

**TENTATIVE RULINGS  
LAW & MOTION CALENDAR  
Wednesday, March 12, 2025, 3:00 p.m.  
Courtroom 16 – 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. 23CV00934, Simmons v. Blackwell**

The State Labor Commissioner (“Commissioner”) moves to vacate the Clerk’s Judgment entered in favor of plaintiff Candace Simmons (“Simmons”) and against defendant Sherman Blackwell (“Blackwell”) on the grounds that the Commissioner inadvertently failed to properly serve the Order, Decision or Award of the Labor Commissioner (“ODA”) on Blackwell. **The motion is GRANTED.**

On September 22, 2020, Simmons filed a wage claim with the Commissioner against Blackwell for wage and hour violations including unpaid wages, liquidated damages, and waiting time penalties. (Ryan decl., ¶3.) The hearing took place on February 13, 2023. (*Id.*, ¶4.) Defendant failed to appear. (*Ibid.*) The Commissioner issued the ODA ordering Defendant to pay Plaintiff a total of \$4,578.87. (*Ibid.*)

Commissioner attempted service of process by mail of the ODA to Blackwell on June 20, 2023, at PO Box 8578, Santa Rosa, CA 95407-1578; however, service of process was not achieved, because the mail was returned to the Commissioner with this note from the United States Postal Service: “RETURN TO SENDER. ATTEMPTED – NOT KNOWN. UNABLE TO FORWARD.” (*Id.*, ¶5, Exhibit C.)

Despite not properly serving Blackwell, the Commissioner requested judgment be entered and on October 10, 2023, this court entered judgment against Blackwell in the above amount. (*Id.*, Exhibit D.)

The Court has “inherent equity power ... to grant relief from a ... judgment where there has been ‘extrinsic’ fraud or mistake.” (*Weitz v. Yankosky* (1966) 63 Cal.2d 849, 855.) As the

Commissioner failed to properly serve the ODA on Blackwell, it is appropriate for this court to vacate the October 10, 2023, judgment.

The motion is GRANTED. The court will sign the proposed order.

**2. 23CV01941, Accelerated Portfolio Inc v. Souch**

Defendant Charlotte Souch (“Souch”) moves to dismiss this action for a defect in service. **The motion is DENIED.**

Souch states that on January 16, 2024, at around 11 p.m., she arrived home to find a court document rolled up and shoved into her iron entry gate, and that a week later she received a packet of paperwork in her mailbox.

Plaintiff Accelerated Portfolio Inc. (“Plaintiff”) filed its complaint on December 12, 2023. On January 19, 2024, Plaintiff filed proof of service of summons which states that on January 16, 2024, at 5:41 p.m., process server Logan Weiper went to serve Souch at her home. The proof of service of summons states he served a John Doe: “I delivered the documents to an individual who refused to give their name who identified themselves as the co-resident. The individual tried to refuse service by refusing to take documents and did not state reason for refusal (documents left, seen by subject). The individual appeared to be a bald Hispanic male contact 35-45 years of age, 5'8"-5'10" tall and weighing 180-200 lbs with glasses and a beard. After standing at the gate for five minutes, and the dogs barking at me, a Hispanic male walked through from the living room to the front door, looked out and saw me and just turned back around and went and sat back down. While all of this was going on, someone was watching me from the second story window with the curtain pulled back. They would not answer me yelling out. I held up the papers and yelled that I’m leaving them on the gate.”

Souch’s statement that she only found the paperwork in the gate when she arrived home at 11 p.m., does not establish that Plaintiff’s substituted service is improper. Souch only concludes that there was a defect in service but does not explain how the instant substituted service is legally improper. Nor does she provide legal authority supporting dismissing an action based upon a finding of ineffectual service.

Souch has failed to meet her burden on this motion. The motion is DENIED.

Due to the lack of opposition, this court’s minute order shall constitute the order of the court.

**3. 24CV00133, Looney v. Besos Kitchen and Bar, LLC**

This matter is on calendar for the motion of Plaintiff Gary E. Looney, dba Collectronics of California (“Plaintiff”) for an order compelling Defendants Besos Kitchen and Bar, LLC, dba Besos Kitchen and Bar; and Cecil Murrietta, Jorge Martinez, and Snehal Patel, individually as personal guarantors of Besos Kitchen and Bar, LLC (“Defendants”), to furnish responses to Plaintiff’s First Set of Post Judgment Interrogatories and Plaintiff’s Post Judgment Demand for Production of Documents and Tangible Things. Plaintiff requests sanctions in the amount of \$60. **The motion is GRANTED.** Defendants are ordered to provide responses, without objections, to Plaintiff’s discovery requests and pay sanctions within 30 days of this order.

