TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, January 23, 2026 3:00 pm
Courtroom 19 –Hon. Oscar A. Pardo
3055 Cleveland Avenue, Santa Rosa

The 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, **YOU MUST NOTIFY** the Judge's Judicial Assistant by telephone at **(707) 521-6602**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via Zoom**, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

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

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Department 19 Hearings
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PLEASE NOTE: The Court's Official Court Reporters are "not available" within the meaning of California Rules of Court, Rule 2.956, for court reporting of civil cases.

1. 24CV01074, Zerah v. Guerneville School District

Plaintiff Jerry Zerah ("Zerah") and John Ross Mendenhall ("Mendenhall", together with Zerah, "Plaintiffs") filed the currently operative "Second Amended Complaint"[1] (the "Complaint") in this action against defendants the County of Sonoma ("County"), Sonoma County Water Agency ("Water Agency", together with County, "County Defendants"), Guerneville Unified School District ("School District", together with County Defendants, "Defendants"), and Does 1-10,000, for multiple alleged causes of action arising out of damage following flooding of Plaintiffs' properties.

This matter is on calendar for the Plaintiffs' October 20, 2025, motion to continue the Case Management Conference date on October 16, 2025, to a date in the future. On October 16, 2025, the Court issued an Order to Show Cause why sanctions should not be imposed for Plaintiffs' failure to appear. The Court held the Order to Show Cause hearing on December 4, 2025 (where Plaintiffs again failed to appear) and set the next case management conference for March 12,

[1] The Court notes that while Plaintiffs have entitled the operative complaint their Second Amended Complaint, this is the first actual amendment since the filing of the original complaint.

2026. The Order to Show Cause having passed, and the next Case Management date already being set into the future, the motion to continue appears MOOT.

The Court also notes that on December 3, 2025, Plaintiffs filed what appears to be a request to dismiss the case on pleading paper. Requests for Dismissal are required to be on the mandatory form CIV-110, and as such the dismissal is not submitted to the Court in a manner where the Clerks may appropriately process them. The Court notes that the case remains active as a result.

2. <u>24CV05494, Burgo v. L.</u>

Plaintiff Catalina Burgo (hereinafter "Plaintiff", a minor, by and through her guardian ad litem Christopher Burgo) Christopher Burgo individually, and Christina Burgo individually (all together "Plaintiffs") filed the complaint in this action against Santa Rosa City Schools ("SRCS", or "Defendant"), and Does 1-30 with a single remaining cause of action for government employee liability (negligence) pursuant to Cal. Gov't Code ("GC") §§ 815.2, 815.4, 820 et seq. (the "Complaint"). The Complaint arises out of multiple incidents of alleged bullying and assault perpetrated against Plaintiff while on school campus. This matter is on calendar for a motion by Plaintiffs to compel Defendants for further responses to requests for production of documents ("RPODs"), set four, under CCP § 2031.310. The Motion is **GRANTED with conditions**.

I. <u>Governing Law</u>

A. Discovery Generally

The scope of discovery is one of reason, logic and common sense. *Lipton v. Superior Court* (1996) 48 Cal.App.4th 1599, 1612. The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540. "California law provides parties with expansive discovery rights." *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co*. (2004) 116 Cal.App.4th 694, 712, fn. 8. ("For discovery purposes, information is relevant if it 'might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement…") See *Lopez, supra,* 246 Cal.App.4th at 590-591, citing *Garamendi, supra,* 116 Cal.App.4th at 712, fn. 8. "Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence." *Id*. "These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases." *Id.*

"California law provides parties with expansive discovery rights." *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to

lead to the discovery of admissible evidence." CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co*. (2004) 116 Cal.App.4th 694, 712, fn. 8. "For discovery purposes, information is relevant if it 'might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement…" See *Lopez, supra,* 246 Cal.App.4th at 590-591, citing *Garamendi, supra,* 116 Cal.App.4th at 712, fn. 8. "Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence." *Id*. "These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases." *Id.* The scope of discovery is one of reason, logic and common sense. *Lipton v. Superior Court* (1996) 48 Cal.App.4th 1599, 1612. The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540.

