-complaint is continued to 7/6/2026 at 8:45 am in Dept. 18. The settlement conference of the severed cross complaint will be on 7/1/2026 at 9am in Dept. 12, the hearing will be remote. The trial assignment hearing of the severed cross-complaint is continued to 7/2/2026 at 1:30 pm in Dept. 18. All discovery and motion cut-off dates between the cross-defendants and cross-complainants on the severed cross-complaint shall be tied to the new trial date of 7/6/2026.

The trial of all other claims remains as set on 2/23/2026 at 8:45 am in Dept. 18. The settlement conference of all other claims remains as set on 2/18/2026 at 9:04 am in Dept. 12, the hearing will be remote. The trial assignment hearing of all other claims remains as set on 2/19/2026 at 1:31 pm in Dept. 18. All discovery and motion cut-off dates for all other claims shall remain tied to the current trial date of 2/23/2026.

Plaintiff to prepare the order and submit to Court for signature.

Calendar Line 2

Motion: Order

Of Judicial Reference by Defendants American First Federal, Inc. and First Commerce, LLC

Defendants American First Federal, In. (“AFF”) and First Commerce, LLC (“FC”) – (collectively “Defendants”) motion for an Order that the claims of Plaintiffs N.R. Waterloo, LLC (“Waterloo”) and Betty Sha – (collectively “Plaintiffs”) against Defendants be decided via Judicial Reference is GRANTED.

Discussion:

The parties entered an agreement which contained a provision that required all disputes arising out of, related to, or in connection with the loan to be resolved by a judicial referee.

The judicial reference provision governs all claims in this action as to Plaintiffs; Plaintiffs have not established that the loan agreement is unconscionable.

Plaintiffs assert that by engaging in court proceedings for “19 months” (factually 15 months) Defendants waived their right to seek judicial reference. The record lacks clear and convincing evidence of waiver, notwithstanding Defendants’ use of discovery procedures and its delay in seeking judicial reference. *O’Donoghue v Superior Court* (2013) 219 Cal.App.4th 245, 264.

The court finds *Quach v. California Commerce Club, Inc.* (2024) 16 Cal. 5th 562 inapplicable to this case. Because *Quach* interprets waiver of arbitration rights under the California Arbitration Act (and analogous federal principles), its holding is tailored to arbitration waiver, not to judicial reference provisions. Judicial reference rights are statutorily created under CCP sections 638-645.1, and not governed by arbitration law.

The court finds no evidence that Defendants relinquished the right to judicial reference, nor that granting reference would prejudice the parties. Defendants’ engagement in discovery and court proceedings was consistent with protecting rights in an ongoing case, not abandoning the judicial reference provision.

Conclusion:

Defendants’ motion is GRANTED. Defendants to prepare order and submit to court for signature.

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Calendar Line 3

Case Name: Richard Chamberlain vs Jason Chamberlain

Case No.: 25CV457483

Plaintiff [in pro per] Richard Chamberlain (Plaintiff)'s motion for issue sanctions, evidence sanctions, and monetary sanctions against defendant [in pro per] Jason Chamberlain (Defendant) for issue sanctions, evidence sanctions, and monetary sanctions [pursuant to Code of Civil Procedure (CCP) sections 2023.010-2023.030, 128(a)(3)&(8), 187, the California Evidence Code [section 413] and Santa Clara County Superior Court Rule 8 (or any other law cited by Plaintiff)] is DENIED.

Discussion:

“Code of Civil Procedure section 2025.450, subdivision (d) authorizes a trial court to impose an issue, evidence, or terminating sanction under Code of Civil Procedure section 2023.030 if a party or party-affiliated deponent ‘fails to obey an order compelling attendance, testimony, and production.’ [CCP] Section 2023.030 authorizes a trial court to impose monetary sanctions, issue sanctions, evidence sanctions, or terminating sanctions against ‘anyone engaging in conduct that is a misuse of the discovery process.’” (*Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967, 991 (*Doppes*)).

“The discovery statutes evince an incremental approach to discovery sanctions, starting with monetary sanctions and ending with the ultimate sanction of termination. ‘Discovery sanctions “should be appropriate to the dereliction, and should not exceed that which is required to protect the interests of the party entitled to but denied discovery.” [Citation.] If a lesser sanction fails to curb misuse, a greater sanction is warranted: continuing misuses of the discovery process warrant incrementally harsher sanctions until the sanction is reached that will curb the abuse.(*Creed-21 v. City of Wildomar* (2017) 18 Cal. App. 5th 690, 701-702 [emphasis added].)

Plaintiff failed to include a copy of any underlying document request under CCP section 2031.310 with proof of service on Defendant requesting the May 2 recordings and text messages (upon which this motion to compel was based.) Without a proper document request being properly served on Defendant the motion for sanctions is premature. Without any persuasive proof of Defendant's failure to comply with a specific document request in this action, there is no basis for *any* sanctions against Defendant. Furthermore, Plaintiff has *not* shown that Defendant has failed to comply with any discovery order compelling production of May 2 recordings and text messages (that are the subject of this motion) or that incremental sanctions have been imposed.

Plaintiff has failed to include any meet and confer correspondence or emails with Defendant showing a formal document request or discovery order compelling production of May 2 [2024] recordings and text messages (that are the subject of this motion).

Plaintiff's supplemental statement of new facts filed 12/19/2025 refers to the court's 12/10/2025 minute order for deemed admissions against Defendant, however the court (Judge William J. Monahan) set aside that minute order and those deemed admissions by written order dated 1/14/2026.

The timeline of relevant events on page 4 of Plaintiff's supplemental statement filed 12/19/2025 refers to events relating to the requests for admission (RFA), but (as stated

previously) the court (Judge William J. Monahan) set aside that minute order and those deemed admissions by written order dated 1/14/2026.

