

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
November 5, 2025 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) 521-6604**, 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.

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1-4. 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 Dealer to requests for production of documents (“RPODs”) under Code of Civil Procedure (“CCP”) § 2031.300, to compel further responses to special interrogatories (“SIs”) and form interrogatories (“FIs”) under CCP § 2030.290, and to deem admissions admitted under CCP § 2033.280.

I. Governing Law

Code of Civil Procedure section 2033.280(a) provides in relevant part that if a party to whom requests for admission are directed “fails to serve a timely response,” the party to whom the requests are directed waives any objection. CCP § 2033.280(b) provides that “[t]he requesting

party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction.” CCP § 2033.280(c) provides that the court “shall make this order” unless it finds that the party to whom the requests have been directed has served a proposed response in substantial compliance with section 2033.220 before the hearing on the motion.

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 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.

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).

There is no requirement to meet and confer prior to filing a motion to compel where there has been no response to discovery requests. *Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 906; *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 405. Sanctions are mandatory under the CCP for discovery abuses, absent substantial justification. If a party fails to serve a timely response, 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 §§ 2031.300(c) & 2033.280(c). The purpose of monetary sanctions is to mitigate the effects of the necessity of discovery motions and responses on the prevailing party. 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. Code of Civil Procedure section 2033.280(a) provides in relevant part that if a party to whom requests for admission are directed “fails to serve a timely response,” the party to whom the requests are directed waives any objection. CCP § 2033.280(b) provides that “[t]he requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction.” CCP § 2033.280(c) provides that the court “shall make this order” unless it finds that the party to whom the requests have been directed has served a proposed response in substantial compliance with section 2033.220 before the hearing on the motion.

CCP § 2033.280(c) (relating to requests for admissions), CCP § 2030.290(c) (relating to interrogatories), and CCP § 2031.300(c) (relating to requests for production of 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 their FIs, SIs, RPODs, and RFAs to all Dealer on June 20, 2025. Klitzke Declaration ¶ 2, Ex. 1. Defendants’ responses, which contained a mix of substantive responses and objections, were served on July 22, 2025. *Id.* at ¶ 3, Ex. 2. The responses were not verified by Dealer, but were signed by counsel. *Ibid.* Plaintiff filed the instant motion to compel responses under CCP §§ 2030.290, 2031.300, and 2033.280 on September 9, 2025.

The Court’s analysis does not reach the sufficiency of the responses because responses were actually served. The Court presumes that Plaintiff’s motion is predicated on the principle that

unverified responses are “tantamount to no response at all”. *Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, 636. However, that ignores the effect of the various objections interposed. Objections are a response under the discovery code, though not a substantive one. CCP §§ 2030.210(a)(3), 2031.210(a)(3), and 2033.210(b). Motions to compel require that a responding party “fails to serve a timely response”. CCP §§ 2030.290 and 2031.300. The sufficiency of such a response is not mentioned in this statute. Similarly, deeming admissions are directed to where no response was served. CCP § 2033.280(a) (statute contains the same ““fails to serve a timely response” requirement). The deficiency of Plaintiff’s position is made clear on consideration of their contention that because Dealer has not verified their responses, their objections are therefore waived. Timely objections accompanied by unverified substantive answers preserves the objections. *Food 4 Less Supermarkets, Inc. v. Superior Court* (1995) 40 Cal.App.4th 651, 656. Plaintiff’s position is clearly erroneous. Plaintiff has filed the wrong motion, and as such has failed to both give notice of the appropriate statute in their notice of motion (CCP § 1010) or provide the documents required to accompany a motion to compel further responses (Cal Rule of Court, Rule 3.1345(a)) [“Any motion involving the content of a discovery request”]).

Nor does there appear to be prejudice in requiring Plaintiff to comply with the strictures of the code of civil procedure. Dealer’s opposition essentially concedes that no verifications have been received and as such the time to compel further responses has not begun to run. *Golf & Tennis Pro Shop, Inc. v. Superior Court* (2022) 84 Cal.App.5th 127, 134. Accordingly, it appears proper to simply deny the motion without prejudice to Plaintiff’s filing of a motion predicated on the correct statute and with the required documents. The Court does not deem that Plaintiff had waived its ability to meet and confer and file the appropriate motions to compel under the correct statutes.

Plaintiff’s motions to compel responses to SIs, FIs and RPODs are DENIED without prejudice to their ability to bring a motion under CCP §§ 2030.300 and 2031.310. Plaintiffs’ motion to deem admissions is DENIED without prejudice to their ability to bring a motion under CCP § 2033.290.

III. Conclusion

Plaintiff’s four (4) Motions to Compel responses to form interrogatories, special interrogatories, request for documents, and requests for admission are **DENIED**.

Dealer 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).

