TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, February 25, 2026, 3:00 p.m.
Courtroom 16 – Hon. Karen Dixon for Hon. Patrick M. Broderick
3035 Cleveland Avenue, Suite 200, Santa Rosa

TO JOIN "ZOOM" ONLINE,
Courtroom 16
Meeting ID: 161-460-6380
Passcode: 840359
https://sonomacourt-org.zoomgov.com/j/1614606380?pwd=NUdpOEZ0RGxnVjBzNnN6dHZ6c0ZQZz09

TO JOIN "ZOOM" BY PHONE,
By Phone (same meeting ID and password as listed above):
(669) 254-5252 US (San Jose)

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, YOU MUST notify the Court by telephone at **(707) 521-6725**, and all other opposing parties of your intent to appear by 4:00 p.m. the court day immediately before the day of the hearing.
Parties in motions for claims of exemption are exempt from this requirement.

PLEASE NOTE: The Court WILL NOT provide a court reporter for this calendar. If there are any concerns, please contact the Court at the number provided above.

1. 24CV04975, Looney v. Amerigo, LLC.

Motion for Reconsideration CONTINUED to the law and motion calendar of July 8, 2026, in Department 16 at 3:00 p.m. because the LLC Defendant may only appear through an attorney and there is no proof of service showing notice of this hearing. Prior to the new hearing, the moving party must file timely proof of service in accord with California Rule of Court 3.1300, demonstrating service of notice of the hearing. In order for the court to consider the motion with respect to the LLC Defendant, that party must appear through an attorney, otherwise the court will be required to deny the motion as to that Defendant, without prejudice.

Motion to Appoint Receiver to Take Possession and, if Necessary, Sell Judgment Debtor's Liquor License DENIED without prejudice.

Facts

Plaintiff complains that Defendants, operating a business in Anaheim, California, entered into a written contract with Young's Market Company, predecessor-in-interest to Plaintiff's assignor, Republic National Distributing Company ("RNDC"), to purchase alcoholic beverages but that although RNDC performed, Defendants breached the contract by failing to pay the amount owed. Plaintiff filed this action to collect the debt plus costs, legal fees, and interest.

Defendants failed to appear, so Plaintiff obtained their default on November 14, 2024, and obtained a default judgment against them on December 10, 2024.

Defendants, who include both a limited liability company ("LLC") and individuals, appeared without an attorney by filing a motion to vacate the judgment pursuant to Code of Civil Procedure ("CCP") section 473b on January 28, 2025. Defendants argued that they had not been

properly served with the summons and complaint. The court at the hearing on April 30, 2025, continued the matter to August 20, 2025, because there was no proof of service or other indicia of proper notice to Plaintiff and because the LLC must appear through counsel.

In its order following the August 20, 2025, hearing (the "August Order"), the court denied the motion without prejudice, finding that Defendants had still not cured the prior defects but also setting forth in detail the court record regarding service on Defendants of the summons and complaint.

Motion

In their Motion for Reconsideration, Defendants move the court to reconsider the August Order. Relying on CCP sections 473(d) and 1008, they assert that the judgment was void due to defective service of the summons and complaint, venue Is not proper, and Plaintiff's debt-collection activity is "unlicensed."

There is no proof of service of for the motion and there is no opposition.

In his Motion to Appoint Receiver to Take Possession and, if Necessary, Sell Judgment Debtor's Liquor License, Plaintiff moves the court to appoint Landon McPherson ("McPherson") as receiver in order to take possession of, and as necessary, sell Defendant's liquor license 636029 (the "License").

There is proof of service for both this motion and for the ex parte order shortening time which set the motion on this calendar. The proof of service shows service by mail on Defendants at Defendants' address of record provided on their moving papers. However, there is no opposition to this motion.

Motion for Reconsideration

Any party affected by an order may apply to the same judge or court that made the order to reconsider the matter and modify, amend, or revoke the prior order. CCP §1008(a).

This requirement is not merely a procedural requirement but delineates the court's "jurisdiction" to hear a repeated motion, as the language of both CCP section 1008(e) itself and the above decisions make clear. CCP section 1008(e); *Garcia v. Hejmadi* (1997) 58 Cal.App.4th 674, 691.

The motion for reconsideration must be brought within 10 days of the service of notice of the entry of order. CCP § 1008. The deadline is extended under the provisions of CCP section 1013. *Forrest v. State of California Dept. of Corporations* (2007) 150 Cal.App.4th 183, 203. CCP section 1013 extends the deadline by 5 calendar days where service is by mail or 2 calendar days where service is by express mail.

A party seeking reconsideration must first demonstrate new facts, law, or circumstances that were not previously considered. CCP §1008(a); *Garcia v. Hejmadi* (1997) 58 Cal.App.4th 674, 692. The moving party must also provide an adequate explanation why the new information was not provided earlier. *Garcia, supra; Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500. The need for an explanation is a requirement for due diligence. *Gilberd*.

Mere lack of a chance to make oral argument is not a valid basis for a motion for reconsideration. *Garcia*, 691; *Gilberd*, 1500. In addition, decisions such as *Film Packages, Inc. v. Brandywine Film Productions, Ltd.* (1987) 193 Cal.App.3d 824, at 829, and *Pender v. Radin* (1994) 23 Cal.App.4th 1807, at 1811-1812, ruled that evidence was "new" since it was since obtained through discovery and could not reasonably have been provided earlier.

Discussion

Preliminarily, there is no final order to reconsider. This court expressly denied the motion without prejudice, meaning that Defendants were free to file the motion again, and it did so solely on procedural grounds. The result is that the instant motion has no practical effect.

