TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, July 1, 2026, 3:00 p.m.
Courtroom 16 – Hon. Thomas M. Anderson for Hon. Patrick M. Broderick
3035 Cleveland Avenue, Suite 200, Santa Rosa

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

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

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

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

1. 24CV00531, Knoop v. Knoop

Pursuant to CCP sections 405.30, 405.31, and 405.32, Defendants and Cross-Complainants Taylor Knoop and Carmen Knoop ("Defendants") move for an order expunging the lis pendens recorded on February 23, 2024, against their real property, and for an award of attorney fees. **The motion is DENIED. Sanctions are granted in Plaintiffs' favor in the amount of $1,750.**

I. Lis Pendens

A lis pendens may be ordered expunged if the complaint does not contain a "real property claim" (CCP § 405.31) or plaintiff cannot establish its "probable validity" by a "preponderance of the evidence." (CCP § 405.32).

Unlike most other motions, the burden of proof is on the party opposing the motion to expunge. The lis pendens claimant (plaintiff) bears the burden of establishing the existence of a "real property claim" and that it is "probably valid." (CCP § 405.32.)

1. Plaintiffs' objections

Plaintiffs' objections are overruled. While some statements may contradict other evidence, this goes to the weight of that evidence. The evidence presented by Defendants supports their understanding of the property boundaries and their location, and the basis for those opinions.

2. Real Property Claim

The allegations of the complaint determine whether a "real property claim" is involved; no independent evidence is required. (*Urez Corp. v. Sup.Ct. (Keefer*) (1987) 190 Cal. App. 3d 1141, 1149.) A "real property claim" is any cause of action which, if meritorious, would affect title to, or

the right to possession of, specific real property; or the use of an easement identified in the pleading. (CCP section 405.4.)

Pursuant to this action, Plaintiffs Anthony Knoop and Heidi Knoop ("Plaintiffs") seek declarations of their rights to use the roadway and well under multiple theories - deeded easement, prescriptive easement, equitable easement, easement by necessity, and irrevocable license. (FAC ¶¶ 14-24.) Plaintiffs seek to quiet title to their easement rights across Defendants' property. (FAC ¶¶ 25-30.) A lis pendens is required in quiet title actions. (CCP §761.010.) In addition, the use of an easement identified in the pleading is a real property claim. (CCP section 405.4(b).)

As this action involves a dispute regarding an easement over Defendants' property, it alleges a real property claim.

3. Probable Validity

To avoid a motion to expunge under CCP § 405.32, the burden is on Plaintiffs to establish the "probable validity" of the real property claim "by a preponderance of the evidence." (CCP § 405.32; *J & A Mash & Barrel, LLC v. Sup.Ct. (Tower Theater Properties)* (2022) 74 Cal. App. 5th 1, 32-33.) "Probable validity" means it is more likely than not that the plaintiff will obtain a judgment against the defendant on the claim. (CCP § 405.3.)

a. Roadway

Plaintiffs own the property at 3955 Muniz Ranch Road, Jenner, Sonoma County (APN 099-020-044), purchased September 14, 2014. (FAC ¶ 1; Anthony Knoop decl., ¶1.) Defendants own the adjacent parcel at 3895 Muniz Ranch Road (APN 099-020-043), which Taylor Knoop acquired in 2008. (FAC ¶ 2; Anthony Knoop decl., ¶1.) Both parties recorded grant deeds which describe, as Parcel Four, an express 30-foot-wide easement for road and utility purposes, the centerline of which is fixed by identical metes-and-bounds descriptions running along their common boundary. (FAC ¶ 6; Anthony Knoop decl., ¶1, Exhibit A.) These Parcel Four easements are reciprocal: each is appurtenant to one parcel and burdens the other, creating a shared 30-foot road and utility corridor centered on the boundary line. (Anthony Knoop decl., ¶3.) The roadway has been in continuous use by Plaintiffs and their predecessors in interest for ingress and egress, parking, walking, gardening, and maintenance since at least 1987 — more than 21 years before Defendants acquired their property in 2008. (FAC ¶ 7; Anthony Knoop decl., ¶¶3, 7.) Before Plaintiffs purchased their property, Anthony Knoop and Taylor Knoop travelled the roadway and Taylor Knoop indicated it marked the boundary between the two properties. (Anthony Knoop decl., ¶6.) There was no indication from Taylor that he did not believe Plaintiffs had a right to use the roadway. (*Ibid*.) In October of 2023, Defendants blocked vehicular access to Plaintiff's property along the roadway. (*Id.,* ¶12.) A survey dated December 28, 2023, shows that the road is not located precisely within the metes-and-bounds description. (*Id.,* ¶5.) The roadway is the only means of vehicular access to Plaintiffs' property. (*Id.,* ¶15.)