5. 25CV03139, Alizadeh v. U.S. Bank National Association

Plaintiffs, Kobra Alizadeh and Azita Alizadeh (together “Plaintiffs”), Natasha Khallouf (“Khallouf”) and Sean Musgrove (“Musgrove, together with Mendez and Khallouf, “Plaintiffs”), has filed currently operative first amended complaint (“FAC”) against defendants U.S. Bank National Association (“US Bank”), Quality Loan Service. (“QLS”, together with US Bank, “Defendants”), and Does 1-10 regarding the property commonly known as 103 Seal Rock Reach, Sea Ranch, California, with causes of action for: 1) Violations of the Homeowners Bill of Rights

(“HBOR”); 2) violation of Civ. Code § 2924f; and 3) breach of the implied covenant of good faith and fair dealing. This matter is on calendar for US Bank’s demurrer to all causes of action within the Complaint pursuant to CCP § 430.10(e) for failure to state facts sufficient to constitute a cause of action.

The Demurrer is **SUSTAINED with leave to amend**.

I. Request for Judicial Notice

Judicial notice of official acts and court records is statutorily appropriate. See Cal. Evid. Code § 452(c) and (d) (judicial notice of official acts). Yet since judicial notice is a substitute for proof, it “is always confined to those matters which are relevant to the issue at hand.” *Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301. Courts may take judicial notice of the existence and legal effect of legally operative documents. *Scott v. JPMorgan Chase Bank, N.A.* (2013) 214 Cal.App.4th 743, 754. 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. The scope of the judicial notice taken is limited to the action of the executive agency. *Herrera* at 1375. It is not appropriate for the Court to take notice of additional information which is included in the documentation or contentions as to the truth of the contents *Id.*

US Bank has filed a request for judicial notice (“RFJN”) which requests the Court take judicial notice of multiple recorded documents (deeds, attachments and real property notices of various types). Judicial notice of the recordation of documents is proper, but judicial notice of factual matters stated therein is improper. *Glaski v. Bank of America* (2013) 218 Cal.App.4th 1079, 1102, see also *Yvanova v. New Century Mortgage Corp.* (2016) 62 Cal.4th 919, 924, fn. 1 (A court may “take notice of their existence and contents, though not of disputed or disputable facts stated therein.”). Therefore, the Court taking judicial notice of these documents is proper and allowable, as well as their recordation and what they state, **but not the truth of any matters therein**. “On a demurrer a court’s function is limited to testing the legal sufficiency of the complaint. [Citation.] ‘A demurrer is simply not the appropriate procedure for determining the truth of disputed facts.’ [Citation.] The hearing on demurrer may not be turned into a contested evidentiary hearing through the guise of having the court take judicial notice of documents whose truthfulness or proper interpretation are disputable. [Citation.]”). *Bounds v. Sup. Ct.* (2014) 229 Cal.App.4th 468, 477-478. The request for judicial notice is GRANTED in the scope limited above.

II. Legal Standards

A. *Demurrers Generally*

A demurrer can be used only to challenge defects that appear on the face of the pleading under attack or from matters outside the pleading that are judicially noticeable. CCP § 430.30(a). In the event a demurrer is sustained, leave to amend should be granted where the complaint’s defect can be cured by amendment. *The Swahn Group, Inc. v. Segal* (2010) 183 Cal.App.4th 831, 852.

At demurrer, all facts properly pleaded are treated as admitted, but contentions, deductions and conclusions of fact or law are disregarded. *Serrano v. Priest* (1971) 5 Cal.3d 584, 591. Similarly, opinions, speculation, or allegations contrary to law or facts which are judicially noticed are also disregarded. *Coshow v. City of Escondido* (2005) 132 Cal.App.4th 687, 702. Generally, the pleadings “must allege the ultimate facts necessary to the statement of an actionable claim. It is both improper and insufficient for a plaintiff to simply plead the evidence by which he hopes to prove such ultimate facts.” *Careau & Co. v. Security Pac. Business Credit, Inc.* (1990) 222 Cal.App.3d 1371, 1390; *FPI Develop., Inc. v. Nakashima* (1991) 231 Cal.App.3d 367, 384. Each evidentiary fact that might eventually form part of a party’s proof does not need to be alleged. *C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal.4th 861, 872. Conclusory pleadings are permissible and appropriate where supported by properly pleaded facts. *Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6. “The distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree.” *Burks v. Poppy Const. Co.* (1962) 57 Cal.2d 463, 473. Leave to amend should generally be granted liberally where there is some reasonable possibility that a party may cure the defect through amendment. *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.

B. Homeowner’s Bill of Rights

Homeowners who qualify under Civ. Code § 2924.15 are entitled to additional protections under Civil Code Section 2924(a)(5) and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 in the event of default and foreclosure, otherwise known as the Homeowner’s Bill of Rights (“HBOR”). Civ. Code § 2924.15(a). HBOR protections only apply to properties that are “owner occupied”, which “means that the property is the principal residence of the borrower and is security for a loan made for personal, family, or household purposes.” Civ. Code, § 2924.15 (b).