Moreover, the motion is substantively unmeritorious. Defendants provide no basis for reconsideration. They fail to present any new facts, law, or evidence which could support reconsideration. Even if they had, they fail to present any basis for challenging or altering the court's decision. As this court noted, the LLC Defendant improperly appeared without an attorney. An LLC or corporation may only appear through an attorney. Therefore, the LLC could not seek the relief it requested until appearing through counsel, which it did not do. The court was also correct in finding that Defendants had failed to demonstrate service or notice on Plaintiff. Nothing in the instant motion has altered any of that analysis.

As explained in the August Order, the record of the case demonstrates facially proper service. Once again, the court adopts the findings of the August 2025 Order as follows:

> The complaint in this action was filed on August 27, 2024. It alleged that Defendants failed to pay $13,695.98 due under the contract.
>
> Proof of service of summons was filed on November 14, 2024, for both Ismael and LLC. With respect to service on the LLC, the process server hired by Plaintiff Gary E. Looney ("Plaintiff") states that on September 17, 2024, at 4:28 p.m. he left the complaint, summons, and related documents with cashier Maria Velasquez. Ms. Velasquez was described as being about 45 years old, 5'8", 200 lbs., Hispanic, and having brown hair. Thereafter, the same documents were mailed to Defendants at 2666 W Lincoln Ave, Anaheim, CA 92801.
>
> The process server describes service on Ismael via a different cashier. The process server states that on September 19, 2024, at 9:55 a.m., he served cashier "Jane Doe," who refused to give her name. She is described as being 35 years old, 5'6", 150 lbs., Hispanic, and having brown hair. Thereafter, the documents were mailed to Ismael at the West Lincoln address. The declaration of reasonable diligence states that the process server attempted to serve Ismael personally at the West Lincoln address on September 17, 2024, at 4:28 p.m., and September 18, 2024, at 10:50 a.m., but Ismael was not there.
>
> Defendants' default was entered on November 14, 2024. Judgment was entered on December 10, 2024, in the amount of $16,456.53. This included the $13,695.98 owed under the contract, $2,004.75 in interest, and $755.80 in costs.

The court adds to this that the W. Lincoln Avenue address in Anaheim is the same address which Defendants themselves list as their address on their papers filed in this action, including the instant motion.

Finally, Defendants' current motion also suffers from the same defects as the underlying motion, preventing this court from considering the merits. The LLC Defendant has again not appeared through counsel so again is unable to bring this matter before the court until it obtains counsel to represent it. Defendants also have again failed to file proof of service or otherwise demonstrate proper service on Plaintiff, and Plaintiff has not appeared ana waived this issue.

The court again CONTINUES the motion to allow Defendants to cure the defects set forth above.

Motion to Appoint Receiver

The court may appoint a receiver "[a]fter judgment, to carry the judgment into effect." CCP §564(b)(3). The court may do so to enforce a judgment "where the judgment creditor shows that, considering the interests of both the judgment creditor and the judgment debtor, the appointment of

a receiver is a reasonable method to obtain the fair and orderly satisfaction of the judgment." CCP §708.620.

According to CCP §708.630, a judgment debtor's interest in a liquor license may be applied to the money judgment as provided in the section, and the court may appoint a receiver for the purpose of transferring the debtor's interest.

Basis for the Receivership

Plaintiff contends that the license is the primary known asset of Defendants and that efforts to enforce the judgment so far have been in vain. He provides the declaration of himself and McPherson. Looney Dec.; McPherson Dec.

In his own primary declaration, Plaintiff explains that the License is the only asset or Defendants which he can locate. He states that he has searched for, but been unable to find, any bank or deposit accounts or real property in Defendants' names. He states that a search indicated that Defendants' business was still open but that a more recent search indicates that it has since closed and that the phone number has been disconnected. He also notes that he obtained a lien on January 9, 2025, and writ of execution on March 7, 2025, but has been unable to collect on the judgment. He adds vague, unsubstantiated assertions about his belief that the business is closing and that there are no other assets.

He shows that he sent Defendants letters informing them of the judgment and asking them to pay the judgment, but that he has received no response. He further details that law enforcement agencies will not sell liquor inventory while he adds that in the current state of affairs, restaurant equipment is of reduced value.

Finally, he states that he sent Defendants post-judgment discovery requests regarding their assets, etc. The court, however, notes that Plaintiff has never brought a motion to compel response to that discovery.

McPherson explains his experience brokering liquor licenses in California and working with California Alcoholic Beverage Control, adding that CALS's exclusive business is brokering liquor licenses. He opines that Defendants' license has an estimated value of about $16,000. He also explains his process, which includes posting a bond if required, advising the judgment debtor of the judgment and warning once more that he will seize the license if they do not pay but that if the debtors pay the judgment, he will not seize the license. If he seizes the license, he states, he will file an accounting with the court for approval of the sale and costs and seek an order exonerating the bond and discharging the receiver.

At this point, Plaintiff must demonstrate further efforts to resolve this matter short of obtaining a receivership over the License and he must provide additional evidence about Defendants. Most specifically, he must bring a motion to compel responses to the post-judgment discovery in order to determine the viability of other collection options.

The court DENIES the motion without prejudice. Plaintiff may later bring a motion seeking the same relief, upon satisfying the points which this court raises in this ruling.

Conclusion

Defendants' motion for reconsider is CONTINUED to July 8, 2026, at 3:00 p.m.