B. Requests for Production of Documents

Regarding RPODs, a demand for production may request access to "documents, tangible things, land or other property, and electronically stored information in the possession, custody, or control" of another party. 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. CCP § 2031.210(a). If only part of an item or category demanded is objectionable, the response must contain an agreement to comply with the remainder, or a representation of the inability to comply. CCP § 2031.240(c)(1). If a responding party is not able to comply with a particular request, that party "shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." CCP § 2031.230. "This 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 "[t]he statement shall 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." *Id.* Where no response was served to a RPOD, there is no time requirement in moving to compel, nor any requirement to show good cause for the production requested. *See* CCP § 2031.300; *see also* Cal. Prac. Guide Civ. Pro. Before Trial Ch. 8H-8, Enforcing Demand: §§ 8:1484, 8:1487; contra CCP § 2031.310 (b-c) (a motion to compel further shall set forth good cause for the demand and shall be filed within 45 days of service of the unsatisfactory response). Code of Civil Procedure section 2031.300 provides that if a party fails to serve timely responses to requests for production of documents, the responding party waives all objections, including those based on privilege and work product and "[t]he party making the demand may move for an order compelling [a] response to the demand." CCP §2031.300(a)-(b).

C. Privacy Rights and Educational Institutions

California's constitution establishes privacy rights for her citizens, but those rights are not boundless or inviolate. The privacy privilege is not absolute, but qualified. *Palay v. Sup. Ct. (County of Los Angeles)* (1993) 18 Cal.App.4th 919, 933. The balancing test in applying the privacy privilege is aptly described in *Valley Bank of Nevada v. Superior Court* (1975) 15 Cal.3d 652, 658, and requires the analysis of four factors: 1) the purpose of the information sought; 2) the effect the disclosure will have on the affected persons and parties; 3) the nature of the objections urged by the party resisting disclosure; and 4) whether less obtrusive means exist for

obtaining the requested information. The constitutional right of privacy does not provide absolute protection against disclosure of personal information; rather it must be balanced against the countervailing public interests in disclosure. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 552. While some instances of disclosure may require a compelling state interest be shown, other less private information does not require the same showing. *Id.* at 556. The seriousness of the prospective invasion of privacy must be established by the party asserting the privacy interest. *Ibid.*

Education Code section 49076 is part of a statutory response to Congress's adoption of the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. The Education Code provides that student records are ordinarily not available to the general public. "A school district is not authorized to permit access to pupil records to any person without written parental consent or under judicial order" except in certain situations not relevant here. Education Code § 49076. Congress enacted FERPA to assure parents of students access to their educational records and to protect such individuals' rights to privacy by limiting the transferability of their records without their consent. Under its terms, educational institutions, must obtain written parental consent prior to releasing students' records or information derived therefrom; or "in compliance with judicial order… upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency…." 20 USC § 1232g(b)(2)(B). This section places the burden on the educational agency or institution, and not on the party seeking the documents, to make reasonable effort to notify students or parents of the subpoena in advance of compliance therewith. *Mattie T. v. Johnston* (N.D.Miss.1976) 74 F.R.D. 498.

Federal Courts have interpreted 20 U.S.C. 1232g to include an implied right for the parents to be heard before court ordered disclosure of their children's student records. *Rios v. Read* (E.D. NY 1977) 73 F.R.D. 589, 601. Any order for production of information should be consistent with 20 U.S.C. 1232g(2)(B)(2) and consistent with orders issued by Federal District Courts regarding disclosure of student information. See *Cherry v. Clark County School District* (D. Nev., Sept.21, 2012, No.2:11-CV-01783-JCM) 2012 WL 4361101. Since the purpose of the adoption of the California statutory scheme was to eliminate potential conflicts between FERPA and state law (see *BRV, Inc. v. Superior Court* (2006) 143 Cal.App.4th 742, 752), the same right to be heard should be implied under the California statutory scheme (Ed. Code § 49076 and 49077).

II. Motion to Compel

Plaintiff moves to compel further responses to objection-only RPOD responses. Defendant does not dispute the merits of the requests beyond a simple assertion of privacy. The Court is well aware of the substantial statutory constraints on Defendant in producing student information. While the Defendant necessarily objects to protect statutorily defined student records, for RPODs ¶ 8 and 9, there is clearly no disclosure of private information of which Plaintiff is not already aware. These RPODs request documents in Defendant's possession showing communications between Plaintiff and the parents of A.L.L. and N.V.M.[1]

[1] Given that this case revolves around the interactions of minors, initials are used in place of names in the Court's ruling.

