

TENTATIVE RULINGS

LAW & MOTION CALENDAR

Wednesday, October 21, 2026, 3:00 p.m.

Courtroom 44 – Hon. David Kim for Hon. Patrick M. Broderick

3035 Cleveland Avenue, Suite 200, Santa Rosa

TO JOIN “ZOOM” ONLINE,

Courtroom 44

Meeting ID: 161-551-6003

Passcode: 944679

<https://sonomacourt-org.zoomgov.com/j/1615516003>

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) 521-6729**, 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. 23CV01351, Pierce v. WNJT Homes LLC.

This matter is on calendar for the application of Andrew W. Dunlap to be admitted as counsel pro hac vice for plaintiff Sue Pierce. As of the date the court reviewed this matter proof of service of the application and notice of hearing of the application had not been filed showing service on the State Bar at its San Francisco office in accordance with Cal. Rules of Court, Rule 9.40(c). Accordingly, **the motion is DENIED for lack of proper proof of service**

2. 25CV02511, De Sousa v. Suarez

Pursuant to Code of Civil Procedure section 387(d)(1)(B) or (2), Alliance United Insurance Company (“Alliance”) moves for leave for permissive intervention in this action as defendant and to file the accompanying proposed answer in intervention.

Code Civ. Proc., § 387(c)(1)(B) provides: “The court shall, upon timely application, permit a nonparty to intervene in the action or proceeding if either of the following conditions is satisfied:” ... “The person seeking intervention claims an interest relating to the property or transaction that is the subject of the action and that person is so situated that the disposition of the action may impair or impede that person's ability to protect that interest, unless that person's interest is adequately represented by one or more of the existing parties.”

Code Civ. Proc., § 387(d)(2) provides: “The court may, upon timely application, permit a nonparty to intervene in the action or proceeding if the person has an interest in the matter in litigation, or in the success of either of the parties, or an interest against both.”

Plaintiff Francisco Renan Moura De Sousa’s (“Plaintiff’s”) complaint alleges motor vehicle and general negligence. He alleges Defendant Eliut Cervantes Suarez (“Defendant”) negligently owned, maintained, operated, entrusted, and/or drove a motor vehicle so as to cause injuries and damages to Plaintiff.

Alliance claims an interest relating to the property that is the subject matter of the action. Alliance states it insured the Defendant on the date of the loss alleged in the complaint. The insurance policy covering the Defendant is attached as Exhibit 2. Due to being unable to locate the Defendant, he was served by publication. Alliance states it has lost contact with the Defendant and has exhausted all avenues to locate him.

Alliance has an interest in this action as Defendant was covered under its policy at the time of the incident alleged in the complaint. As Defendant has been unresponsive to its requests, Alliance is not adequately represented and, if Defendant continues to remain unresponsive, the disposition of this action will end up in a judgment against Defendant and impede Alliance’s ability to protect its interest. In addition, as Defendant’s insurer, Alliance will gain or lose by the direct legal operation and effect of the judgment. (See *Reliance Ins. Co. v. Superior Court* (2000) 84 Cal.App.4th 383, 386.)

In opposition, despite also having personal knowledge of Defendant’s absence such that Plaintiff had to serve Defendant by publication, Plaintiff argues Alliance has not provided evidence of its attempts to locate the Defendant. It also seeks to impede Alliance from intervening by arguing that Alliance must demonstrate how its policy covers Defendant. Plaintiff has not provided authority that Alliance must clear these hurdles prior to being allowed to intervene. In fact, the authority presented by Alliance is to the contrary. Mandatory intervention should be liberally construed in favor of intervention. (*Crestwood Behavioral Health, Inc. v. Lacy* (2021) 70 Cal.App.5th 560, 572.)

Plaintiff also argues that intervention does not cure Defendant’s absence and Plaintiff’s inability to obtain discovery from him. This is not the standard set forth in CCP section 387.

Plaintiff also argues that if Alliance is allowed to intervene, this court should strictly limit Alliance’s participation and impose conditions to protect Plaintiff from any prejudice. No authority is provided to support this request. Nor has Plaintiff shown any actual prejudice.