C. Civil Code § 2924f

With respect to residential real property containing no more than four dwelling units that is subject to a power of sale contained in any deed of trust or mortgage, a sale of the property under the power of sale shall not be conducted until the expiration of an additional 45 days following the scheduled date of sale pursuant to subdivision (a) or (c) of Section 2924g if the trustee receives, at least five business days before the scheduled date of sale, from the mortgagor or trustor, by certified mail with the United States Postal Service or by another overnight mail courier service with tracking information that confirms the recipient's signature and the date and time of receipt and delivery, a listing agreement with a California licensed real estate broker to be placed in a publicly available marketing platform for the sale of the property at least five business days before the scheduled date of sale. The provisions of this paragraph shall not be used to postpone the scheduled sale date more than once.

Civ. Code § 2924f (e)(1).

D. Breach of Contract and Breach of the Covenant of Good Faith and Fair Dealing

“A contract is an agreement to do or not to do a certain thing.” Civ. Code, § 1549. Contracts require capable parties, the consent of those parties, a lawful object, and mutual consideration. Civ. Code § 1550. “The object of a contract is the thing which it is agreed, on the part of the party receiving the consideration, to do or not to do.” Civ. Code, § 1595. “The object of a contract must be lawful when the contract is made, and possible and ascertainable by the time the contract is to be performed.” Civ. Code, § 1596. “An offer is the manifestation of willingness to enter into a bargain, so made as to justify another person in understanding that his assent to that bargain is invited and will conclude it.” *City of Moorpark v. Moorpark Unified School Dist.* (1991) 54 Cal.3d 921, 930, quoting Restatement 2d Contracts § 24. “To be enforceable, a promise must be definite enough that a court can determine the scope of the duty and the limits of performance must be sufficiently defined to provide a rational basis for the assessment of damages.” *Ladas v. California State Auto. Assn.* (1993) 19 Cal.App.4th 761, 770.

The elements of a cause of action for breach of contract are: ““(1) the contract, (2) plaintiff’s performance or excuse for nonperformance, (3) defendant’s breach, and (4) the resulting damages to plaintiff.”” See *Coles v. Glaser* (2016) 2 Cal.App.5th 384, 391; quoting *Hamilton v. Greenwich Investors XXVI, LLC* (2011) 195 Cal.App.4th 1602, 1614, 126 Cal.Rptr.3d 174. A written contract may be pleaded either by its terms—set out verbatim in the complaint or a copy of the contract attached to the complaint and incorporated therein by reference—or by its legal effect. *Miles v. Deutsche Bank National Trust Co.* (2015) 236 Cal.App.4th 394, 401-402. In order to plead a contract by its legal effect, plaintiff must allege the substance of its relevant terms, which requires careful analysis of the contract, comprehensiveness in statement, and avoidance of legal conclusions. *McKell v. Washington Mutual Inc.* (2006) 142 Cal.App.4th 1457, 1489; *Construction Protective Services Inc. v. TIG Specialty Insurance Company* (2002) 19 Cal.4th 189, 198-192. “Where a party relies upon a contract in writing, and it affirmatively appears that all the terms of the contract are not set forth in haec verba, nor stated in their legal effect, but that a portion which may be material has been omitted, the complaint is insufficient.” *Gilmore v. Lycoming Fire Ins. Co.* (1880) 55 Cal. 123, 124.

“Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement.” *Carma Developers (Cal.), Inc. v. Marathon Development California, Inc.* (1992) 2 Cal.4th 342, 371-372; *Foley v. Interactive Data Corp.* (1988) 47 Cal.3d 654, 683-684; *Thrifty Payless, Inc. v. The Americana at Brand, LLC* (2013) 218 Cal.App.4th 1230, 1244. “The covenant of good faith and fair dealing, implied by law in every contract, exists merely to prevent one contracting party from unfairly frustrating the other party’s right to receive the *benefits of the agreement actually made.*” *Guz v. Bechtel Nat. Inc.* (2000) 24 Cal.4th 317, 349 (emphasis original). The covenant requires each contracting party to refrain from doing “anything which will injure the right of the other to receive the benefits of the agreement.” *Kransco v. American Empire Surplus Lines Ins. Co.* (2000) 23 Cal.4th 390, 400; see also, *Egan v. Mutual of Omaha Ins. Co.* (1979) 24 Cal.3d 809, 818. The implied covenant rests upon the existence of a specific contractual obligation and “cannot impose substantive duties or limits on the contracting parties beyond those incorporated in the specific terms of their agreement.” *Agosta v. Astor* (2004) 120 Cal.App.4th 596, 607; see also, *Racine & Laramie, Ltd. v. California Dept. of Parks & Rec.* (1992) 11 Cal.App.4th 1026, 1031-32.