The structure of the RPODs are clearly targeted to Defendant's possession of the records at issue as a method of developing evidence of notice. Plaintiff says as much in their separate statement. Compelling production of these documents is clearly supported, and no countervailing privacy right outweighs the relevancy.

The other categories of RPODs (10, 11, 12, 13, and 14) go to documents which are both discoverable material and go to the heart of defendant's conduct as related to their alleged obligations and failures thereon. While the Court is cognizable of the privacy rights of A.L.L. and N.V.M., these documents go directly to the heart of the Plaintiff's causes of action against Defendant. What Defendant knew, and what actions were contemplated and taken are central to the pattern of conduct that Plaintiff seeks to establish. Moreover, the nature of the documents requested are at least in part conduct stipulations which the Court reasonably presumes that Plaintiff at least has notice of the content of, if not the documents themselves.

The parents of A.L.L. and N.V.M. must be given an opportunity to object to the disclosure. 20 U.S.C. 1232g(2)(B)(2). Statutorily, that burden falls on Defendant as the party with adequate information to provide that notice.

Accordingly, the court will conditionally grant the motion on the following conditions: (1) Defendant shall notify the parents or guardians of A.L.L. and N.V.M., and the students themselves within 10 days of notice of this order, including particular notice that A.L.L. and N.V.M.'s records related to no contact orders, and school district communications regarding action plans related to these students, are within the records sought, to allow them to object to the disclosure per 20 USC § 1232g(b)(2)(B); (2) Any disclosure will be for this litigation only, will be limited to the parties, their attorneys, or witnesses, and will be securely destroyed within 90 days after the closure of this case; and (3) The order will only take effect 21 days after Defendant has notified the affected parents and students (extended for method of service of the notice provided to the students), and has given them an opportunity to object to the disclosure. Should an objection be made, the parties should inform the Court via an ex parte to set hearing, and the Court will accordingly set the matter for hearing. Subject to the above, the motion is GRANTED.

III. Conclusion

The motion is **GRANTED with conditions**.

(1) Defendant shall notify the parents or guardians of A.L.L. and N.V.M., and the students themselves within 10 days of notice of this order, including particular notice that A.L.L. and N.V.M.'s records related to no contact orders, and school district communications regarding action plans related to these students, are within the records sought, to allow them to object to the disclosure per 20 USC § 1232g(b)(2)(B);

(2) Any disclosure will be for this litigation only, will be limited to the parties, their attorneys, or witnesses, and will be securely destroyed within 90 days after the closure of this case; and

(3) The order will only take effect 21 days after Defendant has notified the affected parents and students (extended for method of service of the notice provided to the students) and has given

them an opportunity to object to the disclosure. Should an objection be made, the parties should inform the Court via an ex parte to set hearing, and the Court will accordingly set the matter for hearing.

Plaintiffs' counsel shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312.

3-5. 25CV02465, Msalam v. Auto Car, Inc.

Plaintiff Msalam ("Plaintiff") filed the complaint (the "Complaint") in this action against defendants American Honda Motor Co., Inc., ("Manufacturer"), Auto Car., Inc. ("Dealer", together with Manufacturer, "Defendants") and Does 1-10. The Complaint contains causes of action for: 1) breach of express warranty under the Song-Beverly Consumer Warranty Act, Civ. Code § 1790 et seq. (the "Act"); and 2) breach of implied warranty under the Act.

This matter is on calendar for the motion by Plaintiff to compel responses from Manufacturer to produce responsive documents ("RPODs") under Code of Civil Procedure ("CCP") § 2031.320, to compel responses to form interrogatories ("FIs") under CCP § 2030.290, and for the motion by Plaintiff to compel responses from Dealer to compel responses to form interrogatories ("FIs") under CCP § 2030.290. The motions are MOOT. The requests for sanctions thereon are GRANTED.

