

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, March 26, 2025 3:00 p.m.
Courtroom 17 – Hon. Jane Gaskell
3035 Cleveland Avenue, Santa Rosa**

PLEASE NOTE: In accordance with the Order of the Presiding Judge, a party or representative of a party may appear in Department 17 in person or remotely by Zoom, a web conferencing platform.

CourtCall is not permitted for this calendar.

If the tentative ruling is accepted, no appearance is necessary via Zoom unless otherwise indicated.

TO JOIN ZOOM ONLINE:

D17 – Law & Motion

Meeting ID: 161 126 4123

Passcode: 062178

<https://sonomacourt-org.zoomgov.com/j/1611264123>

TO JOIN ZOOM BY PHONE:

By Phone (same meeting ID and password as listed for each calendar):

+1 669 254 5252

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** Judge Gaskell’s Judicial Assistant by telephone at **(707) 521-6723**, and all other opposing parties of your intent to appear, and **whether that appearance is in person or via Zoom**, by **4:00 p.m. the court day immediately preceding the day of the hearing.**

1. 23CV00190, County of Sonoma v. All Persons Claiming...26663 Asti Rd...

Plaintiff County of Sonoma’s (the “County”) unopposed motion for default judgment against Defendant Sophia Scafani (mistakenly referred to as “SOHIA SCAFANI” in the motion) is **GRANTED**, pursuant to C.C.P. section 585(b). Per Code of Civil Procedure (“C.C.P.”) section 580(a), relief on a default judgment is limited to what is prayed for in the complaint. Thus, relief is granted only for the total amount of **\$56,359.50** as prayed for in the County’s Complaint.

PROCEDURAL HISTORY

On March 8, 2023, Sonoma County Permit and Resource Management Department (“Permit Sonoma”) issued multiple Sonoma County Building Code and Zoning Code violations on Defendant’s real property located at 26663 Asti Road, Cloverdale, California (APN 118-010-019)(the “Property”). (Memorandum of Points and Authorities [“MPA”], 1:17-21.) The noted violations included the existence

of a dangerous building, non-operative vehicle storage yard, and junkyard conditions. (*Id.* at 2:3-9.) Defendant obtained ownership of the Property via a Trustee’s Deed Upon Sale on May 20, 2024, and the Nuisance Lien previously recorded by the County against the Property’s title continued to remain. (*Id.* at 2:21-24.) Defendant did not attempt to appeal the violations. (*Id.* at 2:25-28.)

Eventually, the County commenced this action to abate the nuisances and county code violations. In the Complaint’s prayer for relief, the County claimed a total of \$56,359.50 for costs, fees, and civil penalties. (Complaint, Prayer, ¶¶ 5-7.) The County stated that additional daily penalties and fees would accrue. (*Id.* at Prayer, ¶ 8.) Defendant failed to respond to the Complaint, so the County requested an entry of default against Defendant and the Court entered the default. (See Request for Entry of Default dated November 14, 2024.)

Now the County moves for a default judgment against Defendant. Defendant in default did not move to set aside the default or appear to file an opposition, despite proper service of the moving papers.

ANALYSIS

Generally, Code of Civil Procedure (“C.C.P.”) section 585(b) allows for default where defendant has been served, other than by publication, and has neither responded nor appeared. Plaintiff can, after requesting and obtaining entry of default by the Court, apply for the relief demanded in the complaint. (C.C.P. § 585(b).)

When the court enters a default judgment per C.C.P. section 585, the relief granted must not exceed the amount prayed for in the complaint, in the statement required by 425.11 or 425.115, or as appears by the evidence to be just. (C.C.P. §§ 580(a), 585(b), 585(c).) Furthermore, “courts have consistently held section 580 is an unqualified limit on the jurisdiction of courts entering default judgments. As a general rule, a default judgment is limited to the damages of which the defendant had notice. Further, the courts have reaffirmed the language of section 580 is mandatory. Therefore, ‘in all default judgments the demand sets a ceiling on recovery.’” (*Finney v. Gomez* (2003) 111 Cal.App.4th 527, 534, footnotes omitted.)

The County moves for default judgment against Defendants per section 585(b). The County seeks an increased amount to be entered in default judgment for costs, fees, and civil penalties against Defendants for the total amount of \$139,267.97 plus additional daily civil penalties continuing to accrue at various rates as described in the Declaration of Inspector Crawford. (MPA, 5:19-22; Crawford Declaration, ¶ 12.)