III. Demurrer

A. *Homeowners Bill of Rights*

As the court has already noted, US Bank's requests for judicial notice on which they predicate their averment that Plaintiff fails to qualify for the HBOR have been denied as to the substance of the documents. Nonetheless, the Court finds that Plaintiff has failed to plead a HBOR violation, because she has failed to plead any of the facts that US Bank attempts to disprove. HBOR violations require that the Plaintiff plead sufficient facts to show that the protections of the HBOR apply. *Adams v. Bank of America, N.A.* (2020) 51 Cal.App.5th 666, 673. This includes pleading facts sufficient to show that the property meets the definition of "owner-occupied" under Civil Code § 2924.15. *Ibid.* Given that Plaintiff has not pled these predicate facts showing application of the statute is appropriate to her case, their allegation of violation of the HBOR is conclusory and properly disregarded. The cause of action for HBOR violations is inadequately pled.

The Demurrer to the first cause of action for failure to state a claim is **SUSTAINED with leave to amend.**

B. *Violations of Civil Code § 2924f(e)*

The FAC alleges that Defendants set the trustee sale for May 21, 2025. FAC ¶ 7. Plaintiff alleges that they delivered a listing agreement, as would be required to acquire a 45-day stay of sale under Civil Code § 2924f (e). Plaintiff claims that they have substantially complied with the statute because on May 15, 2025, they "delivered" the listing agreement to Defendants "in [sic] form compliant with Civil Code s 2924m". FAC ¶ 12. To the degree that Plaintiff avers it is "compliant" with a statute, that is a legal conclusion not capable of being considered. Moreover, Plaintiff's facts as pled admit facial *noncompliance* with Civ. Code § 2924f(e). While Plaintiff avers they "substantially complied" with the requirements of the statute, they have provided no opposition showing substantial compliance is enough to state a cause of action. It does not appear to be sufficient, and Plaintiff's representation to the contrary is a bare legal conclusion. The Demurrer to the second cause of action for failure to state a claim is **SUSTAINED with leave to amend.**

C. *Breach of the Implied Covenant of Good Faith and Fair Dealing.*

The FAC alleges that Defendants breached the covenant of good faith and fair dealing by offering to consider a loan modification, then revoking the offer after Plaintiff had submitted the requested modification. This suffers from two defects.

First, Plaintiff avers that the offer came in the form of a letter, but little else about the letter is described except this specific provision. If a party moves upon a contract, they must either attach it to the complaint or plead all material provisions. This concept extends to the implied covenant of good faith and dealing, as the covenant cannot contravene express terms of the contract, rendering those terms relevant to pleading the cause of action. Second, Plaintiff fails to express

any consideration on the part of Defendants from the alleged offer. Without consideration, there is no contract. Civ. Code § 1550. The Court is not generally persuaded by Defendant's contention that if Plaintiff can plead adequate facts to show that Defendants, without violating an express contract term. Plaintiff having not adequately pled a contract, there can be no adequately pled implied covenant accompanying it.

Therefore, as to the third cause of action, the Demurrer is **SUSTAINED with leave to amend**.

IV. Conclusion

Based on the foregoing, the demurrer is **SUSTAINED as to each cause of action with leave to amend**.

Plaintiffs 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. SCV-273878, Parks v. Ensign

THIS MATTER IS APPEARANCES REQUIRED. THE COURT REMINDS THE PARTIES OF THE TIME LIMITS IMPOSED BY SONOMA SUPERIOR COURT LOCAL RULE 5.5(B).

Plaintiff Michael Parks ("Plaintiff"), as successor-in-interest to decedent Robert Parks ("Decedent"), filed the presently operative first amended complaint (the "FAC") against defendants Ensign Montgomery, LLC ("Montgomery"), Flagstone Healthcare North, Inc. ("Flagstone"), The Ensign Group ("TEG"), Luke Ensign ("Individual Defendant"), Ensign Services, Inc. ("ESI", together with other named defendants "Defendants"), and Does 1-50, arising out of Defendants' care of Decedent. The FAC contains causes of action for: 1) elder neglect/abuse; 2) negligence; 3) Violations of the Patient's Bill of Rights; 4) Violations of California's Unfair Competition Law under Business and Professions Code § 17200 *et seq.* (the "UCL"); 5) fraud; and 6) wrongful death.

This matter is on calendar for Defendants' objection to the recommendation of the Discovery Referee under Code of Civil Procedure ("CCP") 643(c). The objection is OVERRULED and the Discovery Referee's Recommendation and proposed orders are adopted as the order of the Court.

I. Relevant Facts and Procedure

The instant case was filed on August 7, 2023. Between July 16, 2024 and August 1, 2024, Plaintiff filed fourteen motions to compel further responses to discovery requests. Among the filed motions were ten individual motions to compel further responses to requests for production of documents ("RPODs") under CCP § 2031.310 and form interrogatories ("FIs") under CCP § 2030.300 directed to each of the Defendants. The Court, sua sponte, issued a notice of intent to appoint a discovery referee under CCP § 639(a)(5). At almost the same time, Defendants obtained new counsel. See Defendants' Substitution of Attorney(s), filed 8/21/2024. The Honorable James Lambden (the "Referee") was appointed by order of the Court on September

11, 2024 to “hear and determine any and all discovery motions and disputes”. See Court’s 9/11/24 Order Appointing Referee.

