TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, November 18, 2026 3:00 p.m.
Courtroom 17 – Hon. Jane Gaskell
3035 Cleveland Avenue, Santa Rosa

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

CourtCall is not permitted for this calendar.

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

TO JOIN D17 ZOOM ONLINE:
Meeting ID: 161 126 4123
Passcode: 062178
https://sonomacourt-org.zoomgov.com/j/1611264123

TO JOIN ZOOM BY PHONE:
By Phone (same meeting ID and password as listed for each calendar):
+1 669 254 5252

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, **YOU MUST NOTIFY** Judge Gaskell's Judicial Assistant by telephone at **(707) 521-6723**, and all other opposing parties of your intent to appear, and **whether that appearance is in person or via Zoom**, by ***4:00 p.m. the court day immediately preceding the day of the hearing.***

1. 24CV01390, Saeterun v. County of Sonoma

The hearing on Plaintiffs' Motion for Reconsideration of the Court's Order Granting Summary Judgment is **CONTINUED** to **March 10, 2027**, at 3:00 P.M. in Department 17. This motion was filed on November 5, 2025, but Plaintiffs have a pending appeal that has not concluded regarding the same order/judgment for summary judgment entered on December 8, 2025. Thus, the Court continues this hearing out to allow the pending appeal to conclude.

2. 25CV01969, LVNV Funding LLC v. Richards

Self-represented Defendant Ericka Richards moves to vacate the default judgment entered against her on March 19, 2026. The motion is **DENIED** per Code of Civil Procedure ("C.C.P.") section 473.

PROCEDURAL HISTORY

Plaintiff LVNV Funding LLC brought this action against Defendant for breach of contract. (See generally Complaint.) On June 26, 2025, the Court granted Plaintiff's application to serve

Defendant by alternative service because Plaintiff was unsuccessful at serving Defendant despite multiple attempts to serve. (See Order dated June 26, 2025.) On July 11, 2025, Plaintiff was served by posting and mail per the June Order at "2705 Range Ave Apt 269, Santa Rosa, CA 95403" by registered process server Brian Howlett. (See Proof of Service of Summons dated July 14, 2025.) Defendant failed to respond, so the Court entered default on Plaintiff's request as well as a default judgment.

Defendant claims to have never received the Complaint and Summons by mail but concedes that she has continuously lived at 2705 Range Ave, Apt 269 during the time Plaintiff claims service occurred and that she saw the posting on her door giving her notice of the action. Defendant moves to set aside the default judgment, which motion Plaintiff did not oppose despite timely and proper service of the moving papers.

ANALYSIS

Legal Standard

Relief from Judgment

A court may relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect, but an application for this relief shall be accompanied by "a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken." (C.C.P. § 473(b).) Although a statement of reasons would be helpful, and may sometimes be relevant to prove the causal link between the conduct and the default, default judgment, or dismissal, a statement of reasons is not required. (*Martin Potts & Assocs., Inc. v. Corsair, LLC* (2016) 244 Cal.App.4th 432, 435.) In determining whether the mistake or inadvertence was excusable, the court considers whether a reasonably prudent person under the same or similar circumstances might have made the same error. (*Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 258.)

Clerical Error

As C.C.P. §473(d) provides in relevant part, the court may "correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed." When correcting clerical mistakes, "the function of a nunc pro tunc order is merely to correct the record of the judgment and not to alter the judgment actually rendered—not to make an order now for then, but to enter now for then an order previously made. (*In re Marriage of Padgett* (2009) 172 Cal.App.4th 830, 852.) In other words, "the court can only make the record show that something was actually done at a previous time; a nunc pro tunc order cannot declare that something was done which was not done." (*Johnson & Johnson v. Sup. Ct.* (1985) 38 Cal.3d 243, 256.) The difference between a clerical error and a judicial error is whether the error was made in rendering the judgment (judicial error) or in recording the judgment (clerical error). (*People v. Karaman* (1992) 4 Cal.4th 335, 345.) To distinguish a clerical error from judicial error, courts consider "whether the challenged portion of the judgment was entered inadvertently (which is clerical error) versus advertently (which might be judicial error but is not

clerical error).” (*Tokio Marine & Fire Ins. Cop. V. Western Pacific Roofing Corp*. (1999) 75 Cal.App.4th 110, 117-18.)

A judgment may be set aside on motion, with no limit on the time within which the motion must be made, when uncontested extrinsic evidence shows that the defendant was never properly served. (*California Capital Ins. Co. v. Hoehn* (2024) 17 Cal.5th 207, 215.)