The motion is GRANTED. Alliance may file its proposed answer within 10 days of this order. The court will sign the proposed order.

3. 25CV04801, Korab v. Pepe

Defendant Crystal Williams Pepe (“Defendant”) moves for an order setting aside the entry of default and default judgment entered against her.

This action was filed on July 25, 2025. Defendant’s default was entered on December 22, 2025. Default judgment was entered on January 27, 2026. Defendant filed this motion on May 21, 2026.

Defendant states that around July 19, 2025, she contacted the Camden Law Firm (“Camden”) to pursue a claim for property damage and personal injury against Plaintiff Gregory Richard Korab (“Plaintiff”), the driver of the other vehicle involved in the automobile accident that is the subject of this action. (Pepe decl., ¶3.) Camden had Defendant sign paperwork authorizing the representation of her and her minor child. (*Ibid.*) By July of 2025, Defendant had signed the paperwork and had a case manager. (Morcotte decl., Exhibit A.)

When she received the summons and complaint in this action, Defendant called Camden and advised them of the service. (*Id.* at ¶4; Morcotte decl., Exhibit C.) Defendant spoke with a young man at Camden to see where to send the summons and complaint. (Pepe decl., at ¶5.) When she did not receive a return call, she sent the summons and complaint to Cindy, one of the people at Camden who she had originally communicated with regarding Camden’s representation of her. (*Ibid.*) Cindy confirmed receipt of the documents. (*Id.*, at ¶6.) Defendant states she had trouble reaching the attorney representing her in her suit against Plaintiff and was unaware that Camden was only representing her in that capacity and not as against Plaintiff’s lawsuit in this case. (*Id.*, ¶¶7-8; Morcotte decl., Exhibit E.) On February 16, 2026, Defendant received an email from Monica Chaney at Camden advising that they would not represent her in defense of Plaintiff’s claims and, for the first time, advised her to contact her insurance company. (Pepe decl., at ¶¶9-14.)

Where the party in default moves promptly to seek relief, and no prejudice to the opposing party will result from setting aside the default and letting the case go to trial on the merits, “very slight evidence will be required to justify a court in setting aside the default.” (*Elston v. City of Turlock* (1985) 38 Cal. 3d 227, 233.)

Plaintiff does not claim prejudice if Defendant’s default and the default judgment are set aside. Defendant moved relatively promptly in filing this motion after the default judgment was served on her on February 18, 2026. In addition, she has presented at least very slight evidence in support of the motion. Accordingly, **the motion is GRANTED**. Plaintiff may file her responsive pleading within 10 days of this order.

Defendant 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. 25CV06525, Wahl v. General Motors, LLC.

Defendant General Motors LLC (“GM”) moves pursuant to Code of Civil Procedure section 437(c) for summary judgment of the causes of action alleged in the complaint filed by Plaintiff Jack Eric Wahl (“Plaintiff”) or, in the alternative, for summary adjudication of each cause of action.

I. Complaint

On September 18, 2025, Plaintiff filed his action against Defendant alleging violations of the Song-Beverly Consumer Warranty Act. The first cause of action is for breach of express warranty and the second is for breach of implied warranty. The complaint arose from Plaintiff’s purchase of a 2021 GMC Sierra 1500. Plaintiff alleges the vehicle suffered from defects, malfunctions, and nonconformities which impaired its use, value, and/or safety.

II. Express Warranty Claim

GM argues that Plaintiff cannot pursue a breach of express warranty claim because he purchased the vehicle used.

The Song-Beverly Consumer Warranty Act provides buyers of *new* motor vehicles with specific remedies when a vehicle turns out to be defective. (*Rodriguez v. FCA US LLC* (2024) 17 Cal.5th 189, 195.)

“If the manufacturer or its representative in this state is unable to service or repair a *new* motor vehicle, as that term is defined in paragraph (2) of subdivision (e) of Section 1793.22, to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either promptly replace the new motor vehicle in accordance with subparagraph (A) or promptly make restitution to the buyer in accordance with subparagraph (B). However, the buyer shall be free to elect restitution in lieu of replacement, and in no event shall the buyer be required by the manufacturer to accept a replacement vehicle.” (Civ. Code section 1793.2(d)(2) [*Italics added.*])

Section 1793.22, subdivision (e)(2) defines “new motor vehicle” to include a new vehicle “bought or used primarily for personal” purposes as well as “a dealer-owned vehicle and a ‘demonstrator’ or other motor vehicle sold with a manufacturer's new car warranty.”

