

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

Department 7, Honorable Charles F. Adams Presiding

T. Duarte, Courtroom Clerk
191 North First Street, San Jose, CA95113
Telephone: 408.882.2170

To contest a tentative ruling, you must:

1. Call (408) 808-6856 before 4:00 P.M. and leave a voicemail message containing the information described below, and
2. Notify the other side before 4:00 P.M. that you will appear at the hearing to contest the tentative ruling.

In the voicemail message, please state your case name, case number, the name of the attorney and contact number. It would also be helpful if you could identify the specific portion or portions of the tentative ruling that will be contested.

PLEASE NOTE:

- If you do not notify the Court and/or opposing side as required by California Rule of Court, rule 3.1308(a)(1) and Probate Local Rule 2(A), the Court will not hear argument and the tentative ruling will be adopted *even if* all parties appear at the hearing.
- Sending an email to the department will not suffice to constitute notice to the Court of the need for a hearing regarding a tentative ruling.

Court reporters are not provided. Please consult our Court's website, www.scscourt.org, for the rules, policies, and required forms for appointment by stipulation of privately-retained court reporters.

- **Parties can appear either in person or remotely.** All remote appearances must be made through UDC, unless otherwise arranged with the Court. Please go to <https://santaclara.courts.ca.gov/online-services/remote-hearings> to find the appropriate link. Also, please note that that you must register in advance to appear remotely.
- As a reminder, state and local Court Rules prohibit recording of court proceedings without a Court order. This prohibition applies while in the courtroom and while appearing remotely.

PROBATE TENTATIVE RULINGS FOR:

DATE: MARCH 6, 2026 TIME: 10:00 A.M.

PREVAILING PARTY SHALL PREPARE THE ORDER

UNLESS OTHERWISE STATED (SEE [RULE OF COURT 3.1312](#))

LINE #	CASE #	CASE TITLE	RULING
LINE 1	25EA000076	Kris Leamy vs Patricia Schwendinger	Initial hearing on Request for Restraining Order Allowing Contact. Parties must appear to discuss scheduling.
LINE 2	25PR200928	In Re: Richard Schwendinger's Advance Health Care Directive Dated June 3, 2024	See Line 2 for tentative ruling.
LINE 3	25PR200928	In Re: Richard Schwendinger's Advance Health Care Directive Dated June 3, 2024	

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LINE 8			
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LINE 11			
LINE 12			
LINE 13			

Calendar Line 1

Case Name:

Case No.:

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Calendar Line 2

Case Name: *In Re Richard Schwendinger's Advance Healthcare Directive dated June 3, 2024*

Case No.: 25PR200928

INTRODUCTION

On September 15, 2025, Kris Leamy (“Petitioner”) initiated the instant case by filing a petition for order confirming the validity of an advance healthcare directive (“ACHD”) executed by her father, Richard Schwendinger (“Richard”)¹ and naming her as agent. Patricia Schwendinger (“Patricia”) and Lynda Boyden (collectively, “Respondents”)² filed an opposition on November 14, 2025. In their opposition, Respondents assert, inter alia, that petition is unnecessary because Richard is receiving adequate care from Patricia and that Richard validly revoked that ACHD.

On October 23, 2025, Petitioner filed an ex parte application for temporary authorization to act as Richard’s healthcare agent. Respondents opposed the ex parte application and Petitioner filed a reply. On November 24, 2024, the court (Hon. Lê Jacqueline Duong) issued an order denying the ex parte application.

Currently before the court are Petitioner’s motion to compel compliance with a deposition subpoena directed to One Stop Senior Solutions LLC (“One Stop”) and Patricia’s motion to quash the same subpoena and another subpoena served by Petitioner on Dr. Mehrdad Ayati, MD (“Dr. Ayati”). Petitioner has filed an opposition to the motion to quash. No opposition has been filed to the motion to compel.

DISCUSSION

Patricia moves to quash Petitioner’s subpoenas to One Stop and Dr. Ayati. Petitioner moves to compel compliance with the subpoena to One Stop. Both motions must be denied without prejudice because the proofs of service filed with the motions do not establish that One Stop or Dr. Ayati were served.

As to the motion to compel, Code of Civil Procedure section 2025.480, subdivision (c) provides, “Notice of this motion shall be given to all parties and to the deponent either orally at the examination, or by subsequent service in writing. If the notice of the motion is given orally,

¹ Because some of the individuals involved in this case share the same last name, the court will refer to them by their first names. No disrespect is intended.

² Patricia is Richard’s wife and Petitioner alleges that Richard is currently under Patricia’s custody and control. Lynda Boyden is Richard and Patricia’s daughter. On November 5, 2025, the clerk of the court entered a dismissal of Lynda Boyden from this action.

the deposition officer shall direct the deponent to attend a session of the court at the time specified in the notice.” Similarly, Rules of Court, rule 3.1346, provides, “A written notice and all moving papers supporting a motion to compel an answer to a deposition question or to compel production of a document or tangible thing from a nonparty deponent must be personally served on the nonparty deponent unless the nonparty deponent agrees to accept service by mail or electronic service at an address or electronic service address specified on the deposition record.”

The proof of service attached to the motion does not show service on One Stop and there is no evidence that One Stop was given oral notice of the motion. Notably, the motion to compel seeks to hold One Stop liable for thousands of dollars in sanctions. One Stop must be served with the motion before it can proceed.³

As to the motion to quash, Code of Civil Procedure section 1985.3, subdivision (g) provides, “Notice of the bringing of that motion [to quash under Code of Civil Procedure section 1987.1] shall be given to the witness and deposition officer at least five days prior to production.” The proof of service filed with the motion to quash does not show service on either One Stop or Dr. Ayati.

CONCLUSION

Petitioner’s motion to compel and Patricia’s motion to quash are both DENIED WITHOUT PREJUDICE.

The court will prepare the order.

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³ The motion to compel does not involve the subpoena directed to Dr. Ayati and it does not need to be served on him.

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