TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, April 1, 2026, 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. 24CV07027, Kurrus v. Grimmway Enterprises Inc

The motion of Nicholas J. Drakulich and Robert J. Drakulich of The Drakulich Firm, APLC, and Melanie H. Muhlstock of Parker Waichman LLP to be relieved as counsel for Plaintiff Arthur Glen Kurrus is **GRANTED**. The court will sign the proposed order.

2. 25CV00993, Rhoades v. Girl of the Year, LLC.

This matter is on calendar for the motion of attorney Scott A. Lewis ("Lewis") to be Relieved as Counsel.

The Notice of Motion addresses Larry Williams ("Williams") of Frisco, Texas, who is not a party to this action. The declaration provided with the Notice of Motion indicates that Lewis is seeking to withdraw as counsel for defendants D 2760 Santa S, LLC, and D 3145 Santa N, LLC, because he has been unable to communicate with his clients as they are not returning his calls or emails.

Proof of service of the motion states service was made on Williams by mail and email for defendants Girl of the Year, LLC, and D 2760 Santa S, LLC. It states service was made on Junette Salcido ("Salcido") by email for defendant D 3145 North [N, LLC]. Jonthan (*sic*) Brown was also served by email for Galaxy Hotels Group. The Lewis declaration states that D 2760 Santa S, LLC and D 3145 Santa N, LLC are both part of Galaxy Management Company, LLC.

It is not clear from the proof of service filed for this motion how Williams or Salcido are related to this case. Lewis's clients are D 2760 Santa S, LLC, and D 3145 Santa N, LLC. Neither Williams nor Salcido is listed as an agent for service of process on behalf of either limited liability company. Counsel's declaration states he mailed this motion to the client's last known address, but he has not been able to confirm the address is current despite mailing the motion papers with a return receipt requested, calling the client, and conducting an internet search.

The motion papers were served on Williams at 8762 Preston Trace [Blvd], Frisco, TX 75033 and by email at larry.williams@galaxyhotelsgroup.com and on Salcido at cal60133@galaxyhotelsgroup.com. The California Secretary of State lists different mailing addresses.

In conclusion, Lewis has not demonstrated sufficient service of this motion on his clients. Therefore, this motion is **CONTINUED to May 6, 2026, at 3:00 p.m. in Department 16** to allow Lewis to provide additional proof of service and/or explanation of service of the motion.

3. 25CV01521, Flores v. General Motors, LLC.

This matter is on calendar for the demurrer of Defendant General Motors LLC ("GM") to the First Amended Complaint ("FAC") filed by Plaintiffs Isidro Flores and Karen Bernard Flores ("Plaintiffs"). The demurrer is made pursuant to Code of Civil Procedure section 430.10(e) on the grounds that Plaintiffs' causes of action are time-barred and Plaintiffs' fifth cause of action fails to allege facts sufficient to constitute a cause of action. **The demurrer is OVERRULED.**

1. FAC

Plaintiffs' FAC alleges causes of action for violation of the Song-Beverly Consumer Warranty Act and for fraud. Plaintiffs allege that on or about November 30, 2016, they entered into a warranty contract with GM regarding a 2017 Chevrolet Silverado 1500 ("the Vehicle"). (FAC, ¶6.) The warranty contract contained various warranties, including but not limited to the bumper-bumper warranty, powertrain warranty, and an emission warranty. (FAC, ¶7.) Plaintiffs allege that prior to purchase, they reviewed GM's marketing and advertising materials, viewed GM's vehicle-specific window sticker, and took the Vehicle for a test drive. (FAC, ¶9.) At no point prior to purchase were Plaintiffs advised the Vehicle and its 8-speed transmission were defective. (FAC, ¶9.)

The FAC sets forth an overview of the Vehicle's repair history. (See FAC ¶¶10-15.) The FAC alleges that between September 15, 2019, and March 3, 2025, Plaintiffs presented the Vehicle to GM's authorized repair facility for various repairs and that after each visit Plaintiffs were informed the Vehicle had been fixed. (*Ibid*.) Despite these assurances, Plaintiffs allege that GM's authorized repair facility was unable to conform the Vehicle to the applicable warranties and that the Vehicle is worthless. (FAC, ¶¶16-22.) Plaintiffs allege that under the Song-Beverly Act, GM had a duty to promptly offer to repurchase or replace the Vehicle, which it failed to do. (FAC, ¶¶23-24.)

2. First through Third Causes of Action

Plaintiffs' first through third causes of action are brought under the Song-Beverly Consumer Warranty Act. Plaintiffs' first cause of action is for violation of Civil Code section 1793.2(d). It alleges GM and its representatives have been unable to service or repair the Vehicle to conform to the applicable express warranties after a reasonable number of opportunities. (FAC, ¶53.) It alleges GM failed to promptly replace the Vehicle or make restitution to Plaintiffs as required by Civil Code section 1793.2, subdivision (d) and Civil Code section 1793.1, subdivision (a)(2). (FAC, ¶53.)

Plaintiffs' second cause of action alleges GM violated Civil Code section 1793.2(b). Plaintiffs allege GM and its representative failed to commence the service or repairs within a reasonable time and failed to service or repair the Vehicle so as to conform to the applicable warranties within 30 days. (FAC, ¶59.)

Plaintiffs' third cause of action alleges GM violated Civil Code section 1793.2(a)(3) because GM failed to make available to its authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period. (FAC ¶64.)

a. Statute of Repose

GM argues Plaintiffs' first three causes of action are barred by the statute of repose set forth in CCP section 871.21. GM argues that under CCP sections 871.20(a), and 871.21(b) and (c), Plaintiffs' actions under Civil Code section 1793.2 cannot be brought more than six years after the original delivery date of the Vehicle.

CCP section 871.21 is applicable to causes of action for restitution or replacement of a motor vehicle brought pursuant to Civil Code section 1793.2(b) and (d). (CCP section 871.20(a).) CCP section 871.21's statute of repose states: "Notwithstanding subdivision (a), an action covered by Section 871.20 shall not be brought later than six years after the date of original delivery of the motor vehicle." (CCP § 871.21(b).)

The FAC alleges the parties entered into the warranty agreement on or about November 30, 2016. (FAC, ¶6.) Plaintiffs have not alleged or argued any delay in the delivery of the Vehicle. Without affirmative allegations of the delay of delivery a reasonable inference from the allegations is that the Vehicle was delivered on the date it was purchased. Plaintiffs first filed this action on February 28, 2025—over eight years after purchasing the Vehicle. Therefore, unless the statute of repose was tolled or is inapplicable to this action (discussed below), the causes of action brought under Civil Code section 1793.2(b) and (d) are barred.

b. Statute of Limitations

CCP section 871.20 also requires a cause of action under the Song-Beverly Act to be brought within one year of the expiration of the applicable express warranty. (CCP section 871.21(a).)

Plaintiffs allege they entered into the applicable warranty contract with GM on November 30, 2016. (FAC, ¶6.) The terms of the warranty are attached to the FAC as Exhibit A. The warranty gave Plaintiffs a 3-year or 36,000 mile bumper-to-bumper warranty, whichever came first; and a 5-year or 60,000 mile powertrain warranty, whichever came first. (FAC, Exhibit A.) Thus, under section 871.21, the statute of limitations for the bumper-to-bumper warranty ran on November 30, 2020, and the powertrain warranty ran on November 30, 2022. Thus, if CCP section 871.21 is applicable to this action, its statute of limitations bars Plaintiffs' first and second causes of action absent tolling.

c. Retroactivity

In opposition, Plaintiffs argue that GM is attempting to apply CCP section 871.21 retroactively, which violates Plaintiffs' due process rights.

