

TENTATIVE RULINGS: CIVIL LAW & MOTION

Friday, November 21, 2025 at 8:30 a.m.
Courtroom 18 – Hon. Kenneth G. English
Civil and Family Law Courthouse
3055 Cleveland Avenue
Santa Rosa, California 95403

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.

TO JOIN ZOOM ONLINE:

Department 18:

Meeting ID: **160—739—4368**

Password: **000169**

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Unless notification of an appearance has been given as provided above, the tentative ruling shall become the ruling of the Court the day of the hearing at the beginning of the calendar.

1-3. SCV-273534, Gibson v. Becker: Defendants Zyromski and Ekren's Separate Motions for Dismissal; Defendant's Motion for Post-Appellate Attorney's Fees and Costs

This case is on calendar for three separate motions: (1) Defendants Michelle Zyromski and Zyromski Konicek LLP's Motion for Judgment Against Plaintiff Colin Gibson; (2) Defendant William Ekren's Motion for Judgment Against Plaintiff Colin Gibson; and (3) Defendants Pure Property Management, Keith Becker, Rob Gagliasso, Lynne Lampros, and Ariel Rhodes' Motion for Post-Appellate Attorneys' Fees and Costs.

Defendants Zyromski and Zyromski Konicek LLP's unopposed Motion for Judgment Against Plaintiff is **GRANTED** pursuant to C.C.P. section 581(f)(3). Defendants' request for judicial notice is **GRANTED**. Unless oral argument is requested, the Court will sign the proposed order lodged with the Court.

Defendant Ekren's unopposed Motion for Judgment Against Plaintiff is **GRANTED** pursuant to C.C.P. section 581(f)(3). Defendant's request for judicial notice is **GRANTED**. Unless oral argument is requested, the Court will sign the proposed order lodged with the Court.

Defendants Pure Property Management, Keith Becker, Rob Gagliasso, Lynne Lampros, and Ariel Rhodes' unopposed Motion for Post-Appellate Attorneys' Fees and Costs Following Successful Anti-SLAPP is **GRANTED** in the amount of \$20,626.00. Defendants' request for judicial notice is **GRANTED**. Defendants' counsel shall submit a written order consistent with this tentative ruling. Due to the lack of opposition, compliance with Rule 3.1312 is excused.

Each motion is discussed in turn below.

I. Defendants Zyromski and Zyromski Konicek LLP's Motion for Judgment Against Plaintiff

A. Procedural History

Plaintiff filed his initial Complaint on June 23, 2023 alleging various violations of the Unruh Civil Rights Act and the Fair Employment and Housing Act related to Plaintiff's eviction and events leading up to his eviction. Plaintiff amended his complaint on March 25, 2024, adding several new causes of action and new Defendants. The causes of action alleged against Zyromski Defendants in the First Amended Complaint are the Third Cause of Action for Malicious Prosecution, Fourth Cause of Action for Wrongful Eviction, and the Fifth Cause of Action for Abuse of Process. On January 1, 2025, this Court granted Zyromski Defendants' anti-SLAPP motion as to the Third, Fourth, and Fifth Causes of Action and Zyromski Defendants now move for judgment against Plaintiff.

B. Request for Judicial Notice

The court may take judicial notice of facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. (Evid. Code § 452(h).) The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under Evidence Code section 452. (Evid. Code § 453.) Courts may take notice of public records, but not take notice of the truth of their contents. (*Herrera v. Deutsche Bank National Trust Co.* (2011) 196 Cal.App.4th 1366, 1375.)

In support of their motion, Defendants request judicial notice of four documents: (1) this Court's August 21, 2024 Ruling Issued on Submitted Matter, (2) this Court's January 7, 2025, order granting Defendants' Special Motion to Strike, (3) the First District Court of Appeal's May 5, 2025 Order Dismissing Plaintiff's Appeal, and (4) the First District Court of Appeal's July 11, 2025 Remittitur. Defendants' request for judicial notice is **GRANTED**.