The Referee issued case management orders and set the at issue motions to compel RPODs and FIs from Defendants on August 18, 2025. Defendants filed their oppositions to all of the motions on August 11, 2025. The hearing on August 18 (the “Referee Hearing”) was attended by the parties. On August 19, 2025, the Referee issued his recommendation and proposed orders as to all ten discovery motions (the “Referee’s Recommendation”, see Declaration of Christopher Choi, filed 8/29/2025, Ex. D.). Defendants filed their Objection to the Referee’s Recommendation on August 29, 2025. Plaintiff filed a response to the Objection on September 8, 2025. The Court thereafter set this hearing for November 5, 2025.

II. Legal Authority

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.

B. Discovery Referees

In appointments under CCP § 639(a)(5), the referee is granted authority to set the date, time and place for all hearings determined by the referee to be necessary, to direct the issuance of subpoenas, to preside over hearings, to take evidence, and to rule on objections, motions and other requests made during the course of the hearing. Cal. R. Ct. 3.922(e). The referee is required

to submit a written report to the parties and the court within 20 days after the hearing is complete and the matter submitted. In a special reference, a proposed order is provided and the report must include a recommendation on the merits, a statement of total fees charged and a recommendation for allocation among the parties. CCP § 643. In a special reference, objections to the report must be served and filed no later than 10 calendar days after the report is served and filed, unless otherwise directed by the court; any response to the objections may be served and filed 10 calendar days thereafter; and copies of the objections and any responses must be served on the referee. CCP § 643(c). Then any other party has 10 days to respond to the objection. *Ibid*.

In a special reference (*i.e.* any reference under CCP § 639), the discovery referee's report is *advisory*, not determinative. The trial court must independently consider the referee's findings, as well as any objections and responses to the objections, before acting upon the recommendations. *See, e.g. Rockwell Int'l Corp. v. Sup.Ct.* (1994) 26 Cal.App.4th 1255, 1269-1270. However, the court is not required to hold a *hearing* or conduct a *de novo* review of the underlying argument presented to the referee. *Lopez v. Watchtower Bible & Tract Soc. of New York, Inc.* (2016) 246 Cal.App.4th 566, 588-589. "In its review, the court should give the referee's findings 'great weight' and focus on the parties' objections to those findings." *Ibid*. Even if objections are filed, there is no requirement for a hearing; the court's review may be done "in whatever manner the trial court deems appropriate." *Marathon Nat'l Bank v. Sup.Ct.* (1993) 19 Cal.App.4th 1256, 1258.

The court is empowered to order the parties to pay the referee's fees (if the referee is not an officer or employee of the court) in any manner that is "fair and reasonable," including an *apportionment* of the fees among the *parties* (not among counsel). CCP § 645.1; CRC 3.922(f). Fees paid may be recoverable by the prevailing party from opposing parties as costs of suit. See CCP § 1023.

C. 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." 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).

Upon receipt of a response, the propounding party may move to compel further response if it deems that an answer to a particular interrogatory is evasive or incomplete, an exercise of the option to produce documents under Section 2030.230 is unwarranted or the required specification of those documents is inadequate, or an objection to an interrogatory is without merit or too general. CCP §2030.300(a). When such a motion is filed, the Court must determine whether responses are sufficient under the Code and the burden is on the responding party to justify any objections made and/or its failure to fully answer the interrogatories. *Coy v. Sup. Ct.* (1962) 58 Cal.2d 210, 220-21; *Fairmont Ins. Co. v. Sup. Ct.* (2000) 22 Cal.4th 245, 255. An

interrogatory requiring respondent to elucidate an opinion or a conclusion is not a proper objection to interrogatory. *West Pico Furniture Co. of Los Angeles v. Superior Court In and For Los Angeles County* (1961) 56 Cal.2d 407, 417.

D. 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.”

Upon receipt of a response to a request for production, the propounding party may move for an order compelling further response if the propounding party deems that a statement of compliance with the demand is incomplete; a representation of inability to comply is inadequate, incomplete, or evasive; or an objection in the response is without merit or too general. CCP § 2031.310(a). A motion to compel further responses to a request for production of documents must “set forth specific facts showing ‘good cause’ justifying the discovery sought by the demand.” CCP § 2031.310(b)(1). Absent a claim of privilege or attorney work product, the party who seeks to compel production has met his burden of showing ‘good cause’ simply by showing that the requested documents are relevant to the case, *i.e.*, that it is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence under CCP § 2017.010. *See also Kirkland v. Sup. Ct.* (2002) 95 Cal.App.4th 92, 98. Once good cause is shown, the burden shifts to the responding party to justify its objections. *See Coy*, 58 Cal.2d at 220–221. It is insufficient to claim that a requested document is within the possession of another person if the party has control over that document. *Clark v. Superior Court of State In and For San Mateo County* (1960) 177 Cal.App.2d 577, 579.