CCP section 871.21 became effective January 1, 2025, prior to when Plaintiffs filed their complaint. Therefore, section 871.21 is being applied prospectively to Plaintiffs' subsequently filed complaint.

Plaintiffs also argue that section 871.21 left too short a time to allow them to file suit after a procedural change, denying Plaintiffs due process of law. Plaintiffs do not explain their rationale.

AB 1755 adding CCP section 871.21, et seq. was passed in 2024. It was approved by the Governor and filed with the Secretary of State on September 29, 2024. (Cal. Leg. Information, Code Civ. Proc, § 871.20.) According to the FAC, Plaintiffs began experiencing problems with the Vehicle in 2019. (FAC, ¶11.) They presented the Vehicle to GM's authorized repair facility at least

once in 2019 and 2021, and at least twice in 2022. (FAC, ¶¶11-14.) As AB 1755 was approved in 2024, Plaintiffs could have filed their complaint prior to Section 871.20, et seq. taking effect. Moreover, Plaintiffs do not establish that their claims would not otherwise be barred by the prior statute of limitations.

What was applied retroactively was CCP section 871.30. CCP section 871.30 creates an opt-in structure for manufacturers: Each vehicle manufacturer has a choice of whether to be governed by the new procedural rules. Section 871.30 provides "[w]ithin 30 days of the effective date of the act adding this section, a manufacturer may elect to be governed by this chapter for all actions described in subdivision (a) of Section 871.20 with respect to all of its motor vehicles sold in the year 2025 and in all prior years…" (Code Civ. Proc, § 871.30, subd. (a).) The effective date of this section was April 2, 2025. (Cal. Leg. Information, Code Civ. Proc, § 871.30, subd. (a).) Thus, this statute specifically provides that, if a manufacturer opts-in to these new procedural rules by May 1, 2025, then all cars previously sold will be governed by these new rules.

Here, Plaintiffs' complaint had already been filed on February 28, 2025—prior to the effective date of section 871.30 and GM's election to proceed under section 871.20, et seq. Therefore, section 871.30(a) retroactively applied section 871.20. But, again, section 871.20 and 871.21 were already operative.

Regardless, subsection (c) of section 871.30 provides: "Unless a manufacturer has made the election described in subdivision (a), Sections 871.20 to 871.28, inclusive, shall not apply to an action described in subdivision (a) of Section 871.20, including actions already filed between January 1, 2025 and the effective date of the act adding this section, with respect to all of its vehicles sold new in the year 2025 and in all prior years."

Subsection (c) shows the legislature intended to allow a manufacturer to make an election to have section 871.20, et seq. apply to its vehicles even if a complaint had already been filed. Plaintiffs were on notice at the time they filed their complaint that GM might make such an election.

Based upon the foregoing, Plaintiffs' argument of unconstitutional retroactive application fails.

d. Tolling

Starting at paragraph 32 of the FAC, Plaintiffs allege various tolling theories. They allege Plaintiffs' Song-Beverly claims were tolled by the doctrines of equitable tolling, the discovery rule, equitable estoppel, the repair rule, and/or class action tolling.

The only tolling theory available under section 871.21, based upon the allegations in the FAC, is tolling during repair attempts. To toll this action to avoid both the statute of repose and the statute of limitations discussed above, such repair attempts would require the Vehicle to be left in the hands of the repair facility for over two years, which seems unlikely. However, the FAC itself does not state how long the Vehicle was with the repair facility.

The running of the statute must appear "clearly and affirmatively" from the face of the complaint. It is not enough that the complaint *might* be time-barred. (*Committee for Green Foothills v. Santa Clara County Bd. of Supervisors* (2010) 48 Cal. 4th 32, 42; *Stueve Bros. Farms, LLC v. Berger Kahn* (2013) 222 Cal. App. 4th 303, 321.) Here, this court would have to presume facts to determine that the causes of action are barred. Accordingly, the demurrer to these causes of action is OVERRULED.

e. Fourth Cause of Action – Breach of Warranty of Merchantability (Civil Code sections 1791.1; § 1794; § 1795.5)

GM argues that Plaintiffs' cause of action for Breach of the Warranty of Merchantability is time-barred by the applicable four-year statute of limitations. It is not disputed that the statute of limitations for this cause of action is four years. What is disputed is whether the delay in discovery

of the breach tolls the statute of limitations. GM argues that because an implied warranty arises by operation of law and does not extend to future performance of goods, the delayed discovery doctrine does not apply to implied warranty claims.

The statute of limitations for breach of implied warranty of merchantability is four years. (CCP § 337, Comm. Code § 2725, *Montoya v. Ford Motor Co.* (2020) 46 Cal.App.5th 493, 495; *Mexia v. Rinker Boat Co., Inc*. (2009) 174 Cal.App.4th 1297, 1306.) "A breach of warranty occurs when tender of delivery is made, except that where a warranty explicitly extends to future performance of the goods and discovery of the breach must await the time of such performance the cause of action accrues when the breach is or should have been discovered." (Comm. Code § 2725(b).) While the Song-Beverly Act supplements rather than supersedes the provisions of the UCC, the same four-year statute of limitations applies to claims brought under either statute. (*Krieger v. Nick Alexander Imports, Inc.* (1991) 234 Cal.App.3rd 205, 213-24.) The discovery rule of Section 2725(2) also applies to claims under the Song-Beverly Act, such that a cause of action accrues not on the date of sale, but rather when the plaintiff discovers or should have discovered that the warrantor or its authorized repair facility was unable to fix the warranty-covered defects after a reasonable number of attempts. (*Krieger, supra*, 234 Cal.App.3rd at p. 218.)

Here, Plaintiffs allege they purchased the Vehicle on November 30, 2016. Plaintiffs allege they began experiencing problems with the Vehicle by 2019. (FAC, ¶11.) They presented the Vehicle to GM's authorized repair facility at least once in 2019 and 2021, and twice in 2022. (FAC, ¶¶11-14.) They filed their complaint on February 28, 2025, and their FAC on October 9, 2025. The facts as alleged do not show that Plaintiffs should have known, as a matter of law, prior to February 28, 2021, that they had a claim for breach of the implied warranty of merchantability. The demurrer to this cause of action is OVERRULED.

f. Fifth Cause of Action – Fraudulent Inducement – Concealment

i. Statute of Limitations

Like the above cause of action, the facts alleged in the complaint also do not show, as a matter of law, that Plaintiffs had cause to discover the alleged fraud three years prior to filing their complaint.

ii. Transactional Relationship

GM argues that Plaintiffs' claim fails as a matter of law because the complaint does not allege that GM had a transactional relationship with Plaintiffs. GM argues that absent particularized allegations showing a direct relationship giving rise to its duty to disclose, Plaintiffs have no cause of action for concealment against GM.