A motor vehicle purchased with an unexpired manufacturer's new car warranty does not qualify as a “motor vehicle sold with a manufacturer's new car warranty” under section 1793.22, subdivision (e)(2)’s definition of “new motor vehicle” unless the new car warranty was issued with the sale. (*Rodriguez v. FCA US LLC, supra*, 17 Cal.5th at p. 196.)

The vehicle at issue is a model year 2021 GMC Sierra, VIN: 3GTP9EELXMG430592 (the “Sierra”). (GM’s Undisputed Material Fact [“UMF”] Number 1.) Plaintiff bought the Sierra used from Silveira GMC on September 28, 2022, with 17,490 miles. (UMF No. 2.) The Sierra was originally delivered by Lafontaine Buick GMC to its original owner(s) on August 20, 2021, with 32 miles on the odometer. (UMF No. 4.) In connection with the original delivery of the Sierra on August 20, 2021, GM issued a New Vehicle Limited Warranty (the “Warranty”) with (i) bumper-to-bumper coverage for the earlier of 36 months or 36,000 miles and (ii) powertrain coverage for the earlier of 60 months or 60,000 miles. (UMF No. 5.) GM did not issue or provide any new or additional warranty coverage to Plaintiff or the Sierra when Plaintiff bought it used; Plaintiff received only the balance of coverage remaining under the Warranty that GM had issued when the Sierra was originally delivered. (UMF No. 6.)

Section 1793.22, subdivision (e)(2) does not cover the sale of “previously owned vehicles with some balance remaining on the manufacturer's express warranty.” (*Rodriguez v. FCA US LLC, supra*, 17 Cal.5th at pp. 197.)

III. Implied Warranty

GM also argues that implied warranties under Song-Beverly do not apply to manufacturers with respect to the sale of used goods.

In analyzing Civil Code section 1795.5, the court in *Nunez v. FCA US LLC* (2021) 61 Cal.App.5th 385, 399 concluded: “It is evident from these provisions that only distributors or sellers of used goods—not manufacturers of new goods—have implied warranty obligations in the sale of used goods.” Simply put, “only distributors and retail sellers, not manufacturers, are liable for breach of implied warranties in the sale of a used car.” (*Nunez, supra*, at 399.)

IV. Opposition

In opposition, Plaintiff argues that the warranty originally issued with the Sierra expressly continued to cover subsequent owners during the applicable warranty period. Plaintiff requests leave to amend to plead GM's liability under the warranty covering the Sierra.

V. Conclusion

GM's motion for summary adjudication of Plaintiff's first cause of action for Violation of the Song-Beverly Consumer Warranty Act Breach of Express Warranty and Plaintiff's second cause of action for Violation of the Song-Beverly Consumer Warranty Act Breach of Implied Warranty is **GRANTED**.

Plaintiff has requested leave to amend to plead a cause of action for breach of GM's transferable warranty. He currently has a motion for leave to file a First Amended Complaint pending on October 21, 2026, to be heard by Judge DeMeo in Department 16. The court will rule on this issue pursuant to that motion.

GM 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.

5. 25CV08885, Vargas Flaherty v. Kerston

I. Discovery Motion

Plaintiffs Casilda Vargas Flaherty and Christopher Flaherty move for an order deeming each of the matters specified in their Requests for Admissions, Set One, served on Defendant Peter Guy Kerston ("Kerston"), deemed admitted; compelling Defendant to serve code-compliant responses, without objections, to Plaintiffs' first sets of Form and Special Interrogatories, Sets One; all served on Defendant on April 7, 2026; and for sanctions.

As of the date the court reviewed this matter, proof of service of the motion on Defendant had not been filed. Accordingly, the motion is **CONTINUED to Friday, November 20, 2026, at 3:00 p.m., in Department 16**, to allow Plaintiffs to serve Defendant and file proof of service for the November 20 hearing.