Plaintiff's motion to appoint receiver is DENIED without prejudice. Plaintiff shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

2. 24CV07661, Clark v. Singh

Motion to Deem Plaintiff's Request for Admissions Admitted; to Compel Answers to Plaintiff's Interrogatories without Objection; and, for Monetary Sanctions Against Defendants CONTINUED to the law and motion calendar of July 8, 2026, in Department 16 at 3:00 p.m. because the moving party has failed to provide evidence demonstrating that the deadline for Defendant to respond to the discovery has expired. Prior to the new hearing, the moving party must serve any new papers and notice of the new hearing on Defendant and must file timely proof of service in accord with California Rule of Court 3.1300, demonstrating service.

Facts

Plaintiff complains that he suffered injuries in an automobile accident which Defendants negligently caused on County Center Drive near Steele Lane in Santa Rosa on December 22, 2022.

Discovery

Plaintiff served Defendant with Form Interrogatories, Set 1 on May 16, 2025, but, although he granted several extensions for responding, Defendant has not responded. Clark Dec., ¶¶5-8. Plaintiff also served Defendant with Requests for Admissions, Set 1 ("RFAs"), on September 18, 2025, but Defendant has not responded to the RFAs, either. Id., ¶¶9-10. Plaintiff has responded to Defendant's discovery and the attorney handling the case in the law firm representing Defendant informed Plaintiff that no one in the firm has been in contact with Defendant for "many months." Id., ¶¶11-15.

Motion

Plaintiff moves the court to deem the RFAs admitted and to compel responses to the interrogatories without objections. He also seeks monetary sanctions of $2,600.

Although Plaintiff filed complete and proper proof of service for the moving papers and hearing, there is no opposition.

Discussion

Where a party seeks to compel responses under CCP § 2030.290, the moving party need only demonstrate that the discovery was served, the time has expired, and the responding party failed to provide a timely response. See *Leach v. Sup.Ct.* (1980) 111 Cal.App.3d 902, 905-906; *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 411. Failure to provide a timely response waives all objections. CCP section 2030.290. There is no meet-and-confer requirement or a deadline for a motion to compel response where none has been made. CCP §2030.290.

Plaintiff, as set forth in the facts above, has demonstrated almost all of the requirements for the relief sought but has failed to demonstrate that the deadline for responding has in fact expired. He shows that he served the discovery and that Defendant has never responded. He also shows that he gave several extensions regarding the interrogatories. However, his evidence does not actually show that the last extension regarding interrogatories has expired or that the deadline for the RFAs expired. He attaches some exhibits to the moving papers which appear to be the discovery requests but there is no foundation for them, authentication, or explanation in the declaration. These are simply attached and therefore they, as presented, provide no information for the court.

Sanctions

For compelling responses to interrogatories and production requests, the court shall impose monetary sanctions on the losing party unless that party acted with substantial justification, or other circumstances make sanctions unjust. CCP §§2023.010, 2023.030, 2030.290.

With respect to requests for admission, the court shall still impose sanctions even if the responding party provides proper responses by the time of the hearing. CCP §2033.280. A party may seek relief from sanctions for interrogatories, RFAs, or production requests due to mistake,

inadvertence, or excusable neglect if it has served responses. CCP §§2030.290(a), 2031.300(a), 2033.280(a).

In discovery, the court may impose the monetary sanctions against the party, person, or attorney. CCP § 2023.030(a). The court may impose the sanctions against a party's counsel if it appears that the counsel was at least partly responsible for engaging in the behavior at issue. CCP § 2023.030(a); *Ghanooni v. Super Shuttle* (1993) 20 Cal.App.4th 256, 261.

In order to obtain sanctions, the moving party must request sanctions in the notice of motion, identify against whom the party seeks the sanctions, and specify the kind of sanctions. CCP § 2023.040. The sanctions are limited to the "reasonable expenses" related to the motion. *Ghanooni v. Super Shuttle of Los Angeles* (1993) 20 Cal.App.4th 256, 262.

At this time, the court cannot make any determination as to the propriety or amount of sanctions because it is continuing the motion as a result of the defect noted above.

Conclusion

The court CONTINUES the motion to allow the moving party an opportunity to provide the missing evidence. The moving party must, per the CCP and California Rules of Court, serve the Defendant with any new papers and notice of the new hearing.

3. 25CV00082, Leoni v. The Testate and Intestate

APPEARANCES REQUIRED for the evidentiary hearing. However, upon final proof according to the evidence presented, and absent any opposition to the motion by, or countering evidence from, any other party, the court will enter judgment in favor of Plaintiffs.

Facts

Plaintiffs filed this action to quiet title to, and cancel a deed of trust (the "DOT") recorded against, real property which they claim to own at 319 Jester Court, Petaluma (the "Property"). The DOT, they allege, was in favor of one Jean Lister ("Decedent"), who died in 2021, and had a maturity date of March 1, 2009 (the "Maturity Date"). They contend that the DOT expired pursuant to Civil Code ("CC") section 882.020(a)(1) on March 1, 2019, they are unaware of any testate or intestate successors of Decedent (the "Successors"), and that one Daniel Burge ("Burge") may claim an interest in the Property or claims. Plaintiffs name as an additional Defendant Consolidated Title Services ("CTS"), the trustee identified in the DOT.

Plaintiffs filed proofs of service for the summons and complaint but no Defendant appeared. Plaintiffs obtained entry of default against Burge and the Successors.

Motion

Plaintiffs move the court pursuant to CC section 764.010 to conduct an evidentiary hearing and enter judgment in their favor against Burge and the Successors.

Plaintiffs have filed complete proofs of service for the motion and hearing but there is no opposition.