The Court will grant the County’s unopposed motion and enter a default judgment against Defendants only as to the **\$56,359.50** prayed for in the Complaint. Per C.C.P. sections 580(a) and 585(b), the Court may not grant relief that exceeds the amounts prayed for in the County’s Complaint. Therefore, the Court will not grant the additional costs sought by the County in this motion in excess of the amount prayed for in the Complaint.

CONCLUSION

Based on the foregoing, the County's motion is **GRANTED**, with relief granted in the amount of **\$56,359.50** as requested in the Complaint. The County shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

2-3. 23CV00658, County of Sonoma v. Alvarez

Plaintiff County of Sonoma's (the "County") motions to compel further responses to discovery responses from Defendants Idolina, Ignacio, and Freddie Alvarez (together "Defendants") are **GRANTED**. Defendants shall serve further responses to the discovery within 20 days of receipt of the notice of entry of this Court's order on these motions.

The Court also in its discretion awards sanctions for the reduced amount of **\$2,276.50** as to each motion.

PROCEDURAL HISTORY

The County commenced this action against Defendants to abate public nuisances and permanently enjoin Defendants' unpermitted cannabis cultivation and building and zoning code violations on their property located at 3250 Calistoga Road, Santa Rosa (the "Property"). (Memorandum of Points and Authorities in support of Plaintiff's Motion to Compel Further Discovery Responses from Freddie Alvarez ["MTC I"], 1:24-27.) Defendants Idolina and Ignacio are Trustees of the Ignacio and Idolina Alvarez Revocable Trust, which holds the Property. (*Ibid.*) Defendant Freddie is named as a defendant because he is a "Responsible Party" as defined by Sonoma County Code 1-7 and alleged to be jointly and severally liable for the violations on the Property. (MTC I, 1:27-28.)

On October 22, 2024, the County served discovery requests on all Defendants, which requests included set one of Form Interrogatories, Request for Production of Documents, and Requests for Admissions. (MTC I, 2:7-11; Memorandum of Points and Authorities in support of Plaintiff's Motion to Compel Further Discovery Responses from Ignacio and Idolina Alvarez ["MTC II"], 2:5-10.) On November 25, 2024, Defendants all served identical objection-only responses to each and every request that contained the following paragraph:

"Responding party objects to these interrogatories on the ground that they are vague, ambiguous, overly broad, and unduly burdensome. Responding party further objects to these requests on the grounds that it violates responding party's right to privacy and confidentiality. Responding party further objects to these requests on the grounds that the information sought is not relevant to the subject matter of this action, or reasonably likely to lead to the discovery of admissible evidence. Responding party further objects to these requests on the grounds it violates the attorney-client work produce doctrine. Responding party further objects to these requests on the grounds that the information sought calls for premature disclosure of expert witness information."

(MTC I, 2:11-15; MTC II, 2:10-14.) Deputy County Counsel met and conferred via correspondence on December 17, 2024, and January 7, 2025, with Defendants' counsel regarding the deficient discovery responses and requested further responses, but Defendants' counsel neither responded nor provided any further responses on behalf of Defendants. (MTC I, 2:16-20; MTC II, 2:14-19.)

The County now moves to compel all Defendants' further responses and production of responsive documents and also requests sanctions. Defendants did not file any opposition, despite proper and timely service of the motion. The County filed replies to the non-opposition.

ANALYSIS

A. Legal Standard

1. *Interrogatories*

A propounding party may move to compel a further response to an interrogatory if: “(1) An answer to a particular interrogatory is evasive or incomplete. (2) An exercise of the option to produce documents under Section 2030.230 is unwarranted or the required specification of those documents is inadequate. (3) An objection to an interrogatory is without merit or too general.” (C.C.P. § 2030.300(a).) The motion to compel must be accompanied by a meet and confer declaration per section 2016.040, which requires that, “a meet and confer declaration in support of a motion shall state facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.” (C.C.P. §§ 2016.040, 2030.300(b)(1).) While the propounding party has the burden of filing a motion to compel further responses to when responses provided were deemed deficient, the responding party has the burden of justifying any objections stated and failure to respond.

The court shall impose a monetary sanction against any party who unsuccessfully makes or opposes a motion to compel a further response to interrogatories, unless the court finds that the sanctionable party acted with substantial justification or that other circumstances make it unjust to impose sanctions. (C.C.P. § 2030.300(d).)

2. *Demand for Production of Documents*

A party to whom a document demand is directed must respond to each item in the demand with an agreement to comply, a representation of inability to comply, or an objection. (C.C.P. §2031.210(a).) If a responding party is not able to comply with a particular request, or part thereof, that party “shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand.” (C.C.P. § 2031.230.) The statement shall also specify “whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party,” and shall also set forth “the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.” (*Ibid.*) Otherwise, if a responding party is objecting to a demand only, then the responding party must identify the demanded document, tangible thing, land, or electronically stored information to which an objection is being made, set forth the

grounds for objection, and if privileged, provide a privilege log for the demanded items that are privileged. (C.C.P. § 2031.240.)