II. Motion to Sever

Plaintiffs Casilda Vargas Flaherty and Christopher Flaherty ("Plaintiffs") move pursuant to Code of Civil Procedure section 579 to sever this action as to defendants Caroline Bettina Kerston; CBK LLC; and Better Invested Property Management, Inc. ("Better Invested") (together, "Defaulted Defendants") from this action against defendant Peter Guy Kerston ("Kerston"); and authorizing the entry of a separate judgment against the Defaulted Defendants, jointly and severally, notwithstanding that the action remains pending against Kerston.

I. Complaint

The gist of Plaintiffs' complaint is that they relocated from Florida and rented property at 1412 Quail Court, Santa Rosa, California, 95404 ("the Property"). They allege that when they

arrived at the Property, they discovered numerous unsafe and unsanitary conditions, including defective exterior doors and locks, mold contamination, rodent infestation, cockroach feces, missing interior doors, inadequate lighting, broken glass, and belongings left by prior occupants. Plaintiffs seek a refund of amounts paid plus expenses incurred.

II. Defaults

The Defaulted Defendants' defaults were entered on April 24, 2026. With respect to defendant Better Invested, it has a pending motion for relief from default set to be heard on December 2, 2026.

III. Default Judgment

Civil Code section 579 provides: "In an action against several defendants, the Court may, in its discretion, render judgment against one or more of them, leaving the action to proceed against the others, whenever a several judgment is proper."

Plaintiffs argue they should not be required to wait for the resolution of the contested track against defendant Kerston before obtaining and enforcing a judgment against the Defaulted Defendants, whose liability they argue is already established. They state that the Property is currently listed for sale and has a lis pendens recorded against it. They argue that a delay in obtaining a judgment against the Defaulted Defendants prejudices Plaintiffs' ability to enforce a judgment against the Property.

The question of whether the court should render a judgment against a defaulting defendant when there are several defendants is one that is entrusted to the discretion of the court. (*Morehouse v. Wanzo* (1968) 266 Cal.App.2d 846, 852.)

Here, the complaint alleges that defaulted defendant CBK LLC owns the Property. (Complaint, ¶8.) Kerston and defaulted defendant Caroline Kerston are alleged to be managers and registered agents of CBK LLC. (*Id.*, 6:13, 7:1-3.) Caroline Kerston is also alleged to be CBK LLC's general partner. (*Id.*, 7: 1-3.) Kerston is alleged to be CBK LLC's alter ego. (*Id.*, §H.)

Defaulted defendant Better Invested is alleged to be the property management agent. (*Id.*, 8:7-9.) Plaintiffs allege Better Invested was responsible for showing the Property to prospective tenants, collecting applications, facilitating lease execution, managing maintenance and repairs, and ensuring the Property met minimum habitability standards prior to tenant occupancy. (*Id.*, 9:11-17.) Plaintiffs allege Better Invested promised various repairs but failed to ensure they were made. (*Id.*, 9:19-23; ¶¶22-23, 34.) Plaintiffs also allege Better Invested placed Plaintiffs in the Property without conducting an adequate inspection. (*Id.*, 9:25-27.)

Plaintiffs allege all defendants were the agents, employees, partners, joint venturers, alter egos, and/or co-conspirators of each of the remaining defendants. (*Id.*, ¶8.)

On January 12, 2025, Plaintiffs sent written notice to Kerston and Better Invested declaring the lease void and unenforceable. (*Id.*, ¶24.) A final demand letter for a full refund was sent on January 30, 2025. (*Id.*, ¶28.) Plaintiffs seek the return of their security deposit and the security deposit transaction fee; first month's rent and the first month's rent transaction fee; the application fee; hotel expenses; meal expenses; utility charges; renters' insurance; and additional pest control, moving expenses, and emergency relocation costs.

Plaintiffs allege twenty-two causes of action. The first, fourth, sixth, and tenth causes of action for breach of contract, violation of Civil Code section 1950.5 (wrongful retention of security deposit), violation of Civil Code section 1950.5 (security deposit limit), and violation of Civil Code section 1942.4 (demanding rent for substandard dwelling) are alleged against Kerston and defaulted defendant CBK LLC.