Discussion

CC section 764.010 governs entry of judgment in actions to quiet title. It states, in full,

> The court shall examine into and determine the plaintiff's title against the claims of all the defendants. The court shall not enter judgment by default but shall in all cases require evidence of plaintiff's title and hear such evidence as may be offered respecting the claims of any of the defendants, other than claims the validity of which is admitted by the plaintiff in the complaint. The court shall render judgment in accordance with the evidence and the law.

Accordingly, the plaintiff must prove the case in an evidentiary hearing with live witnesses and any other admissible evidence and must also overcome any admissible evidence which a defaulting defendant has offered. *Nickell v. Matlock* (2012) 206 Cal.App.4th 934, 942. This requires a hearing in open court with all parties having the opportunity to present evidence but it does not require a court to hear oral argument. *Harbour Vista, LLC v. HSBC Mortgage Services Inc.* (2011) 201 Cal.App.4th 1496, 1506-1507.

CC section 882.020 governs the expiration of mortgages, deeds of trust, and similar instruments creating a recorded security in real property. It sets forth the circumstances under such instruments expire and states, in full and with emphasis added,

> (a) Unless the lien of a mortgage, deed of trust, or other instrument that creates a security interest of record in real property to secure a debt or other obligation has earlier expired pursuant to Section 2911, *the lien expires at*, and is not enforceable by action for foreclosure commenced, power of sale exercised, or any other means asserted after, *the later of the following times*:
> (1) *If the final maturity date or the last date fixed for payment of the debt or performance of the obligation is ascertainable* from the recorded evidence of indebtedness, 10 years after that date.
> (2) If the final maturity date or the last date fixed for payment of the debt or performance of the obligation is not ascertainable from the recorded evidence of indebtedness, or if there is no final maturity date or last date fixed for payment of the debt or performance of the obligation, 60 years after the date the instrument that created the security interest was recorded.
> (3) If a notice of intent to preserve the security interest is recorded within the time prescribed in paragraph (1) or (2), 10 years after the date the notice is recorded.
> (b) For the purpose of this section, a power of sale is deemed to be exercised upon recordation of the deed executed pursuant to the power of sale.
> (c) The times prescribed in this section may be extended in the same manner and to the same extent as a waiver made pursuant to Section 360.5 of the Code of Civil Procedure, except that an instrument is effective to extend the prescribed times only if it is recorded before expiration of the prescribed times.

Plaintiffs request judicial notice of several documents. They seek judicial notice of documents filed in this action, including the complaint, Doe amendment to the complaint, proofs of service, and entries of default. They also seek judicial notice of recorded instruments regarding the Property, specifically a Partnership Grant Deed and the DOT. The court may judicially notice these documents, the contents, and the purported legal effect but it may not judicially notice the truth of factual assertions made therein. *Scott v. JPMorgan Chase Bank, N.A*. (2013) 214 Cal.App.4th 743, 753-755. With this limitation, the court grants the requests.

Plaintiffs have met their burden with the evidence provided. They demonstrate that they obtained title to the Property via a Partnership Grant Deed recorded on December 21, 1992. Leoni Dec., Ex.A. They also show that the DOT secured an indebtedness in their name against the Property, with Decedent as the beneficiary. Id., Ex. B. They also show that the DOT expressly states that the maturity date of the DOT is March 1, 2009. They also show that when they filed this action, they were unaware of any successors of Decedent but later learned that Burge is Decedent's son, whom they then named as Doe 1. Both Burge and any other Successors have defaulted. Plaintiffs have therefore met their burden of showing their interest in the Property and that the DOT recorded against it expired, becoming no longer enforceable, on March 1, 2019.

No party has opposed the request for judgment. This court will accordingly hold an evidentiary hearing on the date of the hearing on this motion and will hear any evidence provided by any party appearing. Upon final proof of the evidence provided in the moving papers, and absent any evidence to the contrary, the court will GRANT the motion in full and enter judgment in favor of Plaintiffs.

4. 25CV00782, U.S. Bank National Association v. Baxman

Motion for Summary Judgment or, in the Alternative, Summary Adjudication GRANTED in full for summary judgment.

Facts

Plaintiff complains that Defendant entered into a credit-card agreement by which she agreed to make payments in credit debts which she incurred, she incurred a debt, and she failed to pay as agreed, leaving a balance unpaid. Defendant, through counsel, filed an answer, generally denying the allegations and asserting a series of tersely stated, unexplained affirmative defenses. Shortly thereafter, Defendant's attorney withdrew from the action, leaving Defendant self-represented.

Motion

Plaintiff moves for summary judgment, or summary adjudication of its cause of action for breach of contract, in its favor on its complaint against Defendant. It asserts that the undisputed facts establish each element of its cause of action for breach of contract.

Although Plaintiff filed complete and proper proof of service, there is no opposition.

Authority for Summary Judgment and Summary Adjudication

Any party may move for summary judgment or adjudication. CCP §§ 437c(a), (f). As the party moving for summary judgment or adjudication, Plaintiff, "has met [the] burden of showing that there is no defense to a cause of action if that party" produces evidence establishing each element for each cause of action or duty it wants adjudicated. CCP §437c(p)(1); *Hunter v. Pacific Mechanical Corp.* (1995) 37 Cal.App.4th 1282, 1287.

A plaintiff moving for summary judgment in its favor on its own claims against the defendant merely needs to establish all the elements of each cause of action that the plaintiff raises. CCP section 437C(p)(1). The plaintiff need not address any affirmative defenses, much less cross-claims, and it is up to the defendant to provide evidence either negating one or more element of a cause of action or supporting its affirmative defenses. Ibid. CCP section 437c(p)(1) is express on this point, making it very clear.