Defendant’s Motion

Here, Defendant claims to have never received service but fails to identify any issue on the face of the Proof of Service of Summons and also fails to note any clerical issue that renders the default judgment void.

There was no opposition filed.

Application

Though the motion was timely brought, the Court does not find that Defendant showed sufficiently that she did not have actual notice of this action when she saw the posting left by the process server at her door at her correct address. Thus, the Court will deny the motion.

CONCLUSION

Based on the foregoing, the motion is **DENIED**. Plaintiff shall submit a written order consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

3. 25CV05627, Barclays Bank Delaware v. Illgen

Defendant Marsha K. Illgen, self-represented, moves unopposed to vacate the default judgment entered against her on April 8, 2026, per Code of Civil Procedure (“C.C.P.”) section 473(b). The unopposed motion is **GRANTED** per C.C.P. section 473(b). Defendant Illgen shall file her proposed Answer attached to the Defendant’s Supplemental Declaration within 10 days of service this Court’s order.

FACTS & PROCEDURE

Plaintiff Barclays Bank Delaware (“Plaintiff”) commenced this action to collect credit card debt allegedly incurred by Defendant, who defaulted by failing to make monthly payments on the credit card. (Complaint, p. 3, ¶ BC-2.) Per the Proof of Service of Summons filed March 3, 2026, Plaintiff effectuated personal service upon Defendant. (Proof of Service of Summons, ¶ 5.a.) Defendant failed to timely file a responsive pleading, so Plaintiff requested entry of default and Clerk’s Judgment, which the Court entered on April 8, 2026.

Defendant now moves to set aside the default judgment stating that, as a self-represented party, she was confused about what to do procedurally to protect herself and respond to the Complaint. (Motion, 2:6-12.) When she received service of the default entered against her, she realized she

miscalculated the time by which she needed to respond to the Complaint so sought various local free legal services to seek guidance. (*Id*. at 2:13-16.) She also tried to reach out to Plaintiff's counsel to stipulate to setting aside the default and allow Defendant to file responsive pleadings, but Plaintiff did not so stipulate. (*Id*. at 2:17-19.)

Despite proper service, Plaintiff did not oppose the motion. The Court now considers Defendant's motion to vacate the default judgment.

ANALYSIS

Legal Standard

A court may relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect, but an application for this relief shall be accompanied by "a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken." (C.C.P. § 473(b).) Although a statement of reasons would be helpful, and may sometimes be relevant to prove the causal link between the conduct and the default, default judgment, or dismissal, a statement of reasons is not required. (*Martin Potts & Assocs., Inc. v. Corsair, LLC* (2016) 244 Cal.App.4th 432, 435.) In determining whether the mistake or inadvertence was excusable, the court considers whether a reasonably prudent person under the same or similar circumstances might have made the same error. (*Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 258.)

Defendant's Motion

Defendant timely moves to set aside the default judgment per C.C.P. section 473(b) and Civ. Code section 1788.61. (Motion, p. 1.) Defendant makes compelling arguments regarding excusable neglect for miscalculating the time to respond to the Complaint due to lack of familiarity with legal procedure. The Court continued the hearing on the motion because Defendant did not initially attach a proposed Answer for the Court's consideration in support of the motion, but Defendant filed a Supplemental Declaration attaching the proposed Answer as Exhibit A.

Plaintiff did not file an Opposition and Defendant filed a Reply to note the non-opposition.

Application

The Court finds the unopposed motion warrants granting the relief requested under section 473(b). The Court will grant the motion and order that the proposed Answer be filed and served on Plaintiff within 10 days of service of this Order.

CONCLUSION

The motion is **GRANTED**. Defendant shall file the attached proposed Answer within 10 days

of service of this Order. Defendant shall submit a written order on this motion consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

4. 26CV03552, Vangadio v. The Living Room Center, Inc.

Defendant The Living Room Center, Inc. ("TLR") moves to set aside or vacate the entry of default pursuant to C.C.P. sections 473(b). The motion is **GRANTED**. TLR shall file and serve the proposed Demurrer attached as Exhibit 1 to the Declaration of Lee within 10 days of service of this Court's order.