The second, third, fifth, seventh, ninth, twelfth, fourteenth, seventeenth, eighteenth, nineteenth, twenty-first, and twenty-second causes of action for breach of the implied warranty of habitability, negligence, violation of Civil Code section 1941.1 (uninhabitable dwelling), violation of Business and Professions Code section 17200, unjust enrichment, breach of covenant of quiet enjoyment, conversion, negligent infliction of emotional distress, retaliatory conduct, violation of civil code section 1940.2 (landlord harassment), violation of the Consumer Legal Remedies Act, and violation of the California Tenant Protection Act are alleged against all defendants.

The eighth, eleventh, thirteen, fifteenth, and sixteenth causes of action for fraud, constructive fraud, negligent misrepresentation, fraudulent concealment, and intentional infliction of emotional distress are alleged against Kerston and defaulted defendant Caroline Kerston.

The twentieth cause of action for breach of fiduciary duty is alleged solely against defendant Kerston.

Section 579 states judgment can be entered against a defaulted defendant “whenever a several judgment is proper.” Here, Plaintiffs are seeking *joint* and several liability.

“There are certain cases where default judgments were taken against defaulting defendants who were claimed to be *jointly and severally* liable with the answering defendants. There, however, they set up independent defenses *not involving the defaulting defendants*. Under such circumstances the courts held that a separate judgment against such defaulting defendants may be entered before the issue is tried as to the appearing defendants.” (*Mirabile v. Smith* (1953) 119 Cal.App.2d 685, 688 [italics in original].) A different rule applies in actions against several defendants alleged to be jointly liable. (*Id.*, at p. 687.)

Plaintiffs have not provided any legal authority that entering a default judgment against one or more Defaulted Defendants is appropriate under the circumstances of this case where Plaintiffs are seeking joint liability. Here, the complaint alleges that Kerston is the alter ego of CBK LLC and that all defendants are the agents and co-conspirators of the others. If judgment is entered against any of the Defaulted Defendants and Kerston provides a defense, an injustice will result.

IV. Conclusion

It is the opinion of this court that liability must be determined with respect to all defendants before judgment is entered against any of them. **The motion is DENIED.**

As no opposition has been filed, this court’s minute order shall constitute the order of the court.

6. 26CV00189, Hernandez v. Office of the Attorney General

This matter is on calendar for the demurrer of respondent Office of the Attorney General, State of California (“OAG”) to the Petition for Writ of Mandate and Request for Stay of DMV Suspension

(“Writ Petition”) filed by Petitioner Christina Rosselyn Hernandez (“Petitioner”) on the grounds that Petitioner improperly named the OAG and improperly served the OAG with the Writ Petition as the OAG does not have jurisdiction over DMV licensing matters.

I. Writ Petition

On January 20, 2026, Petitioner filed the Writ Petition. She states that on November 1, 2025, she was detained by law enforcement and served with a notice of suspension. Petitioner states she timely requested an Administrative Per Se hearing to contest the proposed suspension. The hearing was conducted on December 17, 2025. The DMV hearing officer issued a decision sustaining the suspension. Petitioner alleges the decision relied on documentary hearsay, including an arresting officer’s sworn statement, without any live testimony, depriving Petitioner of her right to cross-examine witnesses. The written Notice of Decision was mailed to Petitioner on or after December 17, 2025. Petitioner alleges the DMV abused its discretion by proceeding in excess of jurisdiction and by failing to afford Petitioner a fair hearing.

A determination by the Department of Motor Vehicles to suspend or revoke an individual's driver's license is subject to judicial review in the trial court by means of a petition for writ of mandate. (Cal. Vehicle Code section 13359.) A petition for a writ of mandate must be directed to the DMV as the licensing agency. (*Ibid*; *see also* Cal. Vehicle Code section 290; *Larsen v. Department of Motor Vehicles* (1995) 12 Cal.4th 278, 280.) The OAG is an improper party to this action.

II. Conclusion

OAG’s demurrer is SUSTAINED without leave to amend.

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