The gist of this action is that the roadway was granted by an express deed; however, the actual roadway was not placed precisely within the boundary granted by the express language of the easement. This was due to the landscape's terrain. Portions of the terrain within the deeded easement are too steep and rough for safe vehicular use. (Anthony Knoop decl., ¶4.) The slope in the deeded corridor area changes grade drastically, making it impossible to grade or maintain a drivable surface. (*Ibid*.) Plaintiffs allege they acquired an interest in the portions of the roadway that extend beyond the easement area based on prescriptive, implied equitable easement, easement by necessity or an irrevocable license resulting from Plaintiffs' and their predecessors in interest's actual, open, notorious and hostile, for more than five years.

In *Johnstone v. Bettencourt,* a survey disclosed that the traveled road which both parties had accepted as Yerba Santa Road deviated from the true Yerba Santa Road as recorded on the official subdivision map. (*Johnstone v. Bettencourt* (1961) 195 Cal.App.2d 538, 540.) The evidence further

disclosed that no road had ever been established over the true course of Yerba Santa Road as recorded. (*Ibid*.) The record further disclosed that at the time defendants purchased their lots they were informed by the real estate agent that the traveled road across their property was Yerba Santa Road; that this traveled road had been in general use by both plaintiffs and defendants in the belief that it was the true course of Yerba Santa Road; and that no road has ever been established over the records course because of a steep embankment along said course, making it impractical, as well as uneconomical, to construct such a road. (*Id.* at p.541.)

These factual findings supported the trial court's determination that the parties' use of the actual roadway changed its location. "It is competent, however, for the parties to change the location by mutual consent [citation] and such consent may be implied from their use and acquiescence [citation]. If by mutual consent, either express or implied, the parties do substitute a new route or course, the existing rights are not affected by the change, but attach to the new location." (*Id.,* at pp. 541-542.)

Like in *Johnstone v. Bettencourt*, the parties here both acquired their properties after the roadway had been built and used for decades in its current location. Similarly, the actions of the parties indicated that they were not aware of the location expressly granted by the easement's metes-and-bounds. Thus, prior owners and the parties herein impliedly consented and acquiesced to the current location of the roadway.

In addition to the above, it appears Plaintiffs' secondary arguments of a prescriptive easement over Defendants' property outside the express easement are also probably valid. Defendants argue that Plaintiffs used these portions of their property with their permission; thus, its use was not hostile as required for a prescriptive easement. However, use of the roadway occurred for decades prior to Defendants' acquisition of their property such that the prescriptive easement rights had already vested.

Based upon the evidence presented, Plaintiffs' causes of action based upon their right to use the subject roadway are probably valid.

b. Well

Regarding the dispute over the subject well, in June 2018, relying on Defendants' boundary representations, Plaintiffs spent approximately $15,000 installing a well and water system at a location they understood to be on Plaintiffs' side of the boundary. (FAC ¶ 9; Anthony Knoop decl., ¶8.) Defendants were aware of the location and installation of the well and they did not object to it. (*Id.,* ¶¶9, 10.) The well was installed in that location based upon representations by Taylor Knoop regarding the location of the boundary line. (*Id.,* ¶13.) In June 2022, Defendants, without any warning, shut off the well and claimed ownership of it. (*Id.,* ¶11.) While shutting off the well, Defendants damaged water piping and removed a solar system powering the water pump. (*Ibid*.) The well is the sole source of water to Plaintiffs' property. (*Ibid*.)