To establish fraudulent concealment, a plaintiff must prove: "(1) concealment or suppression of a material fact; (2) by a defendant with a duty to disclose the fact; (3) the defendant intended to defraud the plaintiff by intentionally concealing or suppressing the fact; (4) the plaintiff was unaware of the fact and would have acted differently if the concealed or suppressed fact was known; and (5) plaintiff sustained damage as a result of the concealment or suppression of the material fact." (*Rattagan v. Uber Technologies, Inc*. (2024) 17 Cal.5th 1, 40.)

As discussed in *Bigler-Engler v. Breg, Inc.* (2017) 7 Cal.App.5th 276, the general principle that a manufacturer has a duty to warn consumers of a product's hazards and faults is based in strict liability theory—not in fraud. Products liability law involves a set of circumstances, elements, and doctrines that are independent from, and not directly applicable to, fraud. (*Id.,* at 312.) The duties underlying each cannot simply be applied to the other. (*Ibid*.)

In addition, a duty to disclose arises only where there is already a sufficient relationship or transaction between the parties. (*Ibid*.) If a sufficient relationship or transaction does not exist, no duty to disclose arises even when the defendant speaks. (*Ibid*.) An exception is when an affirmative

statement is so misleading that it may give rise to a fraud cause of action even where the relationship or transaction would be insufficient to give rise to a generalized duty to disclose. (*Ibid*.)

The three circumstances giving rise to a duty to disclose—exclusive knowledge, partial concealment, and active concealment circumstances—"presuppose a preexisting relationship between the parties, such as 'between seller and buyer, employer and prospective employee, doctor and patient, or parties entering into any kind of contractual agreement. [Citation.] All of these relationships are created by transactions between parties from which a duty to disclose facts material to the transaction arises under certain circumstances.' [Citation.] 'Such a transaction must necessarily arise from direct dealings between the plaintiff and the defendant; it cannot arise between the defendant and the public at large.' " (*Rattagan, supra*, at p. 40, quoting *Bigler-Engler.*, *supra,* at p. 312.)

In *Bigler-Engler,* the court considered whether a manufacturer of a medical device committed fraud by failing to disclose to a consumer the risk of injury from using the device. (See *Bigler-Engler, supra*, 7 Cal.App.5th at p. 289.) The court distinguished a manufacturer's duty to disclose information to consumers for purposes of a fraud claim from its duty to warn consumers under strict liability principles. (*Id*. at p. 312.) The court explained that a duty to disclose requires some sort of transaction between the manufacturer and the consumer, while a duty to warn does not. Moreover, the transaction giving rise to a duty to disclose "must necessarily arise from direct dealings between the plaintiff and the defendant; it cannot arise between the defendant and the public at large." (*Ibid*.)

The court concluded the manufacturer did not owe the plaintiff a duty to disclose because there was insufficient evidence of a transaction between them. (*Bigler-Engler, supra*, at p. 314.) The court noted the plaintiff's doctor prescribed the device, the plaintiff rented the device from the doctor's medical group, and there was no evidence the manufacturer even knew the plaintiff was using the device. (*Ibid*.)

Bigler-Engler is distinguishable. That case dealt with a treating doctor who knew about the potential for harm from a medical device he prescribed to his patient and which he benefited from economically. Despite the manufacturer also knowing about the potential harm, the manufacturer had no knowledge that the plaintiff had been provided with its device (with its outdated warnings and directions). Therefore, with respect to a cause of action for fraud, there was no transactional relationship.

GM also relies upon *Bjoin v. J-M Manufacturing Co., Inc.* (2025) 113 Cal.App.5th 884; *Davis v. Nissan North America, Inc.* (2024) 100 Cal.App.5th 825; and *Ford Motor Warranty Cases* (2025) 17 Cal.5th 1122, which are also distinguishable. *Bjoin* involved a laborer's claim for fraudulent concealment against the manufacturer of asbestos cement pipe for failure to disclose that the dust created when cutting the pipes could cause cancer.

The motions in *Davis* and the *Ford Motor Warranty Cases* decided a different issue—whether a manufacturer can compel arbitration based upon specific contractual terms between the buyer of a vehicle and the dealer.

The above cases state that a transactional relationship must arise from a "direct relationship." But this is contrasted with the manufacturer's indirect relationship with the public at large. (*Bigler-Engler v. Breg, Inc.* (2017) 7 Cal.App.5th at p. 312; *Bjoin v. J-M Manufacturing Co., Inc.*, *supra,* 113 Cal.App.5th at p. 902.) Here, Plaintiffs had an ongoing relationship with GM via the warranty contract whereby GM guaranteed repair of defects covered by the warranty when Plaintiffs brought the Vehicle into a GM authorized repair facility for covered repairs or, if the Vehicle could not be repaired, to replace the Vehicle. (See FAC, ¶ ¶ 6, 11=15, 18-20, 23.) This is a direct relationship—not a relationship with the public at large.

c. Economic Loss

In opposition, Plaintiffs argue that the economic loss rule does not bar their fraud cause of action. GM did not demurrer on this grounds. Therefore, the court will not address this issue.

3. Conclusion and Order

Based upon the foregoing, GM's demurrer to Plaintiffs' first through fifth causes of action is OVERRULED.

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

4. 25CV02182, De Motte v. Jensen

Plaintiff Dan De Motte ("Plaintiff") moves for leave to file a First Amended Complaint in order to state a third cause of action for abuse of process, to set out a prayer for damages suffered, and to add Thomas D. Corn as a defendant in this action.

Judicial policy dictates the court's discretion be applied liberally to allow amendments. (*Nestle v. Santa Monica* (1972) 6 Cal. 3d 920, 939.) It is only when there is prejudice to the other side that cannot be alleviated by imposing conditions on the moving party that leave should not be allowed. (*Hirsa v. Sup.Ct. (Vickers)* (1981) 118 Cal. App. 3d 486, 490.)

This action was initially filed on March 26, 2025. It asserts causes of action to vacate and set aside a void judgment and to quiet title against defendants Dan Jensen dba Redwood Judgment Recovery and Thomas Schlueter. Trial has not been set. Discovery in this case is only beginning. (Pederson decl., ¶2.) Accordingly, **the motion is GRANTED.** Plaintiff may file a First Amended Complaint within the time allowed by statute.

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

5. 25CV04442, Milazzo v. FCA US LLC

I. Demurrer

This matter is on calendar for the demurrer of Defendant FCA US, LLC ("Defendant" or "FCA") to the sixth cause of action alleged in the complaint filed by Plaintiffs Mark Milazzo and Heather Milazzo ("Plaintiffs") on the grounds that it fails to allege facts sufficient to state a cause of action. **The demurrer is OVERRULED.**

1. Complaint

Plaintiffs' complaint alleges that on or about April 25, 2020, Plaintiffs entered into a warranty contract with Defendant regarding a 2019 Ram 1500 (the "Vehicle") Defendant manufactured or distributed. Plaintiffs allege defects and nonconformities to warranty manifested themselves within the applicable express warranty period, including but not limited to, engine defects, transmission defects, electrical defects, among other defects and non-conformities.

2. Sixth Cause of Action – Fraudulent Inducement - Concealment

Plaintiffs' sixth cause of action for Fraudulent Inducement - Concealment alleges Defendant committed fraud by allowing the Vehicle to be sold to Plaintiffs without disclosing that the Vehicle, equipped with the 5.7L engine, was defective, and which may result in loss of power, stalling, the engine running rough, engine misfires, and its failure ("Engine Defect"). Plaintiffs allege the Engine Defect can suddenly affect the driver's ability to control the Vehicle or cause a non-collision Vehicle fire and can cause the Vehicle to fail without warning while the Vehicle is moving at highway speeds. (Complaint ["C."] ¶65.)