Breach of Contract

Breach of contract requires the following elements: an enforceable contract, Plaintiff's performance or excused nonperformance, Defendant's breach, and damage to Plaintiff. *Wall Street Network, Ltd. v. N. Y. Times Co*. (2008) 164 Cal.App.4th 1171, 1178; *Armstrong Petroleum Corp. v. Tri-Valley Oil & Gas Co* (2004) 116 Cal. App. 4th 1375, 1391 n.6; see 4 Witkin, Cal.Proc. (6th Ed. 2021, March 2025 Update), Pleading, section 525.

Request for Judicial Notice

Plaintiff requests judicial notice of 15 USC section 1666 and 12 CFR section 202.12. These are judicially noticeable. The court GRANTS the request.

Separate Statement, Facts, and Evidence

Plaintiff's cited evidence establishes each fact asserted in its separate statement. The cited evidence includes the declaration of one Tiffany Tuggle (the "Tuggle Dec.") and attached exhibits. The Tuggle Dec. explains that the declarant is a custodian of records for Plaintiff, details the declarant's duties, her personal review of the records, and the meaning of the records, including

what she describes as Defendant's Credit Agreement and Account Records. In its stated facts, Plaintiff demonstrates that 1)Defendant applied for credit-card account (the "Account"); 2) Defendant agreed to the terms and conditions in the Cardmember Agreement when applying for, receiving and using the Account; 3) after Defendant received the credit card, purchases were made on it, Plaintiff complied with its obligations by paying the vendors for all charges, resulting in the principal balance of $10,252.18 as alleged in the complaint; 4) the computerized Account records, provided monthly to Defendant in billing statements, reflected all of the payments and charges on the Account; 5) there is no record of unresolved dispute between the parties or that Defendant asserted a valid objection to the balance owed as shown in the monthly statements; 6) before November 19, 2024, Defendant defaulted on the payments she owed, causing the full balance to become immediately due and payable; 7) the last payment applied to the Account was on about May 14, 2024; 8) Defendant owes Plaintiff principal of $10,252.18 as alleged. In fact 9, Plaintiff also asserts that Defendant's alleged affirmative defenses do not, as allegations, raise any triable material issues of fact and do not preclude granting of summary judgment in Plaintiff's favor. While this latter point is correct as argument and a statement of applicable law, it is not itself a fact.

Plaintiff has demonstrated all elements for breach of contract. Defendant has failed to oppose the motion and thus has failed to raise a triable issue of material fact. As explained above, Plaintiff need not negate the alleged affirmative defenses. The court GRANTS the motion for summary judgment.

Conclusion

The motion is GRANTED. The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

5. 25CV02397, Gelsinger v. Alliant Specialty Insurance Services

Demurrer SUSTAINED in full, with leave to amend. Plaintiff has leave to amend within 10 days of the service of the notice of entry of this order. Defendant is to serve the notice of entry of this order within 5 days of entry of this order. California Rule of Court ("CRC") 3.1320(g).

Facts

Plaintiff complains that when she was an employee of Defendant, Defendant violated the Fair Employment and Housing Act ("FHEA") by discriminating against her based on disability, failing to reasonably accommodate her disability, failing to engage in the interactive process, and retaliating against her for engaging in protected activity.

After Plaintiff filed her first amended complaint ("FAC"), the parties entered into a stipulation allowing her to file her second amended complaint ("SAC") which she filed on September 5, 2025.

Plaintiff alleges that she was manager of the Starbucks outlet in the Graton Casino, belonging to and operated by her employer at that time, Federated Indians of Graton Rancheria ("Graton"). She allegedly was injured on the job and filed a workers' compensation insurance claim with Defendant, which administered her claim as well as other such claims for Graton's employees. Her treating physician placed her on medical leave and later released her for full work duty but then informed Graton that she would need further medical treatment. Following this, Graton allegedly terminated her.

Motion

Defendant demurs to the entire SAC in full on the ground that it fails to state facts sufficient to constitute a cause of action. It contends that Plaintiff cannot establish that Defendant was her employer, exercised control over the term and conditions of her employment, or engaged in any conduct which FEHA regulates.

Plaintiff opposes the demurrer, arguing that Defendant acted in the role of the employer in making the FEHA-regulated decisions and conduct.

Defendant has filed a reply. It asserts that no allegations show that it was involved in the employment decisions which FEHA regulates and that it therefore was not acting as an employer.

Applicable Authority

A demurrer can only challenge a defect appearing on the face of the complaint, exhibits thereto, and judicially noticeable matters. Code of Civil Procedure ("CCP") section 430.30; *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318. The grounds for a demurrer are set forth in CCP section 430.10. One of the grounds, in subdivision (e), is the general demurrer that the pleading fails to state facts sufficient to constitute a cause of action.

Demurrer for failure to state facts sufficient to constitute a cause of action is a general demurrer, which must fail if there is *any* valid cause of action. CCP section 430.10(e); *Quelimane Co., Inc. v. Steward Title Guar. Co.* (1998) 19 Cal.4th 26, 38-39; *Fox v. JAMDAT Mobile, Inc*. (2010) 185 Cal.App.4th 1068, 1078 ("as long as a complaint consisting of a single cause of action contains any well-pleaded cause of action, a demurrer must be overruled even if a deficiently pleaded claim is lurking in that cause of action as well"). For example, if a party directs a general demurrer against a cause of action labelled "fraud" based on failure to state that cause of action, the demurrer will fail if the complaint sets forth a valid cause of action for malpractice. *Saunders v. Cariss* (1990) 224 Cal.App.3d 905, 908

