

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

**Department 20**

**Honorable William J. Monahan, Presiding**

Courtroom Clerk, Melanie Bueno  
191 North First Street, San Jose, CA 95113  
Telephone: (408) 882-2320

**DATE: 3/13/2025 TIME: 9:00 A.M.**

**TO CONTEST THE RULING:** Before 4:00 p.m. today (3/12/2025) 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
<a href="#">LINE 1</a>	24CV445907	Jin Yin, et al vs Xiaoxiao Lu, et al	Motion for Reconsideration and Stay Plaintiffs JIN YIN and YMBM BEAUTY LLC (Plaintiffs) motion for reconsideration and stay for further production  Ctrl Click on Line 1 for tentative ruling. The court will prepare the order.  PLEASE NOTE THIS MATTER WILL BE HEARD IN <b>DEPT. 13</b> BY JUDGE MONAHAN on 3/13/2026 at 9:00AM.  IF THIS TENTATIVE RULING IS CONTESTED, THE ORAL ARGUMENT WILL BE HEARD IN <b>DEPT. 13</b> on 3/13/2026 at 9:00AM.
<a href="#">LINE 2</a>			

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<a href="#">LINE 3</a>			
<a href="#">LINE 4</a>			
<a href="#">LINE 5</a>			
<a href="#">LINE 6</a>			
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<a href="#">LINE 10</a>			
<a href="#">LINE 11</a>			
<a href="#">LINE 12</a>			

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## Calendar Line 1

**Case Name:** *Jin Yin, et al vs Xiaoxiao Lu, et al*

**Case No.:** 24CV445907

PLEASE NOTE THIS MATTER WILL BE HEARD IN **DEPT. 13** BY JUDGE MONAHAN on 3/13/2026 at 9:00AM.

Plaintiffs JIN YIN and YMBM BEAUTY LLC (Plaintiffs)' motion for reconsideration and stay for further production pursuant to Code of Civil Procedure (CCP) section 1008(a) is DENIED.

### Discussion

CCP section 1008(a) states:

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*.

The supporting declaration of Shanshan Zou filed 7/22/2025 does not comply with the requirements of CCP section 1008(a). The first 9 paragraphs do *not* contain any new information from her supporting declaration for the opposition to the original motion. Paragraph 10 contains a copy of the document production Plaintiffs made to the discovery, but the declaration failed to explain why they were *not* produced earlier. (See *Torres v. Design Group Facility Solutions, Inc.* (2020) 45 Cal. App. 5th 239, 243 [“If the motion to reconsider is based on new facts, the moving party must provide a satisfactory explanation for its failure to produce the evidence at an earlier time.”] Paragraph 11 although not identical, is almost the same as paragraph 10 in her original declaration in opposition to the original motion. Paragraph 12 claims that the proof of service by the clerk of the court’s order was undated (however, Exhibit B to Zou’s declaration filed 7/22/2025 shows the proof of service states, “Service performed on 07/11/2025.”)

The court’s order on submitted matter after hearing was filed on 7/11/2025 and the attached proof of service shows it was served by the clerk by mail on 7/11/2015.

Plaintiff’s motion for reconsideration was *timely* filed on 7/22/2025 (11 days after the order was served by mail), because five calendar days are added to the 10-day deadline in CCP section 1008(a) for service by mail within California under CCP section 1013(a). (See Weil & Brown (The Rutter Group 2025) Cal. Prac. Guide: Civil Proc. Before Trial, ¶9:326.1 (Weil & Brown).)

“The legislative intent was to *restrict* motions for reconsideration to circumstances where a party offers the court some fact or circumstances not previously considered, *and some*

*valid reason for not offering it earlier.* [Citations.]” (Weil & Brown, ¶ 9:328 [emphasis added].)

“A party seeking reconsideration of a prior order based on ‘new or different facts, circumstances or law’ must provide a satisfactory explanation for failing to present the information at the first hearing; i.e., a showing of *reasonable diligence*. [Citations.]” (Weil & Brown, ¶9:329.)

However, the supporting declaration by Plaintiff’s counsel does *not* comply with CCP section 1008(a). There are *no* new or different facts, circumstances or law that change the outcome. There is *no* satisfactory explanation for failing to present the information at the first hearing. The court’s order *on submitted matter after hearing* filed on 7/11/2025 contains no error. The clerk’s proof of service shows the date service by mail was performed on 07/11/2025.

### **Conclusion**

Plaintiffs’ motion for reconsideration and stay for further production pursuant to CCP section 1008(a) is DENIED.

The court will prepare the order.

IF THIS TENTATIVE RULING IS CONTESTED, THE ORAL ARGUMENT WILL BE HEARD IN **DEPT. 13** on 3/13/2026 at 9:00AM.

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