Plaintiffs allege FCA was engaged in the business of designing, manufacturing, constructing, assembling, marketing, distributing, and selling automobiles and other motor vehicles and motor vehicle components in Sonoma County, California. (C. ¶ 6.) Defendant Autoworld – Ram was engaged in the business of selling automobiles and automobile components, and servicing and repairing automobiles in Sonoma County, California. (C. ¶ 5.)

Plaintiffs allege Defendant knew the Vehicle and its engine suffered from an inherent defect, was defective, would fail prematurely, and was not suitable for its intended use, and that it was under a duty to disclose the defect. (C. ¶ ¶ 66-67.)

a. Specificity

Defendant first argues that Plaintiffs' fraud claim is not pled with specificity as there are no factual allegations providing the names of the people charged with the duty to disclose facts at the time of sale, including who made any representations directly on behalf of FCA to Plaintiffs, what specifically they said or wrote to Plaintiff, or when the representation was made.

A plaintiff's burden in asserting a fraud claim against a corporate entity requires him or her to "allege the names of the persons who made the allegedly fraudulent representations, their authority to speak, to whom they spoke, what they said or wrote, and when it was said or written." (*Tarmann v. State Farm Mutual Auto. Ins. Co.* (1991) 2 Cal.App.4th 153, 157.) However, this rule is intended to apply to affirmative misrepresentations. (*Alfaro v. Community Housing Improvement System & Planning Assn., Inc.* (2009) 171 Cal.App.4th 1356, 1384.) In addition, there are certain exceptions which mitigate the rigor of the rule requiring specific pleading of fraud. "Less specificity is required when 'it appears from the nature of the allegations that the defendant must necessarily possess full information concerning the facts of the controversy,' [Citation.] '[e]ven under the strict rules of common law pleading, one of the canons was that less particularity is required when the facts lie more in the knowledge of the opposite party ....'" (*Committee On Children's Television, Inc. v. General Foods Corp*. (1983) 35 Cal.3d 197, 217.)

Here, Plaintiffs allege that Defendant allowed the Vehicle to be sold to Plaintiff without disclosing that its engine was defective and susceptible to sudden and catastrophic failure. Plaintiffs allege that FCA acquired its knowledge of the Engine Defect prior to Plaintiffs acquiring the Vehicle through sources not available to consumers such as Plaintiffs, including but not limited to pre-production and postproduction testing data, early consumer complaints about the Engine Defect made directly to FCA and its network of dealers, aggregate warranty data compiled from FCA's network of dealers, testing conducted by FCA in response to these complaints, as well as warranty repair and part replacements data received by FCA from FCA's network of dealers, amongst other sources of internal information. (C. ¶ 19.) Plaintiffs allege FCA concealed and failed to disclose the defective nature of the Vehicle and its Engine Defect to its sales representatives and Plaintiffs at the time of sale and thereafter. (C. ¶ 20.)

While Plaintiffs do not state the name of the corporate officers who allegedly concealed this information, Plaintiffs are not in a position to know that information at this stage of the action. The complaint is clear about what is being alleged and provides details about the alleged defect. Therefore, the demurrer to this cause of action on the grounds of lack of specificity is OVERRULED.

b. Direct Transaction

Defendant argues that Plaintiffs' claim fails as a matter of law because the complaint does not allege that FCA financed the sale of the Vehicle to Plaintiffs, that FCA had a direct interest in the sale of the Vehicle to Plaintiffs, or that FCA controlled the transaction. Defendant argues that absent particularized allegations showing a direct relationship giving rise to FCA's duty to disclose, Plaintiffs have no cause of action for concealment against FCA.

To establish fraudulent concealment, a plaintiff must prove: "(1) concealment or suppression of a material fact; (2) by a defendant with a duty to disclose the fact; (3) the defendant intended to defraud the plaintiff by intentionally concealing or suppressing the fact; (4) the plaintiff was unaware of the fact and would have acted differently if the concealed or suppressed fact was known; and (5) plaintiff sustained damage as a result of the concealment or suppression of the material fact." (*Rattagan v. Uber Technologies, Inc*. (2024) 17 Cal.5th 1, 40.)

As discussed in *Bigler-Engler v. Breg, Inc.* (2017) 7 Cal.App.5th 276, the general principle that a manufacturer has a duty to warn consumers of a product's hazards and faults is based in strict liability theory—not in fraud. Products liability law involves a set of circumstances, elements, and doctrines that are independent from, and not directly applicable to, fraud. (*Id.,* at 312.) The duties underlying each cannot simply be applied to the other. (*Ibid*.)

Absent a fiduciary duty, a duty to disclose arises only where there is already a sufficient relationship or transaction between the parties. (*Ibid*.) If a sufficient relationship or transaction does not exist, no duty to disclose arises even when the defendant speaks. (*Ibid*.) An exception is when an affirmative statement is so misleading that it may give rise to a fraud cause of action even where the relationship or transaction would be insufficient to give rise to a generalized duty to disclose. (*Ibid*.)

"The three circumstances giving rise to a duty to disclose—the exclusive knowledge, partial concealment, and active concealment circumstances—"presuppose a preexisting relationship between the parties, such as 'between seller and buyer, employer and prospective employee, doctor and patient, or parties entering into any kind of contractual agreement. [Citation.] All of these relationships are created by transactions between parties from which a duty to disclose facts material to the transaction arises under certain circumstances.' [Citation.] 'Such a transaction must necessarily arise from direct dealings between the plaintiff and the defendant; it cannot arise between the defendant and the public at large.' " (*Rattagan, supra*, at p. 40, quoting *Bigler-Engler.*, *supra,* at p. 312.)

In *Bigler-Engler,* the court considered whether a manufacturer of a medical device committed fraud by failing to disclose to a consumer the risk of injury from using the device. (See *Bigler-Engler, supra*, 7 Cal.App.5th at p. 289.) The court distinguished a manufacturer's duty to disclose information to consumers for purposes of a fraud claim from its duty to warn consumers under strict liability principles. (*Id*. at p. 312.) The court explained that a duty to disclose requires some sort of transaction between the manufacturer and the consumer, while a duty to warn does not. Moreover, the transaction giving rise to a duty to disclose "must necessarily arise from direct dealings between the plaintiff and the defendant; it cannot arise between the defendant and the public at large." (*Ibid*.)

The court concluded the manufacturer did not owe the plaintiff a duty to disclose because there was insufficient evidence of a transaction between them. (*Bigler-Engler, supra*, at p. 314.) The court noted the plaintiff's doctor prescribed the device, the plaintiff rented the device from the doctor's medical group, and there was no evidence the manufacturer even knew the plaintiff was using the device. (*Ibid*.)

Plaintiffs allege they entered into a warranty contract with FCA on April 25, 2020. (FAC, ¶ ¶ 7-8.) Plaintiffs' allegations do not rely upon FCA's relationship with the public at large. Rather, they describe an ongoing relationship with FCA based upon the parties' warranty contract. The demurrer is OVERRULED.

3. Conclusion and Order

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

II. Motion to Strike

This matter is also on calendar for the motion of Defendant FCA US, LLC for an order striking Plaintiffs' claim for punitive damages.