I. Governing Law

A. Discovery Generally

The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540. "California law provides parties with expansive discovery rights." *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co*. (2004) 116 Cal.App.4th 694, 712, fn. 8. ("For discovery purposes, information is relevant if it 'might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement…") See *Lopez, supra,* 246 Cal.App.4th at 590-591, citing *Garamendi, supra,* 116 Cal.App.4th at 712, fn. 8. "Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence." *Id*. "These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases." *Id.* Good cause can be met through showing specific facts of the case and the relevance of the requested information. *Associated Brewers Distributing Co. v. Superior Court of Los Angeles County* (1967) 65 Cal.2d 583, 586–587. "(T)he good cause which must be shown should be such that will satisfy an impartial tribunal that the request may be granted without abuse of the inherent rights of the adversary. There is no requirement, or necessity, for a further showing." *Greyhound Corp. v. Superior Court In and For Merced County* (1961) 56 Cal.2d 355, 388. As the right to discovery

is liberally construed, so too is good cause. *Id* at 377-378. Generally, failure to assert a discovery objection in a response waives that objection later. *Stadish v. Superior Court* (1999) 71 Cal.App.4th 1130, 1140.

Motions to compel further must generally be filed within 45 days of verified responses, but where responses are a combination of objections and unverified substantive responses, that time period does not begin to run until verifications are served. *Golf & Tennis Pro Shop, Inc. v. Superior Court* (2022) 84 Cal.App.5th 127, 134.

B. Interrogatories

Regarding interrogatories, a party responding to an interrogatory must provide a response that is "as complete and straightforward as the information reasonably available to the responding party permits" and "[i]f an interrogatory cannot be answered completely, it shall be answered to the extent possible." Code Civ. Proc. ("CCP") §2030.220(a)-(b). "If the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party." CCP §2030.220(c). If a party fails to serve a timely response to interrogatories, the court shall impose sanctions unless it finds that the party subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. CCP §2030.290(c). Code of Civil Procedure section 2030.290 provides that if a party to whom interrogatories were directed fails to serve timely responses, the responding party waives all objections, including those based on privilege and work product protection, and the propounding party may move for an order compelling responses. CCP §2030.290(a)-(b); see also, *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404. All that the moving party needs to show in its motion is that a set of interrogatories was properly served, that the time to respond has expired, and that no response has been provided. See, *Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 905-906.

C. Requests for Production of Documents

Regarding the RPODs, a demand for production may request access to "documents, tangible things, land or other property, and electronically stored information in the possession, custody, or control" of another party. 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. CCP § 2031.210(a). If only part of an item or category demanded is objectionable, the response must contain an agreement to comply with the remainder, or a representation of the inability to comply. CCP § 2031.240(c)(1). If a responding party is not able to comply with a particular request, that party "shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." CCP § 2031.230. "This 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 "[t]he statement shall 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." *Id.* CCP §

2031.240(c)(1) provides that when asserting claims of privilege or attorney work product protection, the objecting party must provide "sufficient factual information" to enable other parties to evaluate the merits of the claim, "including, if necessary, a privilege log."

In addition to responding to the requests for documents, a party responding to the demand shall produce the documents "on the date specified in the demand". CCP § 2031.280 (b). "If a party filing a response to a demand for inspection, copying, testing, or sampling under Sections 2031.210, 2031.220, 2031.230, 2031.240, and 2031.280 thereafter fails to permit the inspection, copying, testing, or sampling in accordance with that party's statement of compliance, the demanding party may move for an order compelling compliance." CCP § 2031.320 (a).

D. Sanctions

CCP § 2030.290(c) (relating to interrogatories), and CCP § 2031.320(b) (relating to failure to produce documents) provide that a monetary sanction "shall" be imposed against the party losing a motion to compel further responses unless the court finds "substantial justification" for that party's position or other circumstances making sanctions "unjust." There is no requirement that the failure to comply with discovery be willful for the court to impose monetary sanctions. *Ellis v. Toshiba America Information Systems, Inc.* (2013) 218 Cal.App.4th 853, 878. For the court to order sanctions against an attorney, the Court must find that the attorney advised their client to engage in discovery misconduct. *Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 81. Additionally, the motion must advise the attorney that joint and several liability against the attorney is sought for the sanctions. *Blumenthal v. Superior Court* (1980) 103 Cal.App.3d 317, 319

II. Analysis

Plaintiff served RPODs Set One to Manufacturer on May 28, 2025, and Manufacturer provided responses on July 2, 2025. Klitzke Declaration to RPODs from Manufacturer, ¶ 2-3, Ex. 1-2. However, no production of documents accompanied the responses. *Id.* at 4. Plaintiff served their FIs set two to Defendants on September 2, 2025. Klitzke Declaration to Interrogatory motions, ¶ 2, Ex. 1. At the time the motion was filed, on October 20, 2025, no interrogatory responses had been provided to Plaintiff. *Id.* at ¶ 3. Plaintiffs filed the instant motions on October 20, 2025. On January 9, 2026, Defendants produced responses to the FIs and documents. Only Manufacturer has verified their responses to the FIs at this time.