On a demurrer, all facts properly pleaded are treated as admitted, but contentions, deductions and conclusions of fact or law are disregarded. *Serrano v. Priest* (1971) 5 Cal.3d 584, 591. Similarly, opinions, speculation, or allegations contrary to law or facts which are judicially noticed are also disregarded. *Coshow v. City of Escondido* (2005) 132 Cal.App.4th 687, 702. Generally, the pleadings "must allege the ultimate facts necessary to the statement of an actionable claim. It is both improper and insufficient for a plaintiff to simply plead the evidence by which he hopes to prove such ultimate facts." *Careau & Co. v. Security Pac. Business Credit, Inc.* (1990) 222 Cal. App. 3d 1371, 1390; *FPI Develop., Inc. v. Nakashima* (1991) 231 Cal. App. 3d 367, 384. Each evidentiary fact that might eventually form part of a party's proof does not need to be alleged. *C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal. 4th 861, 872. Conclusory pleadings are permissible and appropriate where supported by properly pleaded facts. *Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6. "The distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree." *Burks v. Poppy Const. Co*. (1962) 57 Cal.2d 463, 473.

The Fair Employment and Housing Act ("FEHA") prohibits discrimination based on physical or mental disability or various medical conditions if the person is otherwise qualified for the job or position, specifically its "essential duties." Government Code ("Govt. Code") section 12940(a). Thus, a plaintiff may have a valid claim under FEHA if the plaintiff was qualified for the position or would have been qualified with reasonable accommodation. See *Hastings v. Dept. of Corrections* (2003) 110 Cal.App.4th 963.

A plaintiff may show disability discrimination by showing 1) that he or she suffers from a disability, 2) is qualified, and 3) was subject to adverse employment action as a result of the disability. *Deschene v. Pinole Point Steel Co.* (1999) 76 Cal.App.4th 33, 44. The employer may defend the claim by showing that there was a legitimate nondiscriminatory reason for the action,

shifting the burden to the plaintiff to demonstrate that the reason was a pretext. *Brundage v. Hahn* (1997) 57 Cal.App.4th 228, 236.

FEHA also requires an employer to reasonably accommodate an individual with a known disability, unless it can demonstrate that to do so would be an undue hardship on business operations. Govt. Code section 12940(m). Failure to provide reasonable accommodation can give rise to a COA for damages. *Bagatti v. Dept. of Rehabilitation* (2002) 97 Cal.App.4th 344.

The employer must also engage in a "timely, good faith, interactive process" to determine effective reasonable accommodations. Govt. Code section 12940(n). The employer must also engage in a "timely, good faith, interactive process" to determine effective reasonable accommodations. Govt. Code section 12940(n). "The 'interactive process' required by the FEHA is an informal process with the employee or the employee's representative, to attempt to identify a reasonable accommodation that will enable the employee to perform the job effectively. [Citation.] Ritualized discussions are not necessarily required." *Wilson v. County of Orange* (2009) 169 Cal.App.4th 1185, 1195.

It is also illegal to retaliate against an employee who asserts rights under FEHA or opposes violations of FEHA. Govt. Code section 12940(h). A prima facie case for retaliation under FEHA requires the plaintiff to show 1) plaintiff was engaged in activity protected under FEHA; 2) defendant subsequently subjected plaintiff to adverse action; and 3) a causal link between the first to elements. *Akers v. County of San Diego* (2002) 95 Cal.App.4th 1441. A plaintiff may demonstrate the causal link by showing that the adverse action took place after the protected activity and in reasonable proximity in time to the protected activity. *Fisher v. San Pedro Peninsula Hosp.* (1989) 214 Cal.App.3d 590.

Govt. Code section 12926(d) sets forth the definition of "employer" for FEHA. It states, in full,

> "Employer" includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly, the state or any political or civil subdivision of the state, and cities, except as follows:
> "Employer" does not include a religious association or corporation not organized for private profit.

The Supreme Court in *Raines v. US Healthcare Medical Group* (2023) 15 Cal. 5th 268 held that under certain circumstances and employer's business-entity agent may fall within the FEHA definition of "employer" and thus be directly liable under FEHA when it carries out FEHA-regulated activities on behalf of a plaintiff's employer. It stated that "an employer's agent can, under certain circumstances, appropriately bear direct liability under" both federal antidiscrimination laws and FEHA. *Raines*, 288. Accordingly, it explained,

> a business-entity agent of an employer can fall within the FEHA's definition of employer, and it may be directly liable for FEHA violations, in appropriate situations. Although the question presented in this case does not require that we go further and attempt to identify the specific scenarios in which a business-entity agent will be subject to liability under the FEHA, we recognize as a necessary minimum that, consistent with the FEHA's language and purpose, a business-entity agent can bear direct FEHA liability only when it carries out FEHA-regulated activities on behalf of an employer.

Discussion

Plaintiff alleges that Defendant was her "employer" pursuant to FEHA's definition in Govt. Code section 12926(d) because it was a "business-entity agent of Plaintiff's actual employer…." SAC, ¶¶1-2, 4. Otherwise, she alleges that Defendant "was the workers' compensation insurance carrier" for Plaintiff's employer carrying out "the administration and delivery of healthcare services." Id., ¶¶1-2.

In this case, no allegations indicate that Defendant could fall within the definition of Plaintiff's employer under FEHA. All of Plaintiff's allegations indicate that Defendant was merely the provider for workers' compensation coverage regarding Plaintiff's workers' compensation claim and oversaw the treatment related to that, nothing more. They also demonstrate that Graton was Plaintiff's employer and took the adverse actions at issue, including terminating Plaintiff, and that Graton alone was involved in the conduct which allegedly violated FEHA. Finally, no allegations indicate that Defendant was in any way involved in the decision to terminate Plaintiff, any other adverse actions, any other conduct or employment decisions in the role of an employer, or that Defendant was involved in any FEHA-regulated conduct.