FCA has not established that Plaintiffs' FAC fails to allege sufficient facts to constitute a cause of action for fraudulent inducement – concealment. As such, the FAC still contains allegations of fraud which supports an award of punitive damages. Therefore, **FCA's motion to strike Plaintiffs' claim for punitive damages is DENIED.**

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

6. 25CV05267, Henning-Young v. Sanderson

Plaintiff Chad Henning-Young ("Plaintiff"), filed the currently operative complaint ("Complaint") in this action against defendant Suzanne Sanderson ("Defendant"), in her capacity as administrator of the estate of Dorothy E. Tesconi ("Decedent"), arising out of Plaintiff's alleged work on behalf of Decedent (the "Complaint"). The Complaint alleges that Decedent owed $903,023.08 to Plaintiff.

Defendant has filed the instant motion to declare Plaintiff as a vexatious litigant under Cal. Code of Civil Procedure ("CCP"), § 391, and for Plaintiff to furnish security in this case under CCP § 391.1. The motion for designation is **GRANTED**. The motions for security is **MOOT**.

I. Governing Law

A. Determination of Vexatious Status

The vexatious litigant statutes were created to curb misuse of the court system by those acting in pro per who repeatedly relitigate the same issues. *Hupp v. Solera Oak Valley Greens Ass'n*. (2017) 12 Cal.App.5th 1300, 1311. "These persistent and obsessive litigants' abuse of the legal system 'not only wastes court time and resources but also prejudices other parties waiting their turn before the courts.'" *Id. citing In re Bittaker* (1997) 55 Cal.App.4th 1004, 1008. Vexatious litigant statutes are constitutional and do not deprive a litigant of due process of law. *See, e.g. Bravo v. Ismaj* (2002) 99 Cal.App.4th 211, 220-21.

"A court exercises its discretion in determining whether a person is a vexatious litigant." *Bravo v. Ismaj* (2002) 99 Cal.App.4th 211, 219. Appellate courts will uphold the trial court's ruling if it is supported by substantial evidence, and the trial court's order is presumed to be correct with any findings of fact implied as necessary to support the trial court's determination. *Holcomb v. U.S. Bank Nat. Assn.* (2005) 129 Cal.App.4th 1494, 1498.

CCP § 391(b) defines "vexatious litigant" as a person who does any of the following: "(1) In the immediately preceding seven-year period has commenced, prosecuted, or maintained in propria persona at least five litigations other than in a small claims court that have been (i) finally determined adversely to the person or (ii) unjustifiably permitted to remain pending at least two years without having been brought to trial or hearing. (2) After a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant or defendants as to whom the

litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant or defendants as to whom the litigation was finally determined. (3) In any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay. (4) Has previously been declared to be a vexatious litigant by any state or federal court of record in any action or proceeding based upon the same or substantially similar facts, transaction, or occurrence."

> The vexatious litigant statutes were enacted to require a person found a vexatious litigant to put up security for the reasonable expenses of a defendant who becomes the target of one of these obsessive and persistent litigants whose conduct can cause serious financial results to the unfortunate object of his attack. The purpose of the statutory scheme is to deal with the problem created by the persistent and obsessive litigant who has constantly pending a number of groundless actions, often against the judges and other court officers who decided, or were concerned in the decision of previous actions adversely to him. (Citations). It is to curb misuse of the court system by those acting as self-represented litigants who repeatedly relitigate the same issues.

Golin v. Allenby (2010) 190 Cal.App.4th 616, 634 (internal citations and quotations omitted).

"A litigation is finally determined adversely to a plaintiff if he does not win the action or proceeding he began, including cases that are voluntarily dismissed by a plaintiff." *Garcia v. Lacey* (2014) 231 Cal.App.4th 402, 406. "A particular litigation is finally determined when avenues for direct review (appeal) have been exhausted or the time for appeal has expired." *Id*. at 407, fn. 5. Determination of "repeated" relitigation is an assessment made on a case-by-case basis, the assessment is targeted to the risk of repetition. *Goodrich v. Sierra Vista Regional Medical Center* (2016) 246 Cal.App.4th 1260, 1267

Trial courts maintain jurisdiction to determine that a party is a vexatious litigant, even after a judgment is entered. *Bravo v. Ismaj* (2002) 99 Cal.App.4th 211, 222, abrogated on other grounds by *John v. Superior Court* (2016) 63 Cal.4th 91, 98. Similarly, the court maintains jurisdiction to determine that plaintiff is a vexatious litigant, even if the plaintiff dismisses the action while the motion is pending. *Pittman v. Beck Park Apartments Ltd.* (2018) 20 Cal.App.5th 1009, 1025. "To fulfill the statute's aim of protecting future potential litigants, the ability to declare an individual a vexatious litigant must survive even after the action has been dismissed." *Ibid*.

B. Security

CCP § 391.1 provides in relevant part that a defendant in any litigation may move for an order requiring the plaintiff to furnish security on the ground that the plaintiff "is a vexatious litigant and that there is not a reasonable probability that he or she will prevail in the litigation against the moving defendant." CCP §391.2 provides in relevant part that "[a]t the hearing upon the motion the court shall consider any evidence, written or oral, by witnesses or affidavit, as may be material to the ground of the motion." CCP § 391.3 provides that if after hearing the evidence upon the motion the court determines that the plaintiff is a vexatious litigant and that there is no reasonable probability that the plaintiff will prevail in the litigation against the moving defendant, the court shall order the plaintiff to furnish, for the benefit of the moving defendant, security in such amount

and within such time as the court shall fix. CCP § 391.4 provides that when security that has been ordered furnished is not furnished as ordered, the litigation shall be dismissed as to the defendant for whose benefit it was ordered furnished. CCP § 391.7(a) provides in relevant part that in addition to any other relief, the Court may, on its own motion or the motion of any party, "enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed" and that disobedience may be punished as a contempt of court. CCP § 391.7(b) provides that the presiding justice or judge "shall permit the filing of that litigation only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay" and may condition the filing of the litigation upon the furnishing of security for the benefit of the defendants as provided in Section 391.3. CCP § 391.7(c) provides in relevant part that the clerk may not file any litigation presented by a vexatious litigant subject to a prefiling order unless the vexatious litigant first obtains an order from the presiding justice or presiding judge permitting the filing.

The amount required for security must be supported by evidence, and any orders on the amount of security are reviewed on appeal at the substantial evidence standard. *Devereaux v. Latham & Watkins* (1995) 32 Cal.App.4th 1571, 1587 ("*Devereaux*") disapproved of on other grounds by *Moran v. Murtaugh Miller Meyer & Nelson, LLP* (2007) 40 Cal.4th 780, fn. 7. The court is not required to consider plaintiff's means when determining the appropriate amount of security. *Ibid*.

II. Procedural and Evidentiary Issues

Defendant requests judicial notice of several dockets and documents in other cases. Defendant requests judicial notice of the documents dockets in 24PR00183 (the "Probate Case") and 25CV02720 (the "Prior Civil Case"). Judicial notice of official acts and court records is statutorily appropriate. See Cal. Evid. Code § 452(c) and (d) (judicial notice of official acts). Plaintiff has made no objections to the requests. Therefore, the request is GRANTED, and the Court takes judicial notice of the provided documents in each of those cases, as well as the legal effect of the rulings therein. Plaintiff's prior pleadings are considered as possible judicial admissions.