The court (Judge William J. Monahan) denied without prejudice as premature Plaintiff's motion to compel digital evidence on 1/9/2025 for the reasons stated in its written order. Plaintiff should be aware from that court order dated 1/9/2025 that he needs to serve a proper discovery request on Defendant *before* moving to compel compliance [or seeking sanctions].

Plaintiff's request for any type of sanctions against Defendant is DENIED.

Plaintiff and Defendant are Both Self-Represented Litigants

Self-represented litigants are entitled to the same, but no greater, consideration than other litigants and attorneys. (*County of Orange v. Smith* (2005) 132 Cal.App.4th 1434, 1444.) Self-represented litigants "are held to the same standards as attorneys" and must comply with the rules of civil procedure. (*Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 543; see also *Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984-985 ["A doctrine generally requiring or permitting exceptional treatment of parties who represent themselves would lead to a quagmire in the trial courts, and would be unfair to the other parties to litigation."].)

Conclusion

Plaintiff's motion for issue sanctions, evidence sanctions, and monetary sanctions against Defendant for issue sanctions, evidence sanctions, and monetary sanctions is DENIED.

The Motion for Sanctions is DENIED. The Court will prepare the order.

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Calendar line 4

Case Name: Linda Johnson, et al vs Hanford Hotels, Inc., et al

Case No.: 25CV477676

Good cause appearing, plaintiff Linda Johnson (Plaintiff)'s motion for trial preference under code of Civil Procedure (CCP) section 36(a) is GRANTED.

Upon granting a motion for preference, the court "shall" set the matter for trial within 120 days. (CCP § 36(f).)

The court sets a trial setting conference for 2/11/2026 at 11AM in Dept. 12.

Discussion

CCP section 36(a) states:

A party to a civil action who is over 70 years of age may petition the court for a preference, which the court shall grant if the court makes both of the following findings:

- (1) The party has a substantial interest in the action as a whole.
- (2) The health of the party is such that a preference is necessary to prevent prejudicing the party's interest in the litigation.

(CCP § 36(a).)

The statute is clear. If a party over 70 years old petitions for preference, the court "shall" grant it if it finds the party "has a substantial interest in the action as a whole" and preference is needed to "prevent prejudicing the party's interest in the litigation" due to the health of the party. (CCP § 36(a)(1)&(2).)

Plaintiff has submitted competent evidence establishing her entitlement to mandatory trial preference under CCP section 36(a) by submitting the declaration of her counsel and her doctor. The court finds that:

- (1) [Plaintiff who is over 70 years of age] "has a substantial interest in the action as a whole"[; and]
- (2) The health of the [Plaintiff] is such that a preference is necessary to prevent prejudicing the [Plaintiff's] interest in the litigation." (CCP § 36(a)(1)&(2).)

Defendants' arguments regarding discovery needs and due process do *not* override the Legislator's clear mandate: when a party over 70 years old with a substantial interest in the litigation has a health condition that necessitate preference, the court "shall grant" it. "Where a party meets the requisite standard for calendar preference under [CCP section 36] subdivision (a), preference must be granted. No weighing of interests is involved." (*Fox v. Superior Court* (2018) 21 Cal. App. 5th 529, 535.)

Section 36, subdivision (a), says nothing about "death or incapacity." Whether there is "substantial medical doubt of survival ... beyond six months" is, to be sure, a matter of specific concern under section 36, subdivision (d), but the relevant standard under subdivision (a) is more open-ended. The issue under subdivision (a) is not whether an elderly litigant might die before trial or become so disabled that she might as well be absent when trial is called. Provided there is evidence that the party involved is over 70, all subdivision (a) requires is a showing that that party's "*health ... is such that a preference is necessary to prevent prejudicing [her] interest in the litigation.*" (Italics added.) [Defendants] proposed reading of subdivision (a), requiring a showing of what amounts to likely unavailability for trial, sets the prejudice standard too high.

(*Fox v. Superior Court, supra*, 21 Cal. App. 5th at 534.)

Defendants argue that granting the trial preference motion may hamper their ability to conduct discovery. However, the Court "has no power to balance the differing interests of opposing litigants in applying the provision" under CCP section 36(a). (*Swaithe v. Superior Court* (1989) 212 Cal.App.3d 1082, 1085 [noting further that a failure "to complete discovery or other pretrial matters" does not affect the right to trial preference].) Thus, defendants' arguments are not compelling.

Defendants' due process arguments on page 5 of their opposition are unpersuasive. There is sufficient time for discovery in the amount of time (within 120 days) allowed for the trial setting in preferential cases for due process purposes. Defendants should be doing whatever discovery is necessary for discovery without delay.

Defendants request to continue the motion to allow discovery into Plaintiff's medical condition is DENIED. Plaintiff's evidence is sufficient for granting this motion. Defendants have *not* shown they made any attempt to request this type of discovery since the motion was filed on 12/15/2025.

CCP section 36(f) states:

Upon the granting of such a motion for preference, the court shall set the matter for trial not more than 120 days from that date and there shall be no continuance beyond 120 days from the granting of the motion for preference except for physical disability of a party or a party's attorney, or upon a showing of good cause stated in the record. Any continuance shall be for no more than 15 days and no more than one continuance for physical disability may be granted to any party.

(CCP § 36(f).

Conclusion

Good cause appearing, Plaintiff's motion for trial preference under CCP section 36(a) is GRANTED.

Upon granting a motion for preference, the Court "shall" set the matter for trial within 120 days. (CCP § 36(f).)

The court sets a trial setting conference for 2/11/2026 at 11AM in Dept. 12.

PLAINTIFF to prepare the Order and submit to Court for Signature.