C. Dismissal

Pursuant to C.C.P. section 581(f)(3), the court may dismiss the complaint as to a particular defendant after a motion to strike the whole complaint is granted without leave to amend and either party moves for dismissal.

Here, the only causes of action in the First Amended Complaint that were alleged against Zyromski Defendants are the Third, Fourth, and Fifth Causes of Action. This Court granted their anti-SLAPP (special motion to strike) to those three causes of action on January 5, 2025, and Plaintiff did not appeal such decision. While the Court did not specify whether leave to amend was granted, “[a]llowing a SLAPP plaintiff leave to amend the complaint *once the court finds the prima facie showing has been met* would completely undermine the statute by providing the pleader a ready escape from section 425.16’s quick dismissal remedy.” (*Simmons v. Allstate Ins. Co.* (2001) 92 Cal.App.4th 1068, 1073.) Therefore, dismissal is proper pursuant to C.C.P. section 581(f)(3) and Zyromski Defendants’ motion is **GRANTED**.

II. Defendant Ekren’s Motion for Judgment Against Plaintiff

A. Procedural History

The causes of action alleged against Defendant Ekren in the First Amended Complaint are the First, Second, Third, Fourth, Sixth, and Seventh Causes of Action. On August 21, 2024, this Court granted Defendants Ekren, Becker, Gagliasso, Lampros, Rhodes, and Pure Property Management’s anti-SLAPP as to every cause of action asserted against these Defendants and now Defendant Ekren now moves for judgment against Plaintiff.

B. Request for Judicial Notice

See rules above. In support of his motion, Defendant Ekren re request judicial notice of four documents: (1) this Court’s August 21, 2024 Ruling Issued on Submitted Matter, (2) this Court’s December 18, 2024 order granting Defendant Ekren’s Motion for Attorneys’ Fees, (3) the First District Court of Appeal’s May 5, 2025 Order Dismissing Plaintiff’s Appeal, and (4) the First District Court of Appeal’s July 11, 2025 Remittitur. Defendant Ekren’s request for judicial notice is **GRANTED**.

C. Dismissal

See rules above. Here, the Court granted Defendants’ anti-SLAPP as to every cause of action asserted against Defendant Ekren (the First through Fourth and Sixth through Seventh Causes of Action) without leave to amend on August 21, 2024. The Court denied the anti-SLAPP as to the fifth cause of action because it was not asserted against moving Defendants. Plaintiff appealed this decision, but the First District Court of Appeal granted moving Defendants’ motion to dismiss on May 5, 2025, because Plaintiff’s notice of appeal was untimely. The Court of Appeal’s decision was final on June 4, 2025, and it issued remittitur on July 1, 2025. Therefore, dismissal is proper pursuant to C.C.P. section 581(f)(3) and Defendant Ekren’s motion is **GRANTED**.

III. Defendants Pure Property Management, Keith Becker, Rob Gagliasso, Lynne Lampros, and Ariel Rhodes’ Motion for Post-Appellate Attorneys’ Fees and Costs

A. Procedural History

Defendants filed an anti-SLAPP special motion to strike under CCP § 425.16, which was granted by the trial court. Plaintiff appealed the Court’s order granting the anti-SLAPP motion. The appellate

court granted the defendants' motion to dismiss the appeal as being untimely. In the appellate court's remittitur, the Court indicated that respondents (defendants) are to recover costs on appeal.

B. Request For Judicial Notice

See rules above. In support of their motion, Defendants request judicial notice of the First District Court of Appeal's May 5, 2025 Order Dismissing Plaintiff's Appeal and the First District Court of Appeal's July 11, 2025 Remittitur. The request is **GRANTED**.