On August 6, 2024, Plaintiff obtained a judgment against Defendants in the amount of \$6,291.34. On September 11, 2024, Plaintiff served Defendants with form interrogatories and a

request for production of documents. (Looney Decl. ¶1, Ex. A.) As of the date of the motion, no responses have been provided. (Id., at ¶¶2, 3.)

The motion is GRANTED. Plaintiff is directed to submit a written order to the Court consistent with this tentative ruling.

**4. 24CV00168, Radelfinger v. Ivaldi**

Plaintiff Catherine K. Radelfinger, as Trustee of the Catherine K. Radelfinger Revocable Trust, dated December 20, 2016, moves for entry of an interlocutory judgment of partition.

Plaintiff filed her complaint for partition of real property on January 8, 2024. This action involves property located at 9760 Willon Avenue in Cotati. The property is co-owned by plaintiff Radelfinger and defendant Tanya Ivaldi, each owning an undivided 50% interest therein. Ms. Ivaldi's default was taken on March 5, 2024.

"A partition action may be commenced and maintained by any...owner of...such property...." (Code Civ. Proc. § 872.210(a).) "If the court finds that the plaintiff is entitled to partition, it shall make an interlocutory judgment that determines the interests of the parties in the property and orders the partition of the property and, unless it is to be later determined, the manner of partition." (Code Civ. Proc. § 872.720(a).)

Plaintiff has established an ownership interest in the property and a right to partition. Plaintiff requests the appointment of a receiver to partition the property and recommends Amy Harrington, who has experience in this area. As defendant Ivaldi's default has been taken, she is not entitled to file opposition.

**The motion is GRANTED. Amy Harrington shall be appointed partition referee with authority and powers pursuant to Title 10.5 of the Code of Civil Procedure to partition the subject real property by sale.**

Plaintiff's counsel provided a proposed order as Exhibit A to the motion. However, the motion itself does not show entitlement to all the items listed in the proposed order. The issue of determining costs and fees has not yet come before this court. Any issues not addressed by plaintiff's motion shall be subject to determination by a later motion.

Plaintiff's counsel is directed to submit a written order to the court consistent with this ruling.

**5. 24CV00868, Citibank N.A. v. Law**

Plaintiff Citibank, N.A. ("Plaintiff") moves pursuant to CCP section 438 for entry of judgment on the pleadings for the amount set forth in the complaint against Defendant Melanie Law ("Defendant"). **The motion is GRANTED.**

On February 5, 2024, Plaintiff filed its complaint alleging one cause of action for common counts against Defendant for \$13,394.19 owed on a credit card. On November 6, 2024, the Court heard Plaintiff's motion to deem admitted all matters in Plaintiff's request for admissions served on Defendant on April 18, 2024, for Defendant's failure to respond. This Court granted Plaintiff's motion. Any objections were deemed waived and the requests for admissions were deemed admitted.

A plaintiff may move for judgment on the pleadings on the grounds that the complaint states facts sufficient to constitute a cause or causes of action against the defendant and the answer does not state facts sufficient to constitute a defense to the complaint. (Code Civ. Proc., § 438(c).)

“Any matter admitted in response to a request for admission is conclusively established against the party making the admission in the pending action, unless the court has permitted withdrawal or amendment of that admission under Section 2033.300.” (Code Civ. Proc., § 2033.410(a).)

Here, it has been deemed admitted that Defendant owed Plaintiff \$13,394.19 on her credit card account. Accordingly, the motion is GRANTED without leave to amend. Based upon this court’s November 18, 2024, order, Plaintiff’s complaint states facts sufficient to constitute a cause of action against the Defendant and the answer does not state facts sufficient to constitute a defense to the complaint. Judgment shall be entered in Plaintiff’s favor.

This court will sign the proposed order and judgment.

**6. SCV-265109, County of Sonoma v. Stavrinides**

Defendant Elias Stavrinides moves for an order declaring attorney Diana Elaine Gomez a vexatious litigant pursuant to CCP section 391(b)(3). **The motion is DENIED.** Section 391(b)(3) pertaining to litigants acting in propria persona is not applicable to Ms. Gomez, and the authority sprinkled throughout Defendant’s motion is not relevant. Regardless, there is no evidence to support finding Ms. Gomez, or more specifically the County of Sonoma, is a vexatious litigant.

Plaintiff’s counsel is directed to submit a written order to the court consistent with this ruling and in compliance with California Rules of Court, Rule 3.1312.

**7. SCV-267521, The Design Build Company, LLC v. De Arkos**

Defendant and cross-complainant Eduardo De Arkos (“De Arkos”) moves pursuant to CCP sections 469 and 470 for an order granting leave to amend to conform the second amended cross-complaint to proof.