Due to Defendant's service of responses after the filing of the motion, the substance of the motions to compel responses, and the motion to compel production of documents, is MOOT.

While the Court has *jurisdiction* over the sufficiency of the subsequent responses (*Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404), motions to compel further under CCP § 2030.300 are typically accompanied by meet and confer requirements and a separate statement intended to narrow the issues required to be adjudicated by the Court. The time to compel further based on the service of responses remains open based on the January 9, 2026, production date (to say nothing of date of verifications). *Golf & Tennis Pro Shop, Inc. v. Superior Court* (2022) 84 Cal.App.5th 127, 134. Given that Plaintiff's

request for sanctions is (and indeed, must be) granted below, there appears little prejudice in requiring the parties to return to court under the ambit of the appropriate motion.

Plaintiff asks that the Court make some ruling that Defendants' objections have been waived by their untimely response. The Court will merely note that said wavier is by operation of law due to the untimely responses. The Court will further note there is no court order relieving Defendants of that waiver. CCP § 2030.290(a). The Court maintains jurisdiction to determine the propriety of sanctions for Defendants' non-response. *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404.

Turning to sanctions, all three motions are the result of Defendants' failure to produce timely responses, (either in the form of interrogatories, or actual documents for inspection), which necessitated Plaintiff's motions. Monetary discovery sanctions are intended to be compensatory for discovery abuse. Defendants contend that the late production of documents make the imposition of sanctions unjust. They provide no authority to show that the production of documents, without coherent explanation for the delay, is a basis for finding sanctions unjust. Indeed, caselaw is quite clear that late production does not divest the Court of jurisdiction to award sanctions for failure to timely produce. *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404. Defendants are not persuasive that the incredibly tardy provision of responses, exceeding 90 days late as to interrogatories and more as to document production, and a mere 14 days before this hearing, somehow renders sanctions unjust for such discovery abuse. As such sanctions are mandatory.

There is no indication in the record which supports the contention that the discovery abuse stems from the advice of counsel. Accordingly, the Court cannot find counsel liable for the sanctions imposed.

Plaintiff seeks $1,020 for the motion compelling production of documents from Manufacturer, and $780 per motion for the interrogatory motions against Dealer and Manufacturer. Counsel requests a rate of $480 per hour, with only 1.5 hours per interrogatory motion and 2 hours for the motion compelling RPODs. Each motion also has a filing fee of $60. The three motions are GRANTED as to sanctions. Plaintiff's requests for sanctions against Manufacturer in the amount of $1,800 is GRANTED. Manufacturer is to pay this amount within 30 days. Plaintiff's requests for sanctions against Dealer in the amount of $780 is GRANTED. Manufacturer is to pay this amount within 30 days.

III. Conclusion

The Motions to compel are MOOT. The requests for sanctions thereon are GRANTED. Plaintiff's requests for sanctions against Manufacturer in the amount of $1,800 is GRANTED. Manufacturer is to pay this amount within 30 days. Plaintiff's requests for sanctions against Dealer in the amount of $780 is GRANTED. Manufacturer is to pay this amount within 30 days.

Plaintiff 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).

6. 25CV04197, Costarella Seafood, Inc. v. General Motors LLC

Plaintiff Costarella Seafood, Inc. ("Plaintiff") filed the complaint (the "Complaint") in this action against defendants General Motors LLC ("Defendant" or "Manufacturer"), and Does 1-10. The Complaint contains four causes of action for violations of the consumer product warranty provisions of the Song-Beverly Consumer Warranty Act, Civ. Code § 1790 et seq. (the "Act"). This matter is on calendar for the motion by Defendant for a protective order under Cal. Code Civ. Proc. ("CCP") 2031.060. The Motion is DENIED without prejudice to a subsequent motion as constrained below.