E. Sanctions

CCP § 2030.300(d) (relating to interrogatories), and CCP § 2031.310(h) (relating to requests for production of 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.

III. Recommendation as to Discovery Responses

The Court first notes that Plaintiff has failed to file copies of their replies with the Court as to the relevant motions. The Court proceeds to determining the sufficiency of the discovery responses (and therefore whether the discovery referee has erred) based only on the moving papers and the oppositions.

Defendants first mount several attacks on the propriety of the Referee's procedure. In part, this simply appears to argue several matters which neither appear improper, nor appear related to the legal propriety of the Referee's conclusions. The Court addresses the procedural objections first.

A. Objections to the Referee's Process

Defendants' contention that the Referee failed to consider oral argument because the Recommendation was issued just one day afterward is not persuasive. It is a common practice in legal proceedings for a judge to prepare a tentative ruling based on the papers. Indeed, this very decision is being issued in advance of the hearing as a tentative ruling, which may be affected by the contentions of the parties at oral argument. This is a process allowed by Cal. Rule of Court, Rule 3.1308. However, where parties do not present sufficient basis to deviate from said tentative ruling, it is common for the Court to adopt the tentative without change. This is in part because oral argument is not generally an unbounded opportunity to raise issues not raised in the briefing, as principles of due process "prevent the introduction of legal theories without prior notice to opposing counsel and the court." *Sexton v. Superior Court* (1997) 58 Cal.App.4th 1403, 1410 (court nonetheless found that jurisdictional defects have no time limit or notice restriction.). The Recommendation is over seventy pages in substance, containing a substantive legal report and analysis, individual proposed orders for each motion ruled on, and an appendix addressing most discovery requests individually. Defendants' contention that the Referee likely had prepared much of the ruling in advance does not sufficiently display anything improper occurred.

Defendants' contention that the referee's hearing was too brief to satisfy their right to be heard is not persuasive. The "right" to hearings on law and motion matters are not absolute, and constrained to motions where it is statutorily required, and "critical pre-trial matters". *Titmas v. Superior Court* (2001) 87 Cal.App.4th 738, 742. That issue appears largely obviated, as a hearing *did* occur. Defendants' objection is targeted to the duration of the hearing. It is common for law and motion matters (such as discovery motions) to have time limits. The 32 minutes offered to the parties by the Referee exceed what this Court would have typically allowed under its own Local Rules. See Sonoma Superior Court Local Rule 5.5(B) (Law and Motion oral argument "shall not exceed 20 minutes in length"). Defendants contend that the majority of the

Referee Hearing was spent addressing a single subject of the discovery requests at issue. Defendants aver that had they known the brevity of the hearing, they would have otherwise spent their focus on a broader spectrum of the contentions at issue. This too is not persuasive that the Referee has erred. It is not the tendency of this Court in hearing oral argument to be paternalistic in where parties expend their efforts. That the Referee did not direct Defendants how to expend their efforts at the Referee Hearing does not appear to be per se error.

Among the least adequately founded arguments made by Defendants is that the Referee did not consider any of their oppositions, predicated in part because the Referee Recommendation mentions considering “the argument of counsel”. Counsel can be either singular or plural depending on the context, but particularly is plural when applied to a group of lawyers. See, Oxford English Dictionary, 2025. This is to say nothing of the repeated references to the “arguments of the parties” throughout the Referee Recommendation. The Court does not find indications within the Referee’s Recommendation indicating that Defendants’ arguments were not considered. As the Court addresses below, even those arguments in which Defendants have adequate confidence to object to the Recommendation, the Court does not find that the legal contentions are supported. In a motion to compel further responses, the Plaintiff’s burden as propounding party is to display good cause. After that, the burden is shifted to Defendants to show the propriety of their objections.

B. Objections to the Referee’s Legal Determinations

Defendants also contend that the Referee made substantive legal errors in compelling further responses to particular discovery requests.

First, Defendants contend that the Referee erred in ordering Defendants to disclose detailed financial information, citing to Civil Code § 3295. The Referee, in ordering disclosure of the financial information in spite of Defendants’ Civil Code § 3295 objection, provided detailed findings and citations to law. The Referee found good cause for production of the financial information existed because Plaintiff’s allegations within the FAC aver significant financial entanglement between the Defendants, resulting in continued deterioration of care standards in service of greater profit for each of the Defendants. As such, because the financial entanglement is core to the causes of action as asserted against defendants, that the information was not subject to protection under Civ. Code § 3295. In coming to that conclusion, the Referee cites to *Rawnsley v. Superior Court* (1986) 183 Cal.App.3d 86, 90, and *Notrica v. State Compensation Ins. Fund* (1999) 70 Cal.App.4th 911, 939. The cases are both on point and persuasive as to the discoverability, and depending on their contents, the admissibility, of the financial information. Financial information “is not to be excluded (from trial) on the basis of prejudice when the information is relevant to liability.” *Notrica v. State Compensation Ins. Fund* (1999) 70 Cal.App.4th 911, 939. The *Notrica* court came to this conclusion in reliance on the court in *Rawnsley v. Superior Court* (1986) 183 Cal.App.3d 86, 90, which found that financial information was discoverable when it went to the basis of liability, regardless of the provisions of Civ. Code § 3295. Defendants expend no effort actually addressing the Referee’s citations or findings, merely reiterating the Civil Code § 3295 protection and general privacy rights associated with financial information. They also aver that the burden is on Plaintiffs to “make a detailed showing”, but that both misstates the standard for good cause (perhaps predicated on the