3. *Requests for Admission*

A party requesting admissions may move for an order compelling a further response if that party deems that either or both of the following apply: (1) an answer is evasive or incomplete; or (2) an objection is without merit or too general. (C.C.P. § 2033.290(a).) Parties must submit a meet and confer declaration under C.C.P. section 2016.040 when bringing a motion to compel further responses to a request for admissions. (C.C.P. § 2033.290(b)(1).) Monetary sanctions shall be imposed against a party who unsuccessfully makes or opposes a motion to compel further responses, unless the court finds that the party acted with substantial justification or that other circumstances would make the imposition of the sanction unjust. (C.C.P. § 2033.290(d).)

4. *Sanctions*

The court may impose sanctions after notice to any affected party, person, or attorney, and after an opportunity for hearing, against anyone engaging in conduct that is a misuse of the discovery process. (C.C.P. § 2023.030.) Sanctions may include reasonable expenses, including attorney's fees. (C.C.P. § 2023.030(a).) A request for sanctions under the discovery act shall, in the notice of motion, identify every person, party, and attorney against whom the sanction is sought, and specify the type of sanction sought. (C.C.P. § 2023.040.) The notice of motion for a request for sanctions shall be supported by a memorandum of points and authorities and accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought. (*Id.*)

B. County of Sonoma's Two Motions to Compel

The County requests that Defendants be compelled to provide full, complete, and verified further responses without objections to each of the discovery requests and to produce responsive documents. (MTC I, pp. 3-7; MTC II, pp. 3-6.) The County motions are brought on the grounds that Defendants' objection-only responses are evasive, incomplete, and meritless. (*Ibid.*) The County also argues that the information sought by the discovery requests is both relevant and discoverable. (MTC I, 2:10-11; MTC II, 2:9-10.)

The County requests the same amount of sanctions for each of the motions for the same amount of work on each motion. Deputy County Counsel requests sanctions of \$2,590.50 for each motion for 8.25 hours of work at a rate of \$314.00 for preparing the motions, reviewing any opposition, and preparing a reply to the opposition. (Apodaca Declarations, ¶ 12.)

C. Application

The Court finds that the County's motions are warranted because Defendants served identical objection-only responses that were evasive and incomplete. Defendants did not waive their objections, so the Court will not order that further responses be objection-free.

The Court will grant the County's request for fees and costs as to each motion, but for the reduced amount of \$2,276.50. The reduced amount represents 7.25 hours of work at the hourly rate requested on each motion. There was no opposition filed against either motion, so the anticipated one hour claimed for the review of and response to any opposition was not necessary.

CONCLUSION

Based on the foregoing, the County's motions are **GRANTED**. For each of the two motions, the Court awards sanctions of **\$2,276.50**. Defendants shall serve further responses to each discovery request within 20 days of receipt of the notice of entry of this Court's order on these motions. The County shall submit a written order as to each motion consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

4. 24CV00465, Wells Fargo Bank, N.A. v. Voorhees

Plaintiff Wells Fargo Bank, N.A.'s ("Wells Fargo") unopposed motion for Judgment on the Pleadings is **GRANTED without leave to amend** based on matters deemed admitted.

The Court **GRANTS** judicial notice of Voorhees' Answer to the Complaint, Wells Fargo's Motion to Deem Admissions, and this Court's Order on the Motion to Deem Admissions on October 16, 2024, per Evidence Code section 452.

PROCEDURAL HISTORY

Wells Fargo commenced this action on or about January 26, 2024, to collect damages of \$25,388.93 on credit card debt that Voorhees failed to pay. (See generally, Complaint.) Voorhees filed an Answer stating that he either did not have enough information to answer allegations in the Complaint, or otherwise denied Wells Fargo's allegations. (Early Declaration, Exhibit A.)