I. Governing Law

Regarding RPODs, 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. CCP § 2031.210(a). Once RPODs have "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." CCP, § 2031.060 (a). The court, "for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. 2031.060(b). The protective order may include, among other things, that the party need not respond to the discovery requests, that the responses be sealed only to be opened on order of the court, or that the responses may be subject to "terms and conditions that are just." 2031.060(b).

A party seeking a protective order must show good cause for issuance of the order by a preponderance of evidence. *Stadish v. Sup. Ct.* (1999) 71 Cal.App.4th 1130, 1145 (protective order directed at a document demand). "Generally, a deponent seeking a protective order will be required to show that the burden, expense, or intrusiveness involved in … [the discovery procedure] clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence." *Emerson Elec. Co. v. Sup. Ct.* (1997) 16 Cal.4th 1101, 1110 (protective order in connection with deposition).

CCP § 871.26 became effective on January 1, 2025. It delineates the pre-complaint responsibilities of the parties in an action for restitution or replacement of a motor vehicle in any case filed after the effective date. Among the responsibilities of the parties are document disclosures to occur before mandatory mediation. CCP § 871.26 (d-i). Defendants are required to produce seventeen categories of documents, along with a person most qualified to be deposed. CCP § 871.26 (h-i). Outside of these required categories of information required to be exchanged pre-mediation, discovery is otherwise stayed. CCP § 871.26 (e).

"If he or his agent or employee claims the privilege, the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice." Evid. Code, § 1060. (d) "'Trade secret' means information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and (2) Is the subject of efforts that are reasonable under the

circumstances to maintain its secrecy." Civ. Code, § 3426.1. Where the record establishes a prima facie that the requested information is a material element of a cause of action and the moving party would be unfairly disadvantaged in its proof absent the trade secret, "a court is required to order disclosure of a trade secret unless, after balancing the interests of both sides, it concludes that under the particular circumstances of the case, no fraud or injustice would result from denying disclosure. What is more, in the balancing process the court must necessarily consider the protection afforded the holder of the privilege by a protective order as well as any less intrusive alternatives to disclosure proposed by the parties." *Bridgestone/Firestone, Inc. v. Superior Court* (1992) 7 Cal.App.4th 1384, 1392-1393. "Either party may propose or oppose less intrusive alternatives to disclosure of the trade secret, **but the burden is upon the trade secret claimant to demonstrate that an alternative to disclosure will not be unduly burdensome to the opposing side** and that it will maintain the same fair balance in the litigation that would have been achieved by disclosure." *Id*. at 1393. The trade secret procedure outlined in Evid. Code § 1061 (b)(1) is equally applicable to civil actions. *Stadish v. Superior Court* (1999) 71 Cal.App.4th 1130, 1145.

II. Analysis

There are two distinct questions at issue. The first is whether the Court has the *power* to issue a protective order related to pre-lawsuit discovery particularly required by the Act. The second is whether the Court *should* issue a protective order based on Defendant's showing. While neither party contests the first issue, exploring the bounds of that question is illuminative as to the result of the second.

To the first question, the Court concurs with Defendant that the Legislature offers no overt indication that it intended to translate the documents at issue which may otherwise be protected by trade secrets to public knowledge. See CCP § 871.26. Nonetheless, the Court must grapple with the language the Legislature provides, and the pragmatic effect of those statutes. The pre-lawsuit disclosure of these documents means that in many instances, the disclosure occurs outside the bounds of judicial jurisdiction, and is only brought into the purview of the court with the filing of the complaint. This nonetheless appears within the ambit of the protective order statute, as the Court has the power to direct that "a trade secret or other confidential research, development, or commercial information not be disclosed, or be disclosed only to specified persons or only in a specified way." CCP, § 2031.060 (b)(5). This would appear to empower to the Court to reach backward to those documents produced in pre-lawsuit communications, so long as they constitute trade secrets or confidential research.