Plaintiffs put forth several arguments supporting their right to the use of the well; i.e., pursuant to a prescriptive easement, an equitable easement, easement by necessity or irrevocable license, as well as Plaintiff' status as good faith improvers. However, as the lis pendens is supported by Plaintiffs' causes of action based upon the easement in the roadway, the issue of the well need not be addressed as it is immaterial to the outcome of this motion.

4. Attorney Fees and costs

Plaintiffs request they be awarded their reasonable attorney fees and costs pursuant to CCP § 405.38. Section 405.38 provides: "The court shall direct that the party prevailing on any motion under this chapter be awarded the reasonable attorney's fees and costs of making or opposing the motion unless the court finds that the other party acted with substantial justification or that other circumstances make the imposition of attorney's fees and costs unjust."

Plaintiffs' counsel does specify the amount requested in fees and Defendants do not address, and have therefore not shown, substantial justification in bringing this motion. The court finds fees and costs of $1,750 reasonable.

5. Conclusion and Order

Plaintiffs have established that their complaint alleges a real property claim which is probably valid. Accordingly, Defendants' motion is DENIED. Sanctions are granted in Plaintiffs' favor in the amount of $1,750.

Plaintiffs' 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.

2. 24CV02519, Bohanan v. City of Santa Rosa

Pursuant to Code of Civil Procedure sections 2031.060(a) and (b)(5) and 2031.285, defendant City of Santa Rosa ("City") moves for a protective order regarding inadvertently produced privileged ESI. The City seeks to have Plaintiff Lucas Bohanan ("Plaintiff") return the inadvertently disclosed privileged documents Bates marked DEF_000184460–85, DEF000146812–14, and DEF000140301–03, provide written confirmation to the City that these documents have either been destroyed or returned to the City, cease all further use of the unredacted versions of these documents, and have any reference to the privileged information contained within these documents stricken from any deposition record. The City also moves for monetary sanctions pursuant to California Code of Civil Procedure sections 2031.060 and 2023.030(a), against Plaintiff and his counsel of record for fees associated with bringing this motion in the amount of $12,136.00.

1. Protective Order

"When an inspection, copying, testing, or sampling of documents, tangible things, places, or electronically stored information has been demanded, the party to whom the demand has been directed, and any other party or affected person, may promptly move for a protective order." (Code Civ. Proc., § 2031.060(a).) "The court, for good cause shown, may make any order that justice requires to protect any party or other person from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense." (CCP section 2031.060(b).)

2. Clawback procedure

If electronically stored information produced in discovery is subject to a claim of privilege or of protection as attorney work product, the party making the claim may notify any party that received the information of the claim and the basis for the claim. (CCP section 2031.285(a).)

After being notified of a claim of privilege or of protection under subdivision (a), a party that received the information "shall immediately sequester the information and either return the specified information and any copies that may exist or present the information to the court conditionally under seal for a determination of the claim." (CCP section 2031.285(b).)

If the receiving party contests the legitimacy of a claim of privilege or protection, he or she may seek a determination of the claim from the court by making a motion within 30 days of receiving the claim and presenting the information to the court conditionally under seal. (CCP section 2031.285(d)(2).)

In the course of preparing responses to Plaintiff's discovery requests, counsel for the City identified eleven documents containing privileged and/or sensitive information inadvertently produced. (Cleary decl., ¶4.) On August 6, 2025, Plaintiff's counsel was notified that one of these documents was being clawed back. (*Ibid*.) On February 20, 2026, City's counsel emailed Plaintiff's counsel notifying them of the inadvertent disclosure of the ten new documents and re-identifying the eleventh document. (*Id.,* ¶6.)

On February 27, 2026, March 4, 2026, March 11, 2026, and March 27, 2026, the parties met and conferred regarding the disputed documents. (*Id.,* ¶7.) Prior to the March 4, 2026, meet and confer, City's counsel provided Plaintiff's counsel with a reacted version of the clawed back documents in an attempt to resolve the matter. (*Ibid*.) Plaintiff's counsel agreed to the City's claw back requests concerning eight of the eleven documents. (*Id.,* ¶9.) The remaining three are the subject of this motion. (*Id.,* ¶¶9, 10.)