already refuted § 3295 argument) and appears illogical. How can Plaintiff make a “detailed” showing of financial interconnection without discovery on this very issue? These are unpersuasive. Therefore, the Court concludes that the Referee did not err in ordering production of financial documents.

Second, Defendants argue that there is no relevance of the insurance policies that do not provide coverage for the actions alleged in this case. Again, the Referee has addressed his reasoning for ordering further responses in detail, opining that “all policies of insurance (not just those providing coverage) could provide insight into alter-ego, joint venture, and single enterprise issues which are relevant in this case.” Referee’s Recommended Order Compelling Further Responses from ESI, pg., 2:26-28. Despite Defendants’ submission of evidence regarding what policies might provide coverage, their argument regarding the applicability of CCP § 2017.210 is unpersuasive. That statute denotes when such insurance policies *must* be discoverable and does not foreclose such policies being discoverable for other reasons related to liability. Defendants provide no authority opining that the express discoverability under CCP § 2017.210 is to the detriment of other reasons insurance policies may be discoverable. The maxim that Defendants rely upon, that evidence of insurance should not be used to prove negligence, does not apply here. This is not an issue where Defendants are arguing that a jury may otherwise be prejudiced by knowing that Defendants have coverage and may therefore provide a windfall to a sympathetic plaintiff. The FAC, and the Referee’s recommendation, contemplate complicated financial entanglements between a web of corporate entities. As the Court has already addressed above, evidence which would assist in trial or settlement on this basis is generally discoverable absent a particularized protection to the contrary. Even fishing expeditions may sometimes be appropriate. *Garamendi v. Golden Eagle Ins. Co.* (2004) 116 Cal.App.4th 694, 712, fn. 8. Defendants fail to show that the insurance policies are not appropriately discoverable.

Defendant argues that judgments and stipulations binding any related entities are also irrelevant and burdensome. Defendants aver the significant burden associated with producing judgments and stipulations binding what amounts to, per Defendants memorandum, hundreds of companies interconnected with Defendants. Trial courts retain broad discretion and authority to manage discovery issues, including determining whether a discovery request causes undue burden. *Toshiba America Electronic Components v. Superior Court* (2004) 124 Cal.App.4th 762, 773. Here, Defendant claims undue burden, but has not sufficiently shown that the information requested is not reasonably accessible to meet the Court’s expectation for undue burden. Indeed, no evidence is proffered for what the burden would be in making the requested production, as Defendants do not provide this information in a declaration with their oppositions, and a memorandum is not evidence. The information is shown to be potentially relevant. Again, the Referee has elucidated his reasoning on the issue, and that reasoning is sound and persuasive. The Referee determined that the judgments and stipulations may be relevant for the purpose of establishing knowledge on the part of the corporate entities of any prevalence of their allegedly abusive practices. Defendants’ contention regarding the overexpansiveness of the time determined relevant by the Referee is not couched in any legal authority. Even where remoteness in time would preclude admission of documents at trial, that does not mean that they will not be helpful to Plaintiff in preparing their case and should therefore still be discoverable. *Lopez v. Watchtower Bible & Tract Society of New York, Inc.* (2016) 246 Cal.App.4th 566, 594 (Reports prepared twenty-five years after the incidents alleged in the complaint were still sufficiently

relevant to be discoverable.). Ten years appears to be a reasonable period when determining the long-term effects of corporate financial policies effect on resident health.

Similarly, Defendants contend that the recommendation that they must produce their correspondence with the California Department of Public Health is unduly burdensome and vague, but that remains a matter not sufficiently shown by Defendants. Again, no evidence of the burden is introduced. As to the assertion of vagueness, a party has a duty to answer if “the nature of the information sought is apparent.” *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 783. Defendants fail to display that the request for correspondence is so vague that the nature of the information is not adequately clear. Again, the duration is well within what might be found to be discoverable, and Plaintiff has displayed good cause accordingly.

Therefore, the Court finds no error in the Referee’s hearing and determination of the substance of the motions to compel further responses.

IV. Sanctions

Sanctions are mandatory under the CCP for discovery abuses, absent substantial justification or other circumstances that would make sanctions unjust for interrogatories and RPODs. Absent substantial justification, the Court must grant compensatory monetary sanctions which represent reasonable and actual costs to Plaintiff. Plaintiff requested sanctions against both Defendants and their counsel of record at the time, but counsel has since been replaced. The Referee did not recommend sanctions against new counsel, only against Defendants, but granted all sanctions as requested.