It appears that De Arkos wants to amend his second amended cross-complaint to add the word “Trespass” to his cause of action for negligence. This motion was filed prior to trial. Therefore, this issue is MOOT as trial has occurred, the jury considered the issue of trespass, and determined that none occurred.

On March 5, 2025, De Arkos filed a “reply” indicating he would like to use the March 12 Law and Motion calendar to discuss the judgments filed in this case and the motions filed on February 27, 2025, that were rejected by the court clerk. The law and motion calendar is not the appropriate forum for a discussion about De Arkos’s procedural concerns. Rather, **the Court sets this matter for a CMC on March 18, 2025 at 3:00 pm to address Mr. Nellessen’s questions.**

**8. SCV-272535, Banuelos v. American Honda Motor Co., Inc**

1. Motion for a Protective Order

Defendant American Honda Motor Co., Inc. (“Honda” or “AHM”) moves pursuant to CCP sections 2017.020 and 2031.060(b)(5), Civil Code sections 3295(c), and 3426.5(c), and Evidence Code section 1060 for a protective order requiring confidentiality that limits the use of documents designated as confidential. **The motion is GRANTED.**

This is a lemon law case arising from Plaintiff's lease of a 2021 Honda Passport. Honda argues that the requested documents contain proprietary information, it takes steps to keep this information confidential, and public dissemination would harm Honda in the marketplace.

Honda lists the following documents it wants to be part of the protective order: (i) Confidential Lease Documents; (ii) Confidential Service Records; (iii) Customer Reporting and Retention System Report ("CRRS Report"); (iv) Tech Line Report; (v) Traffic Documents; Warranty History; (vi) Warranty Registration; case handling procedures regarding (vii) Early Warning, (viii) Lemon Law Inquiries, (ix) Attorney Involved Contact, and (x) documents produced in compliance with this Court's prior Order, including but not limited to those produced in response to Plaintiff's Request for Production No. 44 re: All DOCUMENTS evidencing complaints by owners of 2021 Honda PASSPORT vehicles regarding any of the complaints for which the SUBJECT VEHICLE was presented for repair; Plaintiff's Request for Production No. 46 re: All DOCUMENTS YOU produced in connection with the *Cadena et al. v. American Honda Motor Co., Inc.*, United States District Court, Central District of California, Case No. 2:2018-cv-04007 lawsuit, which, was filed on May 14, 2018.

Honda has offered to produce the above-mentioned documents pursuant to a Proposed Stipulation re Confidentiality and Protective Order using the Los Angeles Superior Court model Stipulation and Protective Order ("SPO"). (Workman decl., 6, Exhibit B.)

Code of Civil Procedure section 2031.060 subdivision (b) allows the Court to make a protective order on the basis of "good cause shown." A protective order is reasonable and customary to protect a company's "legitimate interest in protecting its trade secrets and other confidential proprietary information." (*Westinghouse Elec. Corp. v. Newman & Holtzinger* (1995) 39 Cal.App.4th 1194, 1209; *In re Providian Credit Card Cases* (2002) 96 Cal.App.4th 292, 298, 299; *GT, Inc. v. Sup. Ct.* (1984) 151 Cal.App.3d 748, 751-752.) When good cause is shown, a trial court may issue a protective order relating to production demands directing "[t]hat a trade secret or other confidential research, development, or commercial information not be disclosed, or be disclosed only to specified persons or only in a specified way." (Code Civ. Proc. § 2031.060, subd. (b)(5).)

"The state has two substantial interests in regulating pretrial discovery. The first is to facilitate the search for truth and promote justice. The second is to protect the legitimate privacy interests of the litigants and third parties. [Citation.] 'The interest in truth and justice is promoted by allowing liberal discovery of information in the possession of the opposing party. [Citation.] The interest in privacy is promoted by restricting the procurement or dissemination of information from the opposing party upon a showing of "good cause." [Citations.] [Citation.]' (*Id.* at 317.) A trial court must balance the various interests in deciding "whether dissemination of the documents should be restricted." (*Ibid*, citing case.) Further, even where a motion for a protective order is denied in whole or in part, the trial court may still impose "terms and conditions that are just." (*Nativi v. Deutsche Bank National Trust Co.* (2014) 223 Cal.App.4th 261, 316, citing Code Civ. Proc., §§ 2025.420, subd. (g), 2031.060, subd. (g).)