This court's file does not contain any motion by Plaintiff with respect to the subject documents and the time for any such motion has passed. Accordingly, Plaintiff has waived his right to contest the City's clawback notice and must return the documents.

3. Sanctions

The City requests sanctions pursuant to CCP sections 2031.060 and 2023.030. Section 2031.285 does not have its own procedure for recovering ESI when a party refuses to comply with that code section. Thus, this motion was brought as a request for a protective order pursuant to section 2031.060. That section requires sanctions be imposed on the motion. (See section 2031.060(h); see also Cal. Rules of Court, Rule 3.1348 [Sanctions may be awarded despite no opposition being filed.]) Sanctions are also appropriate under CCP section 2023.010 upon a misuse of the discovery process.

The City seeks $12,136 in attorneys' fees. Counsel's declaration describing the work on this motion indicates that two attorneys worked on drafting and editing this motion. Counsel Colleen Cleary states her hourly rate is $445. (Cleary decl., ¶19.) She spent 11.7 hours on the motion, legal research, and preparing for meet and confer discussions, for a total of $5,701. (*Id.,* ¶20.) A Senior Associate, Bernadette Bolan, also worked on the motion. (*Id.,* ¶21.) Her hourly rate is $390. (*Id.,* ¶21.) She spent 9.7 hours drafting, editing, and revising the memorandum of points and authorities and researching case law for a motion for a protective order, for a total of $3,765. (*Id.,* ¶22.) The City estimates it will incur an additional $2,670 reviewing opposition and drafting a reply. (*Id.,* ¶23.) No opposition was filed so the additional fee request is moot.

The City has not shown that the $1,557.50 it seeks for counsel's preparation for meet and confer efforts and correspondence is reasonably recoverable. Regardless, the requested $9,466 to research and draft this motion is excessive. This court will award $5,700.00 as reasonable sanctions.

4. Conclusion and Order

The motion is GRANTED. Plaintiff Lucas Bohanan is directed to return the inadvertently disclosed privileged documents Bates marked DEF_000184460–85, DEF000146812–14, and DEF000140301–03, or provide written confirmation to the City that these documents have been destroyed, cease all further use of the unredacted versions of these documents, and have any reference to the privileged information contained within these documents stricken from any deposition record. Sanctions are granted as noted above.

While the City has provided a proposed order, it contains findings and issues not addressed in this ruling. Therefore, City's counsel is directed to submit a written order containing only those matters addressed by this ruling.

3. <u>25CV05867, Johnson v. B&D Law Group, APLC.</u>

Plaintiff/Cross-Defendant Charles Johnson filed four motions to compel discovery against defendant B&D Law Group, APLC. The motions were set for hearing on July 1, 2026. On June 19, 2026, a stipulation and order was filed requesting the hearing on the motions be continued for no more than 45 days to allow the parties to meet and confer and narrow the issues that will need to be addressed by the court. Unfortunately, Department 16's calendar does not accommodate setting four

hearings within 45 days; it is currently setting hearings in November. Therefore, the court has taken these matters off calendar and set this matter for a Case Management Conference on **Tuesday, August 18, 2026, at 3:00 p.m., in Department 16.** The parties can inform the court of their progress resolving the issues on the motions at that time. If numerous issues remain, the court is inclined to order a discovery referee. If only a few issues remain, the court will assess its law and motion calendars in order to promptly re-set the motions.

4. <u>25CV07804, Brett v. Erlach</u>

This matter is on calendar for the demurrer of Defendant Raymond N. Stella Erlach, as Successor Trustee of the Brett Family Trust to the complaint filed by Plaintiff Mastaneh O. Brett. This matter is also on calendar for Defendant's motion to strike portions of the complaint. On June 17, 2026, Plaintiff filed a First Amended Complaint. Accordingly, **the demurrer and motion to strike are MOOT**.