

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, February 13, 2026 3:00 pm
Courtroom 19 –Hon. Oscar A. Pardo
3055 Cleveland Avenue, Santa Rosa**

The tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument, **YOU MUST NOTIFY** the Judge's Judicial Assistant by telephone at **(707) 521-6602**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via Zoom**, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

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

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Department 19 Hearings

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

1. 23CV00060, Marcus v. Beatie

Nationwide Mutual Insurance Company's Motion to Quash Subpoena is **DROPPED as MOOT** as Plaintiff filed a Notice of Withdrawal of Subpoena to Nationwide Mutual Insurance Company on January 29, 2026, rendering the motion to quash MOOT.

2. 24CV06419, Benedict v. The Ezralow Company, LLC

Plaintiffs' *unopposed* motion for leave to file the First Amended Complaint is **GRANTED** pursuant to C.C.P. section 473(a)(1) and rule 3.1324 of the California Rules of Court.

This action arises from alleged privacy violations by Defendant The Ezralow Company, LLC which operates and manages Addison Ranch Apartments in Petaluma, California, The Legacy Apartments in Antelope, California, and The Retreat at Walnut Creek in Walnut Creek, California, among others. Plaintiffs Betsy Benedict, Megan Benedict, Loren Castillo, Breezy Garcia, George Kozlov, Rigoberto Lemus, Faizah Patel, Anthony Piazza, Kimberly Piazza, Patriana Scott, Donna Vue, and Latasha Williams all applied to be tenants and/or residents of various apartment complexes operated and managed by Defendant Ezralow. Plaintiffs allege that

Defendant Ezralow has obtained investigative consumer reports about Plaintiffs without notifying them as required by the Investigative Consumer reporting Agencies Act (“ICRAA”). In their Complaint, Plaintiffs allege violations of privacy and violations of the ICRAA and request a writ of mandate and permanent injunctive and declaratory relief enjoining Defendant Ezralow and all persons acting in concert or subject to their control from actively violating the ICRAA. (See Complaint, filed October 24, 2024.) Plaintiffs now seek leave of the Court to file the First Amended Complaint to (1) add a cause of action for violation of Business and Professions Code section 17200 (unfair competition), (2) add five paragraphs of facts in the Introduction section, and (3) identify West Coast Redevelopment, Inc. as a Defendant (Brod Declaration, ¶¶ 10–11.)

Counsel Brod’s declaration states that the Parties engaged in discovery in October of 2025, which led to the revelation of new facts. On October 14, 2025, Defendant Ezralow produced documents that showed it failed to certify that it made the applicable disclosures required under ICRAA to Plaintiffs, failed to certify that it would comply with the ICRAA, and failed to agree to provide a copy of the report to the person subject to the investigation. (Brod Declaration, ¶ 6.) Plaintiffs argue that this production indicates a pattern of failing to comply with ICRAA. (*Id.* at ¶ 9.) On October 22, 2025, Defendant Ezralow produced documents identifying West Coast Redevelopment, Inc., which may have been the entity that requested the investigative consumer reports on Plaintiffs. (*Id.* at ¶ 7.) While the Complaint was filed on October 24, 2024, Plaintiffs filed this motion for leave on October 28, 2025, which was only a few weeks/days after Defendant Ezralow produced the relevant documents that are the basis of the amendment. The trial date is currently August 14, 2026, and the Parties are still engaged in discovery. Furthermore, the proposed amendments arise from the same factual basis as the Complaint. The amendment is necessary because it seeks to identify the entity that requested the investigative consumer reports on Plaintiffs, which is the basis of the Complaint. Therefore, there are no facts to indicate undue delay or any resulting prejudice to Defendant Ezralow that justifies defying the liberal allowance of amendments to the pleadings at all stages of the proceeding. (*Higgins v. Del Faro* (1981) 123 Cal.App.3d 558, 564 [“Where no prejudice is shown to the adverse party, the liberal rule of allowance [to amend a pleading in the furtherance of justice] prevails.”].)

Plaintiffs’ counsel shall file and serve on all Defendants the proposed FAC attached as Exhibit A to the Brod Declaration within five (5) court days of service of notice of entry of the Court’s order on this motion. Unless oral argument is requested, the Court will sign the proposed order lodged with the motion.

3. 25CV05194, Gordon v. Chandler

Defendant Tricia Chandler’s (“Defendant”) demurrer to Plaintiff Robert Gordon’s (“Plaintiff”) Complaint is **SUSTAINED** *without* leave to amend for lack of standing. However, the action is dismissed without prejudice as Plaintiff may refile the request for partition once the Probate Court makes its determination as to title of the Property. Defendant’s request for attorney’s fees and costs pursuant to C.C.P. sections 874.040 and 874.321(5) is **DENIED**.