In their oppositions to the motions and the Objection, Defendant does not offer criticism of the number of hours expended, nor the rate charged. Instead, Defendant avers that sanctions were simply not warranted because their objections had “substantial justification”. Whether sanctions are *largely* attributable to the misdeeds of prior counsel does not appear dispositive to the issue. The objections asserted were mostly reiterated boilerplate objections that neither the Referee nor the Court find to be of any merit. As of the date of the Referee Hearing, supplemental responses *had* been served, but remained unverified. Unverified responses are tantamount to no response at all.

The first question in determining that application of discovery sanctions is whether discovery abuse occurred. The purpose of discovery sanctions is to mitigate the cost for victims of discovery abuse. Sanctions for motions to compel further responses to RPODs and FIs are **mandatory**, absent substantial justification or other circumstances that would make imposition “unjust”. CCP § 2030.300(d), and CCP § 2031.310(h). 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. Defendants argue that because they may have contentions that they believe are arguable as to a very limited number of discovery requests, no sanctions should be granted because their position was “substantially justified”. Such a position would lead to absurd results. A responding party with a single meritorious objection could advance the same argument to refuse to provide any substantive response to discovery, without risk of sanctions. The question posed by the statutes is whether

Plaintiff “prevailed on the motion”. Given the narrow context of the discovery requests where Defendants state that their opposition was “substantially justified”, it would appear erroneous to deny sanctions as to any of the motions.

While Defendants argue that the Referee’s grant of sanctions “in toto” was error, their oppositions raise no request to grant only part of the sanctions requested. Independently reviewing the opposition, this Court would also have granted sanctions in total. Nor do they provide any authority in their Objection showing that the Referee would have abused his discretion by failing to create allocations based on their limited “substantial justification”. Courts are vested with substantial discretion in the appropriate amount of monetary sanctions. This includes the *discretion* to allocate according to success. Defendants asserted a great number of meritless objections to discovery requests, and the supplemental responses were served *long* after the motion was initially filed. As the Referee noted, when the motion was “made”, the motion was necessary. Intermittent objections which might have some minimal merit does not cure the necessity of the motion based on boilerplate objections. The motions were necessary, and appropriately granted as to all discovery requests and the Referee’s determination that all the sanctions should be granted was therefore not erroneous.

Defendants’ contention that they have subsequently served supplemental responses appears irrelevant to the issue of sanctions. The supplemental responses were served shortly before the Referee Hearing, and verifications had still not been provided at that point. Again, when the motion was made, it was also necessary due to discovery abuse. Service of subsequent answers does not cure the discovery abuse that necessitated the motion. See *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 411. In short, subsequent compliant responses do not obviate the original discovery abuse that necessitated the motions. Defendants have not displayed substantial justification such that sanctions should not be imposed as to each motion.

Each of the orders award the same amount of sanctions, \$2,930, with each order being applied to a different one of Defendants. Each of the orders is GRANTED, and each of Defendants is accordingly individually ordered to pay \$2,930 in sanctions to Plaintiff. Defendants shall pay the sanctions due to Plaintiff within 20 days’ notice of each order.

V. Costs of the Referee’s Recommendation

Defendants request that they not be required to pay the Referee’s fees Defendants also argue that the Referee’s averred fees, 64 hours at \$1,100 per hour, should require an accounting. As the Court has already addressed, the Recommendation is lengthy, thorough, and would reasonably take the amount of time requested. The statute does not require that the Referee provide a detailed accounting of his time, nor would the Court normally require it of a party in discovery motions. The averment of counsel of the time expended (or in this case, the Referee) is legally sufficient in most cases. The time appears more than reasonable given the quality of the work product.

Defendants are correct that the appointing order failed to delineate a maximum compensation for the Referee. This appears to have been an erroneous omission on the part of the Court. In

reviewing the amount requested by the referee, the amount requested comports with figures that were common and acceptable a decade ago, and therefore appear well within the type of figure the Court would have included in the original order. The Court will issue a corrected version of the order appointing the Referee, capping fees at \$1,100 per hour.

The Court approves the Referee's request for payment of 64 hours of time, at \$1,100 per hour and the already advanced \$1,900 dollars of costs, in accordance with the Referee's recommendation. This results in a total approval of \$70,400 in fees, and \$1,900 of costs. Defendants have already advanced the \$1,900 of costs. The Court adopts the Referee's allocation of fees.

VI. Conclusion

Defendant's objection to the Discovery Recommendation is OVERRULED and the Discovery Referee's Recommendation and proposed orders are adopted as the order of the Court. Responses will be due within 20 days of notice of the relevant orders.

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). Plaintiffs will file as a separate document the Referee's Recommendation into the Court's record. Thereafter, Plaintiffs shall provide notice of the order per CCP § 1019.5.

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