Back to the issue of whether the Court should issue a protective order here, there are two hurdles which appear to foreclose granting the instant order. Plaintiff initially opines that Defendant has failed to meet and confer on the protective order as required by CCP § 2031.060. Attached to the motion, Defendant provides evidence that the firms representing the parties in this case have *hundreds* of cases in common. In April of this year, before the instant case was ever filed with the Court, Defendant's counsel contacted Plaintiff's counsel to request entry of the model protective order in each of the cases at issue at the time. There are a variety of reasons why this does not appear to be sufficient to meet the standard required for meet and confer efforts under CCP § 2016.040. Meet and confer efforts are required to be "good faith", and failure to do so is

grounds for denial of the motion. *Obregon v. Superior Court* (1998) 67 Cal.App.4th 424, 433. The requirements under the Discovery Act are that efforts to resolve discovery disputes be "more than the mere attempt by the discovery proponent to persuade the objector of the error of his ways". *Clement v. Alegre* (2009) 177 Cal.App.4th 1277, 1294 (internal quotation omitted). Defendant's election to file the motion without evidence of meeting and conferring on this case does not achieve the goal to "lessen the burden on the court and reduce the unnecessary expenditure of resources by litigants through promotion of informal, extrajudicial resolution of discovery disputes." *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431, 1435. While it's not clear that Plaintiff refused to meet and confer as related to *this* case, it is apparent that counsel's position.

Here, the issue is presented in a manner which raises questions of the validity of meet and confer efforts which predate the very filing of the case. The Court notes that the meet and confer efforts occurred in March to April, and the instant case was filed on June 18, 2025. The election of both counsel to operate their practices in such volume that case by case meet and confer efforts are not practicable is not an issue required to be considered by the Court. The statute contemplates a meet and confer regarding the discovery disputes, and the Court cannot find that a good faith effort was undertaken in this case when the only displayed meet and confer efforts (by *either* party) occurred before the case was ever placed at issue. Indeed, Defendant's showing is so bare in part because there is no indication that the instant case was even included in the omnibus "meet and confer" email in March 2025. While Defendant implies that the meet and confer efforts related to this case, their exhibit notably does not name Plaintiff, but rather "CASTANEDA, BERNICE G V. GM LLC". There has been no showing that any meet and confer efforts were undertaken by either party related to this *particular* discovery dispute. While both parties are required to undertake such meet and confer efforts in good faith, it is Defendant as movant who must show such meet and confer as a necessary part of the instant motion.

Second, it is not persuasive that the content of the information is sufficiently shown to be trade secrets under California law. Plaintiff persuasively argues that Defendant's averment of trade secrets is asserted in a generalized manner. While Defendant argues that "warranty data have a variety of direct competitive uses" the only cited authority thereon is a 2004 entry to the Federal Registrar addressing petitions to modify the version of 49 CFR § 512 in effect at the time. See 69 FR 21409-01 (cited as 69 Fed. Reg. 21418, 21422). Notably, Defendant's argument thereon contains no reference to the current version of 49 Code of Federal Regulations § 512.3, which contains the current definition of confidential information. Defendant offers no persuasive authority on why this is relevant, what precedential effect the National Highway and Safety reporting standards may have on the construal of trade secrets under California law, or why agency opinions on superseded versions of such a regulation are relevant.

As Defendant opines in support, Plaintiff's counsel has *hundreds* of filed cases pending against Defendant. This is to say nothing of cases which meet the pre-lawsuit requirements for mediation, in which Defendants have already produced the subject documents. While Defendant opines that the information is "not known outside GM" or its affiliated dealers, that is clearly not entirely true. As the declaration later concedes, this is a document regularly produced in discovery in lawsuits much like this one. See Lukas Declaration, ¶ 19. The balance required to be struck is whether the information is of such procedures meet the standard for trade secrets. The