Wells Fargo served Requests for Admissions on Voorhees on May 13, 2024. (*Id.* at Exhibit B.) Wells Fargo requested Voorhees to admit the following:

1. He had a credit card with Wells Fargo;
2. He was sent monthly statements by Wells Fargo requiring minimum payments on that credit card;
3. He never disputed any balance on those monthly account statements;
4. He has a balance owing at least \$25,388.93 as of January 26, 2024, on the credit card account;
5. He has not paid \$25,388.93 or any other amount since January 26, 2024, on the credit card account;
6. He owes the full \$25,388.93 exclusive of any amounts incurred after January 26, 2024;
7. The Consumer Credit Card Customer Agreement and Disclosure Statement ("Agreement") is applicable to the credit card account;
8. The Agreement contains a provision entitling the prevailing party of this action to attorney's fees;
9. He does not have credit defense or any other debt cancellation agreement with Wells Fargo;

10. If he does have credit defense, he does not qualify for its benefits; and
11. The affirmative defenses he asserted in the Answer lack merit and evidentiary support.

(Early Declaration, Exhibit B.) Voorhees never responded to the Requests for Admission, so Wells Fargo moved to have the truth regarding the above requests deemed as admitted. (Motion, 1:24-28, 2:1.) The Court granted the unopposed motion on October 16, 2024. (Early Declaration, Exhibit C.)

Well Fargo filed this Judgment on the Pleadings based on the Request for Admissions that were deemed as admitted. Before filing the motion, Wells Fargo served Voorhees a meet and confer letter regarding this motion, pursuant to Code of Civil Procedure (“C.C.P.”) section 439, to the address listed in the caption of Voorhees’ Answer to the Complaint. (Motion, 2:5-6.) There was no settlement reached between the parties, so Wells Fargo filed the motion which Voorhees has not opposed.

ANALYSIS

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. (C.C.P. § 438(c)(1).)

Wells Fargo moves for Judgment on the Pleadings on the grounds that the Complaint states facts sufficient to constitute causes of action for breach of contract and common counts against Voorhees, and because the Answer does not state facts sufficient to constitute a defense to the Complaint. In support, Wells Fargo requests judicial notice of this Court’s October 16 Order deeming as admitted Wells Fargo’s Requests for Admission against Voorhees. As the truth of the eleven Requests for Admissions stated above have been deemed admitted, the Answer no longer states facts sufficient to constitute a defense to the Complaint.

Based on the foregoing, the Court will grant the unopposed Judgment on the Pleadings without leave to amend because the truth of the matters deemed admitted by the Court makes it such that the Answer can no longer state facts sufficient to constitute a defense to the Complaint.

CONCLUSION

Judgment on the Pleadings is **GRANTED without leave to amend** in favor of Wells Fargo as to the causes of action in the Complaint. Unless oral argument is requested, the Court will sign the proposed order lodged with the Court.

5. 24CV02539, Arshi v. Nationstar Mortgage LLC

Defendant PMIT REI-C 2021-C LLC’s (“Defendant”) motion to vacate default is **DENIED**. The Court previously continued the motion because Defendant failed to attach the required copy of the proposed answer or responsive pleading to be filed should the Court grant Defendant’s motion to vacate the default entered against it on August 6, 2024. The Court noted that if Defendant failed to submit the

required proposed pleading before the next hearing date, the Court would deny the motion. Defendant failed to submit the required proposed pleading, so the motion is denied.

6. SCV-271485, Sturm v. Zetzer

Defendants Youngstown Mobile Home Park, WGP Property Management LLC, Debbie A. Zetzer, and Daniel Weisfield's (collectively "Defendants") demurrer to Plaintiffs Jamie Sturm, Tory Sturm, and Shari Castro's (together "Plaintiffs") entire First Amended Complaint ("FAC") is **SUSTAINED with leave to amend**, per Code of Civil Procedure ("C.C.P.") section 430.10(e). Plaintiffs shall file their Second Amended Complaint within 20 days of service of notice of entry of this Court's order on the demurrer.

Per C.C.P. section 436(b), the Court in its discretion **ORDERS** that the Second Amended Complaint filed February 26, 2025, be stricken from the record as it was filed without the required leave of Court and without party stipulation.

PROCEDURAL HISTORY

On November 15, 2024, the Court called the matter for trial and granted leave to amend the Complaint. (See Minute Order dated November 15, 2024; Demurrer Memorandum of Points and Authorities ["Demurrer"], 2:3-6.) The Court vacated the trial date because the matter was not ready to go to trial. (*Id.*)

Plaintiffs filed the FAC, which alleges several pages of facts and at the end states the following:

"Plaintiffs have suffered damages due to bre[a]ch of contract, agreement contained in their requested 'intent to sell' in the amount of the loss of sale at \$202,000.00 and Attorney fees and legal cost at approximately \$50,000.00 for something that could have been settled in 2022 but unfortunately the defendants refused to mediate or meet and confer. Plaintiffs are more than willing to settle t[h]e issue if made whole at \$250,000.00. Plaintiffs request a move for judgment on their behalf on the pleading on the grounds the courts does have jurisdiction of t[h]e subject cause of action against the defendants."