C. Post-Appellate Attorneys' Fees and Costs

Defendants are Entitled to Attorney's Fees and Costs

Defendants are the prevailing party on their special motion to strike under CCP § 425.16. They have already been awarded their fees and costs incurred on the underlying motion, but now seek their fees and costs incurred on appeal. These fees and costs are recoverable pursuant to CCP § 425.16(c) and pursuant to the remittitur. (*Lunada Biomedical v. Nunez* (2014) 230 Cal.App.4th 459, 489.)

The Requested Attorney's Fees and Costs are Reasonable

Defendants request the Court award a total amount of \$21,936 for their work on the appeal as well as the instant motion. This is based on an hourly rate of \$260 per hour billed by both attorneys representing Defendants.

Counsel represent that they spent a combined 67.1 hours on the appeal. The Court finds this to be reasonable and grants this number of hours for the appeal.

Defendants also represent that Counsel Blake spent 12 hours drafting this motion and is anticipated to spend 2 hours on a reply and 3 hours preparing for and attending a hearing on this motion. Since the motion is unopposed, the Court will not grant the anticipated hours for reply and attending a hearing. Accordingly, only 12 hours will be granted for this motion. Even if a hearing were to occur on this motion, the Court would still find 12 hours to be sufficient for this motion.

Accordingly, Defendants are awarded a total number of 79.1 hours at \$260 per hour. The total attorney's fees awarded is \$20,566. Costs are awarded in the requested amount of \$60. The total award to Defendants is \$20,626.00.

4. 24CV07818, Hayes v. Morales Cuevas

Plaintiff Christopher Hayes' motion to compel further responses from Defendant Sutter Roofing & Sheet Metal, Inc. is **GRANTED**. Sutter Roofing shall serve further responses to RFPDs Nos. 7 and 8 within 10 calendar days of notice of entry of this order. If applicable, Sutter Roofing must also provide a code-compliant supplemental privilege log should any of the demanded items be privileged within 10 calendar days of notice of entry of this order. All other requests to compel further responses from Sutter Roofing in Plaintiff's initial motion are **DROPPED as MOOT** as discussed below. All requests for sanctions are **DENIED**.

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

Procedural History

This action arises from a motor vehicle accident that occurred on or about September 4, 2024 between Plaintiff and Defendant Julian Morales Cuevas while in the course of his employment with Defendant Sutter Roofing & Sheet Metal (“Sutter Roofing”). (See Complaint filed December 23, 2024.) Plaintiff propounded its first set of discovery on May 20, 2025. After several extensions, Defendant Sutter Roofing served its responses on August 8, 2025. (Motion to Compel, 3:23–4:4.) Plaintiff’s counsel found Sutter Roofing’s responses to be insufficient and sent a meet and confer letter to Sutter Roofing’s counsel requesting further responses on August 20, 2025, to which Sutter Roofing did not respond. (*Id.* at 4:5–8.) Plaintiff sought further responses to Special Interrogatories Nos. 1 and 2 and RFPDs Nos. 6–10. However, in his Reply, Plaintiff withdrew its motion to compel Special Interrogatories and the imposition of sanctions because Sutter Roofing supplemented their responses on November 10, 2025. (Reply, 1:21–24.) Thus, these requests are **DROPPED as MOOT**. Plaintiff represents that the only discovery at issue is RFPDs Nos. 7 and 8. In its Opposition, Sutter Roofing contends that this motion should be denied for failure to meet and confer in good faith and that Sutter Roofing served further responses to the RFPDs on October 16, 2025. In his Reply, Plaintiff disagrees, stating that Sutter Roofing’s further responses to RFPD Nos. 7 and 8 again contained objections that Plaintiff’s request “outside the time frame previously produced is overbroad and not reasonably calculated to lead to the discovery of admissible evidence.” Therefore, the Court only considers these two RFPDs.

Meet and Confer

The Court finds that Plaintiff’s counsel attempted to meet and confer in good faith. While Sutter Roofing supplemented its production to RFPDs on October 16, 2025, this does not negate the fact that Plaintiff’s counsel sent a meet and confer letter to Sutter Roofing’s counsel on August 20, 2025 regarding Sutter Roofing’s responses to the RFPDs to which Sutter Roofing did not directly respond. (See Hipschman Declaration, Exhibit F.)