The court SUSTAINS the demurrer in full. Because this is the first demurrer and there remains a possibility that Plaintiff may be able to cure the defects, the court makes this order with leave to amend. The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

6. 25CV02833, Carrington v. FCA US LLC

Motion to Enforce Code of Civil Procedure, Section 871.26(c) and Request for Monetary Sanctions of $2,500 GRANTED in full.

Facts

Plaintiff complains that on about December 16, 2023, she purchased a 2024 Dodge Hornet ("the Vehicle") for which Defendant provided warranties ("the Warranties") but Defendant knew that the Vehicle was defective and dangerous and Defendant concealed this with misleading advertising, and conducted only deficient recalls which did not address the true problems, despite complaints regarding other vehicles with the same components. Plaintiff brought the Vehicle for maintenance or repair issues, but Defendant did not disclose the true problems and failed to cure the defects. Plaintiff asserts that Defendant's conduct violated the Song-Beverly Consumer Warranty Act ("Song-Beverly") is at Civil Code ("CC") section 1790, et seq. She seeks restitution and damages.

Deposition

On May 29, 2025, Plaintiff served Defendant with a Notice of Deposition for FCS's person most qualified ("PMQ") in accordance with Code of Civil Procedure ("CCP") §871.26(c), (h), and (i) (the "Notice"), scheduling the deposition for June 23, 2025, but Defendant served no objections and failed to appear at the scheduled deposition. Declaration of Joseph A. Kaufman ("Kaufman Dec."), ¶5.

Following Defendant's failure to attend the deposition, on July 1, 2025, Plaintiff attempted to meet and confer, explaining to Defendant that Defendant had neither served objections to the Notice nor appeared for the deposition, and asking Defendant to provide potential deposition dates. Id., ¶6. Plaintiff then served an amended deposition notice (the "Amended Notice") on July 3, 2025, to which Defendant served responses and objections on July 14, 2025. Id., ¶, Ex.4.

Defendant agreed to produce its PMQ for deposition on the topics specified but objected to any additional topics exceeding those set forth in CCP section 871.26. Id. It also vaguely stated that it objected to the date, time, and location solely on the basis that it was "set unilaterally." Id. It offered no explanation for the objection to the date, time, or location and offered no alternatives. Id. Plaintiff on August 14, 2025, wrote to Defendant, noting that the topics set forth in the Amended Notice followed those in the statute and again asking for deposition dates, but Defendant failed to respond. Id., ¶9, Ex.5.

Plaintiff accordingly served a Second Amended Notice ("Second Amended Notice") on August 15, 2025, setting the deposition for September 4, 2025, before again sending a meet-and-confer letter about the deposition on August 20, 2025, pointing out that the deposition was supposed to occur by October 8, 2025 per the statute and asking Defendant for alternative deposition dates, but Defendant again failed to respond. Id., ¶11. Plaintiff sent another meet-and-confer letter to Defendant on September 3, 2025, pointing out that Defendant had served no objections to the deposition, and this time Defendant replied that its witness would not be available for the noticed date so it would provide an update on availability, after which it informed Plaintiff that the witness would be available for deposition on October 7, 2025. Id., ¶12, Ex.8. Plaintiff responded the same day, agreeing to Defendant's proposed date and time for deposition and stating that she would send a new notice to reflect the agreement. Id.

On September 9, 2025, Plaintiff sent the Third Amended Notice setting the deposition for the date and time as agreed per Defendant's suggestions but on October 2, 2025, Defendant served new objections, claiming that Plaintiff had unilaterally chosen the deposition date and time so Defendant would not produce its witness. Id., ¶¶13-14, Exs.9-10. Plaintiff in vain made further attempts to meet and confer, but Defendant failed to respond.

Motion

Plaintiff moves the court to compel deposition of Defendant's PMQ in accordance with the deposition notices and CP sections 871.26 and 2025.010, et seq. She seeks monetary sanctions as well.

Defendant opposes the motion, contending that it served a valid objection to the date and time which Plaintiff unilaterally chose.

Applicable Authority

According to Code of Civil Procedure ("CCP") §2025.280(a), service of a deposition notice under CCP §2025.240 is effective to require any deponent who is a party to the action, or an officer, director, managing agent, or employee of a party, to attend, testify, and produce any document, electronically stored information, or tangible thing for inspection and copying.

A party may notice the deposition of employees by specifying their position or the subject matter "with reasonable particularity" and therefore need not identify the individual by name. CCP §§ 2025.010, 2025.230. Such witnesses also have an obligation to obtain any requested information and documents "reasonably available," which includes making "an inquiry of everyone who might" possess it. *Maldonado v. Sup.Ct.* (2002) 94 Cal.App.4th 1390, 1398.

CCP § 2025.450 states that if a party fails to attend a deposition and produce documents without serving valid objections, the party seeking the deposition may request a court order compelling attendance. This applies where a party, "without having served a valid objection under subdivision (g), fails to appear for examination, or to proceed with it, or to produce... any document or tangible thing described in the deposition notice...." Id. The party moving to compel deposition attendance need only inquire as to what happened, not attempt to meet and confer. CCP §2025.450.

A deponent who has objected to or refused to answer questions generally bears the burden of justifying that position, at least by providing basic information supporting the position. See *San*

Diego Professional Ass'n v. Sup.Ct. (1962) 58 Cal.2d 194, 199 (deponent needed to demonstrate existence of a privileged relationship in order to support an objection of privilege).