Plaintiff has filed an untimely opposition to the motion. The Court exercises its discretion in considering the opposition.

III. Facts and Procedural History

Plaintiff alleges, across multiple pleadings and particularly in this case, that he served Decedent with a bill related to the services he performed for her in November of 2023 for $903,023.18. See Complaint. Decedent passed away the following month, in December 2023. Plaintiff filed the petition to probate Decedent's estate in the Probate Case on February 28, 2024. RFJN Ex. 1. Defendant's husband and Decedent's son, Gary Tesconi, was named trustee and administrator for Decedent's estate in the Probate Case. Plaintiff filed his creditor claim against the estate on June 24, 2024. It was subsequently rejected on July 19, 2024. In November 2024, Defendant became the administrator of the estate and trustee of Decedent's trust pursuant to appointment by the Probate Court. The instant action was filed August 14, 2025.

Through the Request for Judicial Notice, the following is also part of the record. Plaintiff filed a petition in the Probate Case on March 7, 2025, asking that the probate court address the rejection of

his creditor's claim. The probate court struck the petition as not being authorized by law on May 2, 2025. Plaintiff filed the Prior Civil Case the same day, pleading civil causes of action related to the same facts alleged in this case. Defendant demurred. On August 13, 2025, the Court entered an order on Defendant's demurrer in the Prior Civil Case, sustaining without leave to amend. Plaintiff filed a petition in the Probate Case on June 3, 2025, attempting to have Defendant removed as administrator of the Decedent's estate and trust. This petition was denied on August 4, 2025.

Plaintiff filed a request to dismiss this action on February 20, 2026, which was entered by the clerk the same day.

IV. Defendant's Conduct Meets the Standard for a Vexatious Litigant

Defendant contends that Plaintiff attempts to repeatedly relitigate the same issue, particularly those matters raised in the Complaint, both in the Probate Case and in civil court. Defendant requests that Plaintiff be designated a vexatious litigant under CCP § 391. Plaintiff has filed an untimely opposition, generally stating that he is merely attempting to receive compensation for the work performed for Decedent. As an initial matter, despite Plaintiff's dismissal, the Court maintains jurisdiction to determine whether Plaintiff is a vexatious litigant. *Pittman v. Beck Park Apartments Ltd.* (2018) 20 Cal.App.5th 1009, 1025. The probability that matters will be relitigated means considering the merits of the motion is appropriate.

The repetitive nature of Plaintiff's conduct is well represented by the Complaint here. Plaintiff files the Complaint requesting that the Court find that Defendant must pay his creditor claim against Decedent. He attaches a *Heggstad* Petition from the Probate Case, arguing that it shows that the Defendant and her husband intentionally omitted assets from administration in an attempt to prevent paying his creditor claim. Plaintiff pleads that his creditor claims were tolled as a result. The attached document does not show that Plaintiff's claims were tolled, because Plaintiff makes no connection between the initial failure to include property in the Probate Case, and his own failure to file is creditor claim timely after it was rejected in July 2024. This case was filed more than a year after the rejection of claim, and it was required to be filed within 90 days. CCP § 366.2. However, the Complaint makes clear that the Probate Case is relevant and includes significant factual information.

The Probate Case contains *three* denials of Plaintiff's attempts to make his claims against Decedent. Each of the petitions Plaintiff filed is targeted to his claim that he is entitled to a substantial sum he argues Decedent owed him at the time of her death. The probate court has repeatedly held that he lacks standing to intervene himself in the Probate Case, and that it is not the proper venue for his civil claims after the rejection of claim was served in July of 2024. He has nonetheless persisted in filing petitions into the Probate Case.

The Prior Civil Case was adjudicated due to the demurrer being sustained without leave to amend. The court there found that Plaintiff's claims against the estate had been asserted untimely, and accordingly Plaintiff could not state a cause of action. As the Court has noted here, the current Complaint turns on essentially the same claims. This action was filed *the day after* the Prior Civil Case entered the order sustaining demurrer.

At the time the Complaint was filed, Plaintiff had already received *four* adverse final rulings on the timeliness or viability of his claims against the estate in a period of less than two and a half years.

The Court does not consider factual findings by the other courts, but the legal effect of adjudicating Plaintiff's claims is properly noted. Reviewing the records from the Prior Civil Case and the Probate case makes clear that the current case is only the latest in a history of repeated litigation for identical claims. While Plaintiff's opposition states that he does not have any disrespect for the court or its processes, it continues to re-argue Plaintiff's case. Plaintiff notably does not state that he intends to file no further cases as to his already decided claims. There appears to be significant risk of further litigation if Plaintiff's conduct is not addressed.

It is clear based on this record that Plaintiff is likely to continue attempting to litigate matters which have already been determined against him in multiple areas of law before multiple judicial officers. The motion to declare Plaintiff a vexatious litigant is GRANTED.

V. Request for Security

The request for security has been rendered MOOT by the dismissal of the Complaint.

VI. Conclusion

Based on the foregoing, the Defendant's motion is **GRANTED**. Plaintiff Chad Henning-Young is hereby declared a vexatious litigant. Plaintiff may not file any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding judge of the court where the litigation is proposed to be filed. CCP § 391.7. The clerk of court is ordered to provide notice to the Judicial Council of the prefiling order issued in the instant case. CCP § 391.7(f).

The motion to furnish security is **MOOT**.

Defendant 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).

7. 25CV05706, Doe v. State of California

This matter is on calendar for the motion of defendant State of California ("State") to file under seal unredacted copies of Exhibits E and F to the State's previously filed Request for Judicial Notice in Support of Defendant State of California's Demurrer to Plaintiffs' Complaint, which were conditionally lodged under seal on December 1, 2025, concurrently with the filing of the State's demurrer.

Exhibits E and F to the State's RJN are the California Department of General Services' Government Claims Program's records of claim numbers GCP-23001980 and GCP-23001965. The State filed redacted versions of these exhibits with its demurrer. The demurrer was heard on March 20, 2026. Unredacted versions of these exhibits were not necessary to decide that demurrer. Therefore, as the demurrer has been heard and the unredacted versions of these exhibits are not needed, **this motion is denied as MOOT.**

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

8. SCV-270405, Creditors Adjustment Bureau, Inc. v. Bathe

Plaintiff/Cross-Defendant Creditors Adjustment Bureau, Inc.'s ("CAB") anti-SLAPP special motion to strike pursuant to C.C.P. section 425.16 is **DENIED**.

I. Factual & Procedural History

On March 17, 2022, CAB filed its Complaint alleging it is the assignee of insurance company State Compensation Insurance Fund ("SCIF") and is suing Defendant/Cross-Complainant David Loyd Bathe ("Bathe") to collect insurance premiums that SCIF claims were due under an insurance policy that SCIF sold to Bathe. On July 15, 2022, the Court entered Bathe's default and entered a default judgment against Bathe for $112,926.80. On August 2, 2022, Bathe filed a motion to set aside the entry of default and default judgment, which this Court denied. (See Order Denying Motion to Set Aside Default and Default Judgment, filed March 13, 2023.) However, the Court of Appeal reversed, ordering this Court to grant the motion on September 24, 2024. (See Remittitur, field December 2, 2024.)