RFPD No. 7

RFPD No. 7 requests any and all documents referring or relating to locations of work performed for Sutter Roofing by Defendant Morales Cuevas from January 1, 2024 through the present date. Sutter Roofing’s response only contained objections including that such request was overbroad in time and scope, attorney-client privilege, attorney work product doctrine, and irrelevance. In Sutter Roofing’s October 16, 2025 supplemental responses, it produced Defendant Morales Cuevas’ timesheets for locations of work performed 60 days prior to and 60 days following the incident, stating that requests outside this timeframe are overbroad. Plaintiff contends that information beyond this scope of time is relevant to Plaintiff’s claims as to Sutter Roofing’s employees’ scope of employment and potential liability issues since Defendant Morales Cuevas was using his personal vehicle in his work capacity at the time of accident and even after the accident against Sutter Roofing’s company policy.

Here, Sutter Roofing has improperly and unilaterally reduced the scope of time of this request. The Court finds that this RFPD is relevant to Plaintiff’s claims, including Defendant Morales Cuevas’ scope of employment which directly affects Sutter Roofing’s liability. The requested time period of “January 1, 2024 through present”, which at the time would have been around May 20, 2025, is sufficiently tailored to the request and not overbroad, especially considering that Plaintiff represents

that other discovery showed that Defendant Morales Cuevas was employed by Sutter Roofing until at least April 10, 2025. Thus, Sutter Roofing shall produce all relevant documents beyond November 10, 2024 up through May 20, 2025.

However, Sutter Roofing has not waived its objections to this request as their objections were initially timely. Should any relevant document responsive to this request be privileged, Sutter Roofing must provide a supplemental privilege log for the demanded items that are privileged. Sutter Roofing's privilege log attached to its October 16, 2025 supplemental responses is insufficient as the provided privilege log contains one generalized description and one general asserted privilege supposedly applicable to all discovery requests. "A privilege log must identify with particularity each document the responding party claims is protected from disclosure by a privilege and provide sufficient factual information for the propounding party and court to evaluate whether the claim has merit" and generally "should provide the identity and capacity of all individuals who authored, sent, or received each allegedly privileged document, the document's date, a brief description of the document and its contents or subject matter sufficient to determine whether the privilege applies, and the precise privilege or protection asserted." (*Catalina Island Yacht Club v. Superior Ct.* (2015) 242 Cal.App.4th 1116, 1130 [citing C.C.P. § 2031.240(b)–(c)] [other internal citations omitted].)

RFPD No. 8

RFPD No. 8 requests any and all timecards for Sutter Roofing of Defendant Morales Cuevas from January 1, 2024 through the present date. In Sutter Roofing's October 16, 2025 supplemental responses, it represented that it would produce all non-privileged documents in its custody and produced Defendant Morales Cuevas' timesheets from July 1, 2024 to November 8, 2024, stating that requests outside this timeframe are overbroad. Sutter Roofing, again, unilaterally shortened the scope of its production. As discussed above, the requested timeframe is sufficiently tailored to the request and is not overbroad. Thus, Sutter Roofing shall produce all relevant timecards beyond November 10, 2024 up through May 20, 2025.

Sanctions

Plaintiff's initial motion did not request sanctions nor did Plaintiff's counsel provide a declaration detailing the hours spent on the instant motion, her hourly rate, or justification of either for the imposition of monetary sanctions. In its Opposition, Sutter Roofing requests sanctions against Plaintiff for a misuse of the discovery process. However, the Court found that Sutter Roofing impermissibly narrowed the scope of the RFPDs and has ordered further production as a result. Thus, the Court finds that the circumstances here make the imposition of sanctions unjust pursuant to C.C.P. section 2031.310(h) and all requests for sanctions are **DENIED**.

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