CCP §2017.010 states that "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action...if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence."

The court in *Donlen v. Ford Motor Co*. (2013) 217 Cal.App.4th 138, found evidence about vehicles "other" than the specific one at issue in a case regarding consumer warranties to be relevant and proper to consider at trial.

Defendant's knowledge regarding the Vehicle or defects, and its policies and procedures for handling such issues are relevant to claims under Song-Beverly and particularly the bases for civil penalties. *Oregel v. American Isuzu Motors, Inc.* (2001) 90 Cal.App.4th 1094, 1104-1105; *Kwan v. Mercedes-Benz of North America* (1994) 23 Cal.App.4th 174, 185.

CCP § 871.26 applies to civil actions seeking restitution or replacement of motor vehicle, timeline and procedures, and sanctions. Among other things, it provides for depositions in such actions. It states, in pertinent part,

> (a) This section only applies to a civil action seeking restitution or replacement of a motor vehicle pursuant to Section 871.20.
> (b) Within 60 days after the filing of the answer or other responsive pleading, all parties shall, without awaiting a discovery request, provide to all other parties an initial disclosure and documents pursuant to subdivisions (f), (g), and (h).
> (c) Within 120 days after the filing of the answer or other responsive pleading, all parties have the right to conduct initial depositions, each not to exceed two hours, of the following deponents:
> (1) The plaintiff.
> (2) The defendant, and if the defendant is not a natural person, the person who is most qualified to testify on the defendant's behalf. This deposition shall be limited to the topics listed in subdivision (i).
> …
> (i) If the defendant is not a natural person, the initial deposition of the person who is most qualified to testify on the defendant's behalf shall be limited to the following topics:
> (1) All warranties that accompanied the plaintiff's motor vehicle at the time of purchase or lease.
> (2) Questions relating to the nature and extent of the entire service history, warranty history, and repairs relating to the motor vehicle.
> (3) Questions relating to recalls applicable to the motor vehicle.
> (4) Questions relating to a reasonable number of Technical Service Bulletins or Information Service Bulletins reasonably related to the nonconformities pertaining to the motor vehicle.
> (5) Questions relating to relevant diagnostic procedures consulted and followed while diagnosing the plaintiff's concerns for the motor vehicle.
> (6) Questions relating to relevant repair procedures consulted and followed during the repairs for the motor vehicle.
> (7) Questions relating to relevant communications between the plaintiff and defendant regarding the motor vehicle.
> (8) Questions relating to relevant communications between the defendant and any dealership or other third parties regarding the motor vehicle.

(9) If a pre-suit restitution or replacement request was made, questions relating to why the defendant did not replace the motor vehicle or provide restitution.
(10) If a pre-suit restitution or replacement request was made, any nonprivileged evaluation prepared by the manufacturer.
(11) If a pre-suit restitution or replacement request was made, the manufacturer's policies and procedures regarding the restitution or replacement of vehicles in response to a consumer's request for restitution or replacement under the Song-Beverly Consumer Warranty Act, in effect from the date of the notice of the consumer's request for restitution or replacement of the vehicle to the present, and any changes thereto.
(j) Unless the party failing to comply with this section shows good cause, notwithstanding any other law and in addition to any other sanctions imposed pursuant to this chapter, a court shall impose sanctions as follows:
(1) A one-thousand-five-hundred-dollar ($1,500) sanction against the plaintiff's attorney or two-thousand-five-hundred-dollar ($2,500) sanction against the defense attorney respectively, paid within 15 business days for failure to comply with the document production requirements as prescribed in subdivision (b).
(2) A one-thousand-five-hundred-dollar ($1,500) sanction against the plaintiff's attorney or two-thousand-five-hundred-dollar ($2,500) sanction against the defense attorney respectively, paid within 15 business days for failure to comply with the provisions relating to depositions as prescribed in subdivision (c).

Discussion

Plaintiff's motion is wholly persuasive and Defendant's arguments are groundless. As set forth in the facts above, Plaintiff served repeated valid deposition notices and repeatedly met and conferred. Defendant failed to object to the original Notice or to appear, waiving any basis for objecting after that point. Moreover, Plaintiff's notices all tracked CCP section 871.26. Plaintiff also repeatedly gave Defendant new chances to cooperate or comply, and asked Defendant to provide alternative deposition dates and times. Defendant failed to respond to these overtures until the end, failing to object, offer alternatives, or appear. When it finally did so, late, Plaintiff then noticed the deposition for the very date and time which Defendant had offered, only for Defendant, groundlessly, to refuse to appear on the false basis that Plaintiff had chosen the time and date unilaterally again.

The court GRANTS the motion.

Sanctions

Plaintiff requests sanctions of $2,500 pursuant to the provisions of CCP section 871.26 set forth above. As set forth in the facts and discussion above, Defendant's conduct is wholly and egregiously unjustified, on its face demonstrating intentionally unreasonable, groundless, patently bad-faith tactics to delay and avoid cooperation. Plaintiff's position not only has good cause but is entirely justified. The court GRANTS Plaintiff's request for sanctions in full.

Conclusion

The court GRANTS the motion in full, as explained above. The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

7. SCV-267534, Garcia v. Rustic Bakery, Inc.

Matter is CONTINUED to March 18, 2026, at 3:00 p.m. in Dept. 16 to be heard by Judge Broderick.

8. SCV-271891, Santana v. Manzana Products Co., Inc.

Matter is CONTINUED to April 1, 2026, at 3:00 p.m. in Dept. 16 to be heard by Judge Broderick.