On August 6, 2025, the Court granted Bathe's motion to strike, striking several paragraphs referencing Civil Code section 1717.5, finding that Section 1717.5 is inapplicable to the instant action because the Complaint did not attach a copy of the agreement between the parties or otherwise state the parties' written contract contained a provision allowing for an award of attorney's fees and costs as required by actions where an insurance company is a party or where an insurance company, surety, or guarantor is liable under Section 1717.5.

On August 20, 2025, Bathe filed a class action Cross-Complaint on behalf of the general public alleging that CAB is continually engaging in unfair practices in violation of C.C.P. section 427.17(b), Business and Professions Code section 17200 et seq., and Civil Code section 1717.5 by obtaining default judgments awarding attorney's fees that are prohibited by California law. The Cross-Complaint seeks declaratory relief and a preliminary and permanent injunction prohibiting CAB from seeking fees pursuant to Civil Code section 1717.5 in collection actions against SCIF policyholders and from obtaining default judgments awarding fees under to Civil Code section 1717.5 in such collection actions. On October 20, 2025, CAB filed the instant special motion to strike the Cross-Complaint pursuant to C.C.P. section 425.16 arguing that the Cross-Complaint arises from protected activity and that Bathe cannot establish a probability of success on the merits of his Section 17200 cause of action.

II. Discussion

A. CAB's Request for Judicial Notice

Judicial notice of official acts is statutorily appropriate. (Evid. Code § 452(c).) The court may take judicial notice of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code § 452(h).) The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under Evidence Code section 452. (Evid. Code § 453.) Courts may "take judicial notice of the *existenc*e of judicial opinions and court documents, along with the truth of the results reached—in the documents such as orders, statements of decision, and judgments—but cannot take judicial notice of the truth of hearsay statements in decisions or court files, including pleadings, affidavits, testimony, or statements of fact." (*People v. Harbolt* (1997) 61

Cal.App.4th 123, 126–127 [internal citations omitted]; Evid. Code §§ 452, 453.) Additionally, Courts may take notice of public records but not take notice of the truth of their contents. (*Herrera v. Deutsche Bank National Trust Co.* (2011) 196 Cal.App.4th 1366, 1375 [internal citations omitted].)

In support of its special motion to strike, CAB requests judicial notice of five exhibits: the Court's docket in this action, an excerpt of the list of all licensed contractors listing Bathe Builders, Declaration of Melissa Klopstock filed on June 9, 2022, the Complaint in this action, and the Cross-Complaint in this action. CAB's request for judicial notice is **GRANTED** pursuant to Evidence Code sections 452 and 453 but the Court does not take notice of truth of the contents of these Exhibits as explained above.

B. Procedural Requirements

Bathe argues that CAB failed to comply with C.C.P. section 425.16(j)(1) because it did not send a copy of the filed caption page to the Judicial Council, requiring a denial of the instant motion. In opposition, CAB argues that nothing in C.C.P. section 425.16(j)(1) states that failure to comply with this section supports a ground for denial of such motion. Here, Bathe does not provide any authority warranting dismissal of this motion for failure to comply with C.C.P. section 425.16(j)(1) or to overcome the strong public policy favoring resolution of an action on its merits rather than procedural deficiencies. Thus, this request is **DENIED**.

C. Public Interest Exception

C.C.P. section 425.17(b) provides:

> (b) Section 425.16 does not apply to any action brought solely in the public interest or on behalf of the general public if all of the following conditions exist:
>
> (1) The plaintiff does not seek any relief greater than or different from the relief sought for the general public or a class of which the plaintiff is a member. A claim for attorney's fees, costs, or penalties does not constitute greater or different relief for purposes of this subdivision.
>
> (2) The action, if successful, would enforce an important right affecting the public interest, and would confer a significant benefit, whether pecuniary or nonpecuniary, on the general public or a large class of persons.
>
> (3) Private enforcement is necessary and places a disproportionate financial burden on the plaintiff in relation to the plaintiff's stake in the matter.

"Solely in the public interest" is defined as suits brought for the public's good or on behalf of the public and does not seek a narrower advantage for a particular plaintiff, which requires examination of the allegations in the complaint. (*Tourgeman v. Nelson & Kennard* (2014) 222 Cal.App.4th 1447, 1460 [internal citations omitted].) "If a plaintiff's lawsuit comes within section 425.17, subdivision (b), it is exempt from the anti-SLAPP statute, and thus, a trial court may deny the defendants' special motion to strike without determining whether the plaintiff's causes of action arise from

protected activity, and if so, whether the plaintiff has established a probability of prevailing on those causes of action under section 425.16, subdivision (b)(1)." (*Ibid.*)

Bathe does not argue whether the activity alleged in the Cross-Complaint constitutes protected activity but instead argues that the public interest exception bars this motion in its entirety pursuant to C.C.P. section 425.17(b). Bathe contends that the Cross-Complaint was brought "solely in the public interest" because the Cross-Complaint does not seek relief for Bathe individually that is greater than that relief he seeks for the class, i.e. the general public: declaratory and injunctive relief. Bathe further argues that the lawsuit concerns important public rights because it is seeking to curb abusive debt collection practices and affects a large number of individuals. Additionally, Bathe argues that private enforcement is necessary to halt CAB's practices because no public enforcement action has been filed by the Attorney General or other public agency to stop CAB's practices and this action places a disproportionate financial burden on Bathe in relation to its stake in this matter.

In its Reply, CAB argues that Bathe's cited case law does not support the application of the public interest exception to the Cross-Complaint. CAB claims that Bathe's relief sought is different from the putative class because he is no longer a member of the purported class and does not require the same declaratory and injunctive relief as this Court dismissed the Section 1717.5 fee request in Bathe's motion to strike. CAB maintains that the Cross-Complaint does not concern the important public rights because there is no authority supporting the contention that commercial insurance policy debtors, such as Bathe, are deserving of the same protections afforded to unsophisticated consumers under consumer protection statutes such as the UCL regardless of whether they are represented by legal counsel in collection litigation. Lastly, CAB contends that private enforcement is not necessary because Bathe's UCL claim on behalf of commercial insurance debtors does not implicate the consumer/health protection concerns which such agencies are ordinarily tasked to target.

No Greater or Different Relief

Here, Bathe seeks declaratory judgment on behalf of the class that CAB is not entitled to recover Section 1717.5 fees in its ongoing collection actions against SCIF policyholders and an injunction prohibiting CAB from seeking such fees. Thus, the relief Bathe seeks is identical to the purported class, but such relief is no longer applicable to Bathe in light of this Court striking all references to Section 1717.5 fees from the Complaint. However, this does not defeat the applicability of the public interest exception as Bathe only seeks the same declaratory and injunctive relief he seeks for the general public. (See *Northern Cal. Carpenters Regional Council v. Warmington Hercules Associates* (2004) 124 Cal.App.4th 296, 299–300 [finding that while individual plaintiff and carpenters' union did not belong to the alleged wronged class of nonunion workers not being paid the prevailing wage on defendants' project, the complaint seeking to vindicate public policy by assuring enforcement of the City's Prevailing Wage Policy met the requirements of subdivision (b) and subdivision (b)(1) requiring that the action was brought solely in the public interest and plaintiffs did not seeks any relief greater than or different from the relief sought for the general public.) Furthermore, this action is brought solely in the public interest as Bathe seeks to enjoin CAB from its alleged unlawful/unfair debt collection practices by collecting attorney's fees under Civil Code section 1717.5. Therefore, Bathe has met the requirements under C.C.P. section 425.17(b) and (b)(1) because the action is brought solely in the public interest and Bathe does not seek any relief greater or different from the relief sought for the general public.