(FAC, 5:8-12.) Defendants' counsel met and conferred with Plaintiffs by e-mail on December 19, 2024, and December 28, 2024, regarding deficiencies in the FAC, but the parties did not resolve the issues. (Tsai Declaration, ¶¶ 2-3.) Plaintiffs are self-represented.

On January 10, 2025, Defendants filed this demurrer to the entire FAC on the basis that it consists only of allegations in a narrative form and fails to set forth any legal cause of action. (Amended Notice of Motion, 2:8-9.) Plaintiffs filed two oppositions, one of which is titled a "reply to demurrer." Plaintiffs also improperly filed the Second Amended Complaint ("SAC") without leave of court and without any stipulation by the parties on February 26, 2025.

ANALYSIS

A. Legal Standard

1. *Demurrer*

A demurrer can be used only to challenge defects that appear on the face of the pleading under attack or from matters outside the pleading that are judicially noticeable. (C.C.P. § 430.30(a).) Leave to amend should generally be granted liberally where there is some reasonable possibility that a party may cure the defect through amendment. (*The Swahn Group, Inc. v. Segal* (2010) 183 Cal.App.4th 831, 852; *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

2. *Amendment of Pleadings*

Per C.C.P. section 472(a), “a party may amend its pleading ***once without leave of the court*** at any time before the answer, demurrer, or motion to strike is filed, or after a demurrer or motion to strike is filed but before the demurrer or motion to strike is heard if the amended pleading is filed and served no later than the date for filing an opposition to the demurrer or motion to strike...” (C.C.P. § 472(a). [Emphasis added.]) A timely filed amended complaint supersedes the original one; thereafter, the original complaint performs no function as a pleading, so the amended one furnishes the sole basis for a plaintiff’s cause of action. (*Morris v. Hartley* (1914) 26 Cal. App. 61, 69.) Generally, the opposition to a noticed motion must be filed with the court and a copy served on each party at least nine court day before the hearing. (C.C.P. § 1005(b).)

3. *Motion to Strike*

The court may, upon a motion made pursuant to C.C.P. section 435 or at any time in its own discretion, strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court. (C.C.P. § 436(b).)

B. Defendants’ Demurrer

Defendants demur to the FAC for failure to state any causes of action and only containing allegations in the form of a narrative. Pursuant to California Rules of Court (“C.R.C.”), rule 2.112, each cause of action must be separately stated, separately numbered, and must state the nature of the cause of action and identify the parties asserting the claim and against who it is asserted. As there are no such causes of action properly stated per Rule 2.112, Defendants request that the demurrer be sustained as to the entire FAC without leave to amend.

C. Plaintiffs’ Oppositions

In Plaintiffs’ oppositions, Plaintiffs request that the Court strike the demurrer as frivolous and a nuisance meant to bog Plaintiffs down with paperwork. Plaintiffs argue that defense counsel failed to adequately meet and confer in good faith as to the deficiencies claimed as to the FAC. Plaintiffs also claim defense counsel exhibited unprofessional and harsh behavior, because of which they filed a separate

motion for sanctions. They request that all hearings, motions, and trials be continued because Plaintiff Shari Castro is burdened with her husband being on hospice and in his final days of life.

D. Application

As a preliminary matter, the Court finds that the SAC was not filed in conformity with the laws of this state, a court rule, or an order of the court, because it was filed without party stipulation and without leave of court as is required under C.C.P. section 472. Thus, the Court will on its own motion strike the SAC per C.C.P. § 436(b).

While the Court sympathizes with Plaintiff Castro's personal issues regarding her ailing husband, Plaintiffs have failed to articulate any argument in the oppositions against the demurrer to support that they have adequately stated causes of action in the FAC. Plaintiffs mainly focus on the difficulty they have had communicating with defense counsel to resolve their claims.

As such, the Court finds that the FAC fails to properly state any cause of action per C.R.C., rule 2.112. Furthermore, a complaint is not the proper pleading by which to request a judgment on the pleadings in the manner that Plaintiff has requested in the FAC. The Court will sustain the demurrer but will allow Plaintiffs leave to amend if there is any reasonable possibility that they may cure the defects claimed by Defendants.

CONCLUSION

Based on the foregoing, the demurrer is **SUSTAINED with leave to amend**. The SAC filed on February 26, 2025, without leave to amend is **STRIKEN** from the record per C.C.P. section 436(b). Plaintiffs shall properly file their Second Amended Complaint within 20 days of service of notice of entry of this Court's order on the demurrer.

Defendants shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).