PROCEDURAL HISTORY

Self-Represented Plaintiff Thethe Vangadio filed this action against TLR for racial discrimination, sexual orientation discrimination, retaliation, wrongful displacement, uninhabitable living conditions, and breach of contract. (See Complaint, 2:7-11.) Plaintiff's claims arise from the time she was a resident of housing operated and managed by TLR, which is a nonprofit corporation that serves women and children experiencing homelessness. (*Id*. at ¶¶1-2.)

Plaintiff's Proof of Service of Summons indicates that an individual named D. Nelson served the Complaint and Summons on "Aletha Larson" at 1400 North Dutton Avenue Suite 12, Santa Rosa, CA 95401 on June 11, 2026. (Proof of Service of Summons dated June 25, 2026, ¶ 5.a.) Due to TLR's lack of response, Plaintiff requested entry of default, which the Court entered on July 14, 2026. (See Request for Entry of Default.) There is no default judgment yet entered in this action.

TLR seeks to set aside the default and Plaintiff opposes the motion. TLR submitted a Reply to the Opposition.

ANALYSIS

Legal Standard

A court may relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect, but an application for this relief shall be accompanied by "a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken." (C.C.P. § 473(b).) Although a statement of reasons would be helpful and may sometimes be relevant to prove the causal link between the conduct and the default, default judgment, or dismissal, a statement of reasons is not required. (*Martin Potts & Assocs., Inc. v. Corsair, LLC* (2016) 244 Cal.App.4th 432, 435.) In determining whether the mistake or inadvertence was excusable, the court considers whether a reasonably prudent person under the same or similar circumstances might have made the same error. (*Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 258.)

Motion to Set Aside

TLR seeks to set aside the entry of default because the Request for Entry of Default was not

mailed to TLR. Plaintiff stated that TLR's address was unknown to them even though Plaintiff had served TLR with the Summons and Complaint previously. (Motion, pp. 2-3.) TLR seeks relief from the entry of default per C.C.P. section 473(b), arguing that it tendered the lawsuit to its insurance broker as soon as being served with the Summons and Complaint but did not learn that no responsive pleading had been filed until after default had been entered. (*Id*. at pp. 6-8.)

Opposition

In the Opposition, Plaintiff concedes that she mistakenly selected the box stating that TLR's address was unknown and did not mail the request until after the Clerk entered the default.

Reply

TLR's Reply argues that Plaintiff failed to adequately oppose the motion but rather conceded that Plaintiff did fail to comply with service procedures when requesting default.

Application

The Court finds that TLR was diligent in tendering the lawsuit to its insurance broker and that through excusable neglect, there was no responsive pleading timely filed on behalf of TLR and that Plaintiff failed to serve the Request for Entry of Default on TLR before default was entered. The Court will set aside the entry of default and allow TLR to file its responsive pleading.

CONCLUSION

The motion is **GRANTED**. The proposed Demurrer shall be filed within 10 days of service of this Court's order. TLR 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).

5. 26CV04621, Moore v. Zuur

Defendant Zuur, as personal representative of the estate of Frank Byron White, demurs to the First, Second, Third, and Fourth Causes of Action in Plaintiff Misty Moore's Complaint per Code of Civil Procedure ("C.C.P.") section 430.10. The Demurrer is **OVERRULED as moot** per Code of Civil Procedure section 472(a).

Per C.C.P. section 472(a), "a party may amend its pleading once without leave of the court at any time before the answer, demurrer, or motion to strike is filed, or after a demurrer or motion to strike is filed but before the demurrer or motion to strike is heard if the amended pleading is ***filed and served*** no later than the date for filing an opposition to the demurrer or motion to strike…" (C.C.P § 472(a). [Emphasis added.]) If a party timely amends the complaint per section 472(a), the party demurring to the original pleading must renew the demurrer as to the amended pleading in order to have its benefit against it. (*Ibid*.)

Plaintiff filed their First Amended Complaint on November 4, 2026, and served it upon

Defendant Zuur on November 5, 2026, no later than the date the opposition was due to the Demurrer. (Moore Declaration dated November 6, 2026, ¶¶ 2-10.) Plaintiff's filing was rejected later by the Clerk's on November 6, 2026, after it had already been served, but Plaintiff diligently came to the Court and filed the same document in person. Plaintiff also filed a Proof of Service of Process on November 9, 2026. The Court also notes that an attorney has filed a Notice of Substitution as well to represent Plaintiff in this matter, who had been self-represented.

For these reasons, the FAC is now the operative pleading and the Demurrer is moot. Plaintiff shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with California Rules of Court, Rules 3.1312(a) and (b).