AHM is a distributor and warrantor of certain Honda automobiles in the United States. (Pacheco decl., 2.) The retail sale of Honda automobiles is handled by AHM's independent authorized dealerships. (*Ibid.*) According to Honda's mediation QA supervisor, Jennifer Pacheco, AHM's service policies and procedures manual, AHM's internal warranty repair and pricing data, AHM's CRRS Report and AHM's consumer assistance guides are proprietary and confidential, and the public dissemination of such documents would harm AHM in the marketplace. (*Id.*, ¶¶4-12.) AHM has incurred substantial expenditures of manpower, capital, facilities and other equipment in creating its policies and procedures for the handling of customer contacts. (*Ibid.*) AHM treats the

information contained in its service policies and procedures manual, internal warranty repair and pricing data, CRRS report and consumer assistance guides as confidential proprietary information, providing limited access to this information to only certain individuals in a secure manner via secured network. (*Ibid.*) This information is highly sensitive to AHM and can be used by its competitors to the competitive disadvantage of AHM. (*Ibid.*)

In addition, Honda's Senior Principal Engineer for Compliance – Product Technical Safety & TREAD, Barsilos Inak, states that it is his understanding that the documents produced by AHM in *Cadena v. American Honda Motor Co., Inc.* were originally produced subject to a protective order and that these documents include confidential and proprietary documents pertaining to the development, design testing, manufacture, assembly and performance of the Forward Collision Warning (“FCW”) an Automatic Emergency Braking (“AEB”) (Honda trade name, “Collision Mitigation Braking System” or “CMBS”). (Inak decl., ¶¶4-14.) Mr. Inak notes the significant financial expenditures in developing its products and procedures and how the release of such information would give competitors an unfair advantage of free access to Honda-specific knowledge. (*Ibid.*)

In the opposition filed by Plaintiff Luis Banuelos (“Plaintiff”), Plaintiff’s counsel states that he had previously acquiesced to modifying the LASC model protective order to allow a simple sharing provision between Plaintiff’s counsel’s cases. However, Plaintiff’s proposed modification sought to include the disclosure of these documents for all cases where Plaintiff’s counsel, Knight Law Group LLC, is counsel of record, where there is a fraudulent concealment cause of action associated with the Honda Sensing system. (Tran Decl. ¶ 3; Ex. A) Plaintiff’s opposition is solely directed to his counsel’s position that Honda does not have good cause to object to Plaintiff’s counsel’s request.

Plaintiff’s counsel has not provided any authority that his request is an appropriate way to handle discovery—particularly for documents Honda maintains are confidential. The basis for Plaintiff’s argument is that Honda cross-noticed the deposition of its PMQ for several of the cases being handled by the Knight Law Group and agreed to allow the Knight Group to use the transcript in any of its cases. Honda’s agreement regarding one issue does not support ordering it to give the Knight Law Group universal access to its confidential materials. This case is not a class action so the cited procedures in Plaintiff’s opposition are not relevant. What has been done in other cases is also not relevant. The parties’ attorneys have entered into numerous protective orders similar to the one sought by Honda in this case and should be able to handle this without court involvement. Counsel may come to an agreement between themselves regarding the numerous cases the Knight Law Group is handling against Honda and the use of Honda’s confidential materials. However, it is not appropriate for Plaintiff’s counsel to utilize Plaintiff’s case to advocate for his own firm’s wishes.

The motion is GRANTED. Counsel are directed to use the LA model protective order.

Defendant’s counsel is directed to submit a written order to the court consistent with this ruling and in compliance with California Rules of Court, Rule 3.1312.

## 2. Motion to Compel Compliance

Plaintiff Luis Banuelos (“Plaintiff”) moves to compel Defendant American Honda Motor Company, Inc. (“Honda”), to comply with this Court’s August 12, 2024, Order and for sanctions.

On August 12, 2024, this court ordered Honda to produce documents responsive to Plaintiff’s request for production of documents numbers 30, 33, 37, 44, and 46; to identify which documents are responsive to which of Plaintiff’s requests pursuant to CCP section 2031.280; and to organize and label the responsive documents pursuant to CCP section 2031.280(a). Defendant was ordered to comply within 25 days of the entry of the order.

Honda's excuse for not complying with this court's order is due to Plaintiff's counsel's refusal to sign a protective order. Honda's counsel had a reasonable expectation that such protective order would be signed as one is generally entered into in these cases. However, due to Plaintiff's counsel's attempt to obtain a universal protective order for all of the Knight Law Group's cases, no such protective order was agreed upon.

**The court finds that in light of Honda's motion for a protective order, this motion is now MOOT as an agreement on a protective order was the only thing hindering Honda's compliance. Sanctions are DENIED.**

Defendant's counsel is directed to submit a written order to the court consistent with this ruling and in compliance with California Rules of Court, Rule 3.1312.