Enforce an Important Right and Confer a Significant Benefit

The Cross-Complaint alleges that CAB violated the unfair competition law ("UCL") by committing an unlawful, unfair, or fraudulent business practice under Business and Professions Code section 17200. Bathe claims that CAB obtains and continues to seek default judgments against SCIF policyholders who typically do not defend the collection actions and suffer default judgments that award Cab Section 1717.5 fees that do not apply to CAB. Bathe further claims that CAB abandons its request for Section 1717.5 fees only when policyholders challenge such request, which shows that CAB continues to falsely represent that it is entitled to such fees. The UCL prohibits unfair competition, defined as "any unlawful, unfair or fraudulent business act or practice", "to protect both consumers and competitors by promoting fair competition in commercial markets for goods and services." (*Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 320 [internal citations omitted].) CAB's conduct as alleged in the Cross-Complaint is clearly unfair as it seeks attorney's fees under a provision that is knowingly not applicable to CAB's contracts.

If the Cross-Complaint were successful, it would enforce an important right affecting the public interest by enjoining CAB's alleged debt collection practices. (See *Tourgeman, supra*, 222 Cal.App.4th at 1462–1464 [reasoning that the Fair Debt Collection Practices Act ("FDCPA") provides important rights to the general public and that plaintiff's complaint sought to further the public policy goals of the FDCPA]; see also *Lindsay v. Patenaude & Felix APC* (2024) 107 Cal.App.5th 335, 346–347.) Additionally, preventing unfair or unlawful debt collection practices has been held to confer a significant benefit on the general public. (See *Tourgeman, supra*, at 1462–1464; see also *Lindsay, supra,* at 346–347.) The UCL explicitly incorporates the FDCPA's standards. (*Alborzian v. JPMorgan Chase Bank, N.A.* (2015) 235 Cal.App.4th 29, 36.) Therefore, if the Cross-Complaint were successful, it would enforce an important right affecting the public interest and would confer a significant benefit on the general public, satisfying subsection (b)(2) of C.C.P. section 425.17.

Necessity of Private Enforcement and Disproportionate Financial Burden

The Court in *Tourgeman* reasoned that the Legislature authorized private attorney general actions with respect to the enforcement of the UCL, finding that plaintiff's action was "within the ambit of the public interest exemption is fully consistent both with Congress's intent in enacting FDCPA and the Legislature's intent in enacting the UCL and section 425.17." (*Tourgeman, supra*, 222 Cal.App.4th at 1464.) Bathe contends that no public entity has sought to enforce the rights Bathe seeks to vindicate and CAB argues that the lack of public enforcement is "most likely due to the reality that Bathe's UCL claim on behalf of commercial insurance debtors does not implicate the consumer/health protection concerns which such agencies are ordinarily tasked to target." Nonetheless, CAB concedes that there is a lack of public enforcement. Regarding financial burden, "[t]he relevant inquiry is whether 'the " 'cost of the [plaintiffs'] legal victory transcends [their] personal interest." (*Tourgeman, supra*, 222 Cal.App.4th at 1465 citing *Blanchard v. DIRECTV, Inc.* (2004) 123 Cal.App.4th 903.) The only financial benefit Bathe seeks from Cross-Complaint is costs of the suit and reasonable attorney's fees, and as argued by CAB, Bathe would not benefit from the declaratory or injunctive relief sought in the Cross-Complaint because the Court struck CAB's prayer for Section 1717.5 fees in the Complaint. Moreover, Bathe could reasonably anticipate that he may be found liable for an adverse award of costs, which demonstrates a disproportionate financial burden on him. (*Tourgeman, supra*, 222 Cal.App.4th at 1466 citing *People ex rel. Strathmann v. Acacia Research Corp.* (2012) 210 Cal.App.4th 487, 505 [finding that the prospect of

litigation expenses and cost awards demonstrates a disproportionate burden on plaintiff].) Thus, Bathe has shown that private enforcement is necessary and places a disproportionate financial burden on him, satisfying subsection (b)(3) of C.C.P. section 425.17.

Bathe's Cross-Complaint is exempt from application of the anti-SLAPP statute as he has satisfied each of the requirements of the public interest exception to the anti-SLAPP statute under C.C.P. section 427.17(b) and the Court shall not determine whether the Cross-Complaint arises from protected activity, and if so, whether Bathe has established a probability of prevailing on those causes of action under section 425.16 (b)(1). (*Tourgeman, supra*, 222 Cal.App.4th at 1460.)

D. Standing

Lastly, Bathe argues that he has standing to bring this action under the UCL because he lost money or property as a result of CAB's actions pursuant to Business and Professions Code section 17204 and *Californians for Disability Rights v. Mervyn's, LLC* (2006) 39 Cal.4th 223, 227. CAB argues that Bathe cannot show standing under Business and Professions Code section 17204 because Bathe cannot prove that his economic loss was the proximate result of the alleged unfair Section 1717.5 attorney fee prayer. The Court finds that Bathe has sufficiently alleged standing under Business and Professions Code section 17204 because the Cross-Complaint alleges that CAB obtained a default judgment against Bathe that wrongfully awarded CAB $1,200 in Section 1717.5 attorney's fees, which was awarded upon filing a declaration representing that CAB was entitled to Section 1717.5 attorney's fees. (*Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 322.)

III. Conclusion and Order

For the foregoing reasons, CAB's special motion to strike is **DENIED** pursuant to the public interest exception enumerated in C.C.P. 425.17(b).

Bathe's counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

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

On August 16, 2025, this court granted the request of Plaintiff Louis Santana, individually, and on behalf of others similarly situated, for final approval of the class action settlement. Pursuant to that order, Plaintiff's counsel was ordered to file a final report to this court on or before January 30, 2026. On January 21, 2026, Plaintiff's counsel filed the Declaration of Jarrod Salinas ("Salinas") Re Distribution of Settlement Funds ("Report").

Salinas states he is the Case Manager at Phoenix Settlement Administrators, the court-appointed class action settlement administrator in this case. (Salinas decl., ¶1.) The Report states Phoenix issued and mailed checks to each Settlement Class Member (totaling $405,331.07), and distributed attorney fees ($273,183.75) and attorney costs ($11,510.18), Plaintiff's enhancement payment ($7,500.00), payment to the Labor and Workforce Development Agency ($75,000.00), and settlement Administration costs ($8,000.00) on September 16, 2025. (*Id.,* ¶4.) As of the date of the Report, sixty-four (64) checks, totaling $26,677.97, remain uncashed. (*Id.,* ¶6.) All disbursements were completed in compliance with the Joint Stipulation of Settlement and the Order Granting Final Approval of Class Action Settlement and Entering Judgment. (*Id.,* ¶7.) Pursuant to the Settlement,

funds from uncashed checks shall be paid to the California State Controller's Office – Unclaimed Property Fund in the name of the Settlement Class Member to whom payment was issued. (*Id.,* ¶8.)

The Report now having been filed, Plaintiff's duty to file the Report confirming distribution of the settlement funds has been discharged.