Court again comes to the conclusion that Defendant has not particularized this request to the case at bar. First, and most substantively, Ms. Lukas's declaration is signed under penalty of perjury on June 17, 2025. This is concerning to the Court, because the instant case was not filed until June 18, 2025, and therefore Ms. Lukas *could not have signed the instant declaration with the case number*. This appears to be a material defect in Defendant's evidence. Second, while Defendant is persuasive that a procedures manual supported by competent evidence may be capable of protection (by sealing), that turns around stringent standards related to the necessity of sealing the documents. *McGuan v. Endovascular Technologies, Inc.* (2010) 182 Cal.App.4th 974, 981. The starting presumption is that court documents are public records. *Id*; Cal Rule of Court, Rule 2.550(c). This is strongly contrasted to the *relief* requested, which asks that the Court wholesale issue the Los Angeles Superior Court Model Protective Order. This Court has approved at various times the use of that order when stipulated to, but here there has been no fact specific showing which would justify issuance of a protective order that allows Defendant to unilaterally designate the confidentiality of documents. See Gale Declaration, Ex. 4, ¶ 3. As Plaintiff notes, marketing procedures which are presented to the public in a "piecemeal" manner are not subject to trade secrets protections. *In re Providian Credit Card Cases* (2002) 96 Cal.App.4th 292, 305. There is no evidence or description of what portions of even the specific documents at issue might be subject to public exposure in a piecemeal manner, given that it delineates a process for handling warranty complaints. The Model Order here simply oversteps the articulable economic interest even if the Lukas Declaration were presented in a manner capable of consideration.

Therefore, the motion is DENIED. Given that *neither* party met and conferred in good faith on the protective order requested here, denying the motion without prejudice appears appropriate as to trade secrets and confidential information as to which Defendant is able to make a specific showing.

III. Conclusion

Based on the foregoing, Defendant's motion for protective order is DENIED without prejudice.

Plaintiff's counsel 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. 25CV06504, VISTAJET US, Inc. v. Malvesta

This matter is on calendar for the application by Grace E, Schmidt to appear pro hac vice on behalf of Defendant Stephen Malvesta, in coordination with California-based counsel. Defendant brings this motion pursuant to California Rule of Court("CRC"), Rule 9.40. There is no opposition. However, the State Bar has not been served with notice of the hearing date, as is required by CRC Rule 9.40 (c)(1). That provision particularly requires notice of the hearing be given in accordance with CCP § 1005. As such, the application is **DENIED**.

Plaintiff 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).

8. 25CV07656, The Huntington National Bank v. Musgrove

Plaintiff The Huntington National Bank,("Huntington"), filed an unlawful detainer complaint against defendant Sean C. Musgrove ("Musgrove") and Does I through X, inclusive. The complaint also seeks money damages. Musgrove has filed a Demurrer and Motion to Strike the complaint. The Court's initial impressions are that the Musgrove's filings are: (1) in violation of California Rule of Court, Rule 3.1113(d), as to the page limits of the document filed, and (2) ambiguous and confusing as the arguments made and relief sought. For those reasons, the Court is making this matter "**Appearances Required**.

9. SCV-245738, Liebling v. Goodrich

This matter is the subject of an enormous record, containing innumerable plaintiffs and defendants. As is relevant here, plaintiffs prevailed in the action and obtained the August 4, 2021, second amended judgment (the "Judgment") against defendant Robert E. Zuckerman ("Zuckerman"). Among the plaintiffs/judgment creditors is Richard Abel ("Abel").

This matter is on calendar for a motion by Abel for an amendment of the Court's January 24, 2018, Assignment Order (the "Assignment Order") under CCP § 708.560.

On review of the file, the Court notes that while Abel has served Zuckerman with the motion, Abel has served no other party to the case. The Assignment Order does not exclusively affect Abel and Zuckerman. The Judgment makes awards to thirty-one (31) Plaintiffs. See Abel's Request for Judicial Notice, Exhibit 2. Abel avers that he has received assignments from thirteen other Plaintiffs. See Abel Declaration in Support, ¶ 8-9. While the Assignment Order is particular with the rights granted to Abel, and not other Plaintiffs, that does not obviate the need to provide notice to other parties within the case who are interested in the Judgment. Without any necessary determination on the efficacy of the assignments to Abel, it is apparent that there are seventeen Plaintiffs who are named within the Judgment, and whom Abel does not name as assignors, who received no notice of this hearing. Those parties are entitled to notice before the Court makes any determination of the propriety of amending the assignment order.

Zuckerman has filed a late opposition to this motion, and Abel has filed a timely reply. Zuckerman is entitled to no further briefing on the motion. Abel may supplement his reply only if another party files papers in response to this motion. The Court will rule on the lateness of the opposition at such time that it can get to the merits of the motion itself.

Therefore, the motion is CONTINUED to April 29, 2026 at 3:00 pm in Department 19.

****This is the end of the Tentative Rulings.*****