

CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT,
DIVISION FIVE

J.N. v. Goldberg

J.N. v. Goldberg · No. B345334 · Decided May 11, 2026

SUMMARY

The California Court of Appeal reverses an order imposing Code of Civil Procedure section 128.7 sanctions and the resulting judgment. The court holds that the sanctions notice was fatally defective because it did not state the hearing date as required by sections 128.7 and 1010, and that the 21-day safe harbor period therefore never began. The case is remanded for further proceedings.

CASE DETAILS

COURT	California Court of Appeal, Second Appellate District, Division Five
WRITING FOR THE COURT	Kumar, J.; Hoffstadt, P. J.; Kim (D.), J.
JURISDICTION	California Court of Appeal, Second Appellate District, Division Five
DECIDED	May 11, 2026
DOCKET	B345334
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from a judgment entered after the superior court granted defendant's motion for sanctions under California Code of Civil Procedure section 128.7 and awarded \$19,285 in fees and costs.
STANDARD OF REVIEW	A sanctions award is reviewed for abuse of discretion; factual findings are reviewed for substantial evidence, legal conclusions de novo, and application of law to facts for arbitrariness or capriciousness. The determination whether section 128.7 required the hearing date to be included in the notice of motion was reviewed de novo.
PRECEDENTIAL VALUE	Published and certified for publication
PARTIES	J.N., through guardian ad litem Brian Nadley, Jordan Nadley, Jakob Nadley v. Jeffrey Goldberg

TOPICS

- sanctions
- civil procedure
- appellate procedure
- statutory interpretation
- harmless error

PRACTICE AREAS

civil procedure

appellate procedure

sanctions

statutory interpretation

remedies

QUESTIONS PRESENTED

1. Whether a notice of motion for sanctions under California Code of Civil Procedure section 128.7 must specify when the motion will be heard.
2. Whether the superior court's electronic motion-reservation system excused defendant's failure to comply with the statutory notice and 21-day safe-harbor requirements.
3. Whether the defective notice could be salvaged under statutory-impossibility or harmless-error principles.

HOLDINGS

1. A notice of motion seeking sanctions under section 128.7 must state when the motion will be heard because section 128.7 incorporates the notice requirements of section 1010, which requires a notice of motion to state when it will be made.
2. The superior court's electronic case-reservation system did not excuse compliance with the statutory notice and safe-harbor requirements and could not create an exception to sections 128.7 and 1010.
3. The failure to comply with section 128.7's notice and safe-harbor requirements required reversal of the sanctions order and corresponding judgment; the defect could not be cured by plaintiffs' opportunity to litigate the merits or by harmless-error principles.

KEY QUOTATIONS

“Reading these two provisions together, a notice of motion seeking section 128.7 sanctions must reflect when the motion will be heard.” (6)

“The apparent flaw in the CRS did not relieve defendant of his obligation under sections 1010 and 128.7 to serve a notice of motion that reflects when the motion will be made.” (7)

“The superior court did not, and could not, make it impossible to comply with the Legislature’s notice requirements.” (9)

“Because service of the October 25, 2024 notice of motion did not comply with sections 128.7 and 1010, it was fatally defective and the necessary 21-day safe harbor period never began.” (11)

FACTUAL BACKGROUND

Plaintiffs filed a complaint alleging financial elder abuse, fraud or undue influence, and intentional misrepresentation. Defendant served a section 128.7 sanctions notice on October 25, 2024, but left blank the date and time of the hearing because the Los Angeles County Superior Court's electronic reservation system required a motion to be filed within three business days of obtaining a hearing reservation, while section 128.7 required a 21-day safe-harbor period. After that period expired, defendant obtained a hearing date and served and filed a second set of motion papers. The trial court granted sanctions and awarded \$19,285 in fees and costs.

PROCEDURAL HISTORY

Plaintiffs filed a complaint alleging financial elder abuse, fraud or undue influence, and intentional misrepresentation. Defendant served a section 128.7 sanctions motion without specifying a hearing date, then filed a second set of motion papers after the 21-day safe-harbor period with a hearing date included. The superior court found the complaint frivolous and legally meritless, awarded sanctions, and entered a judgment of dismissal. The Court of Appeal reversed the sanctions order and corresponding judgment and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The sanctions order and corresponding judgment are reversed. The case is remanded for further proceedings consistent with the opinion. On remand, plaintiffs may file a motion for leave to amend with supporting documentation and obtain a ruling on that motion. Each party shall bear its own costs on appeal.

CASES CITED

- *Bucur v. Ahmad*, 244 Cal. App. 4th 175 (2016)
- *Peake v. Underwood*, 227 Cal. App. 4th 428 (2014)
- *Broadcast Music, Inc. v. Structured Asset Sales, LLC*, 75 Cal. App. 5th 596 (2022)
- *Conservatorship of Anne S.*, 112 Cal. App. 5th 1201 (2025)
- *G.F. Galaxy Corp. v. Johnson*, 100 Cal. App. 5th 542 (2024)
- *Gorham Co., Inc. v. First Financial Ins. Co.*, 139 Cal. App. 4th 1532 (2006)
- *Galleria Plus, Inc. v. Hanmi Bank*, 179 Cal. App. 4th 535 (2009)
- *Switzer v. Wood*, 35 Cal. App. 5th 116 (2019)
- *Perez v. Torres*, 206 Cal. App. 4th 418 (2012)
- *Changsha Metro Group Co., Ltd. v. Xufeng*, 57 Cal. App. 5th 1 (2020)
- *Elkins v. Superior Court*, 41 Cal. 4th 1337 (2007)
- *Hart v. Avetoom*, 95 Cal. App. 4th 410 (2002)
- *Transcon Financial, Inc. v. Reid & Hellyer, APC*, 81 Cal. App. 5th 547 (2022)
- *CPF Vaseo Associates, LLC v. Gray*, 29 Cal. App. 5th 997 (2018)
- *Martorana v. Marlin & Saltzman*, 175 Cal. App. 4th 685 (2009)
- *Barnes v. Department of Corrections*, 74 Cal. App. 4th 126 (1999)