I. Factual and Procedural History

This case concerns partition of the real property located at 127 Frey Road, Santa Rosa, California (the “Property”), an asset of the Estate of Lennice Katherine Ambrose-Gordon, which is currently being administered in the Probate Court of this county (Case No. SPR097310) (the “Estate”). (See Complaint, filed July 24, 2025.) Decedent Lennice Ambrose-Gordon (“Decedent”) is survived by her two children, Defendant Tricia Chandler and Carrington “Tony” Anthony Ambrose, and her husband Plaintiff Robert Gordon. (*Id.* at ¶ 5.) Decedent died intestate on July 13, 2022 and Defendant became the administrator of the Estate. (*Id.* ¶¶ 3, 5.) In the Complaint, Plaintiff alleges the upon Decedent’s passing, the interest in the assets were vested as follows: one-third each to Plaintiff, Defendant, and Tony Ambrose. (*Id.* at ¶ 5.) On October 10, 2024, Plaintiff insists that Tony Ambrose assigned his one-third interest in the Property to Plaintiff. (*Id.* at ¶ 8.) Plaintiff contends that he holds two-thirds interest in the Property as tenants in common with Defendant holding the remaining one-third interest. (*Id.* at ¶ 9.) After unsuccessfully attempting to buy out Defendant on several occasions, Plaintiff seeks an order from the Court assigning an appraiser to appraise the value of the Property and “provide notice to the parties that any cotenant may buy the interests of other cotenants” pursuant to C.C.P. § 874.311 et seq. (*Id.* at 4:13–16.)

Defendant paints the history of the Parties differently. Defendant contends that the Estate is under the Probate Court’s jurisdiction and is currently being administered. (Defendant’s Points and Authorities, 4:18–5:2, 6:1–3.) Defendant maintains that the Property was wholly owned by Decedent as her separate property. (*Id.* at 4:15–17.) Additionally, Defendant mentions several issues that have occurred in the Probate Court regarding this Estate including Plaintiff’s removal as administrator of the Estate due to his mismanagement of assets. (*Id.* at 5:8–5:24.)

Defendant now demurs to the Complaint on the grounds that the Court has no subject matter jurisdiction of the case (C.C.P. § 430.10(a)); there is another action pending between the same Parties (C.C.P. § 430.10(c)); there is a defect of misjoinder of parties (C.C.P. § 430.10(d)); the Complaint fails to state facts sufficient to constitute a cause of action (C.C.P. § 430.10(e)); and Plaintiff failed to record and file a Notice of Pendency of Action (C.C.P. § 872.250(c)).

II. Governing Law

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. (C.C.P. § 430.30(a). 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.) 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.) A general demurrer considers whether facts pleaded constitute cause of action and is properly sustained only in those instances where no cause of action at all is shown by complaint. (*Los Angeles County v. Read* (1961) 193

Cal.App.2d 748, 751.) Leave to amend should generally be granted liberally where there is some reasonable possibility that a party may cure the defect through amendment. (*The Swahn Group, Inc. v. Segal* (2010) 183 Cal.App.4th 831, 852.)

III. Discussion

A. The Parties' Requests 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 judicial notice of the *existence* of judicial opinions and court documents, along with the truth of the results reached—in the documents such as orders, statements of decision, and judgments—but cannot take judicial notice of the truth of hearsay statements in decisions or court files, including pleadings, affidavits, testimony, or statements of fact.” (*People v. Harbolt* (1997) 61 Cal.App.4th 123, 126–127 [citations omitted]; Evid. Code §§ 452, 453.)

In support of her demurrer, Defendant requests judicial notice of (1) the Spousal or Domestic Property Petition, filed by Plaintiff on December 21, 2022, (2) Change in Ownership Statement Death of Real Property Owner recorded on October 20, 2022, (3) Order Granting Chandler’s Motion for Summary Adjudication in the underlying probate case dated April 4, 2024, and (4) Court of Appeals decision issued August 5, 2025.

In support of his Opposition, Plaintiff requests judicial notice of (1) Plaintiff’s Proof of Service filed October 13, 2025, (2) Defendant’s Proof of Service filed October 29, 2025, (3) First District Court of Appeal Order (A169189) filed June 24, 2024, (4) Minute Order of April 12, 2024, from SPR097310, (5) Declaration of Administrator Tricia Chandler, Re: Status Report of Inventory and Appraisal filed October 30, 2024, from SPR097310, (6) Remittitur in First District Court of Appeal (A170309) dated August 5, 2025, and (7) Docket entry for Dismissal of Spousal Property Petition on September 27, 2023, from SPR097310.

In his Opposition, Plaintiff objects “to the exhibits and items sought to be judicially noticed that do not bear upon the allegations” arguing that they are extrinsic evidence without specifying what particular documents he objects to. Plaintiff’s objections are **OVERRULED** for lack of specificity. All requests for judicial notice are **GRANTED** pursuant to Evidence Code sections 452 and 453. The instant action and the probate proceeding are inextricably intertwined. Thus, the Court takes judicial notice on its own motion of the current register of actions of the probate proceedings (*Estate of Lennice Katherine Ambrose-Gordon*, No. SPR097310) pursuant to Evidence Code section 452(d) to provide a complete background for the instant action.

B. Timeliness

Defendant asks the Court to reject the demurrer as untimely because the demurrer was served on October 29, 2025, which is more than the 30 days required by C.C.P. section 430.40. In her

Reply, Defendant asserts that the demurrer is timely because the Complaint was served by substituted service on Defendant's husband on September 20, 2025, with mailing on the same date, which extends the service completion date to the 10th day after the mailing (40 days total) pursuant to C.C.P. section 415.20(a). Since Defendant filed and served the demurrer on October 29, 2025 (39 days after service), the Court finds that the demurrer was timely.

C. Standing and Jurisdiction

The Court is not persuaded by Plaintiff's arguments. While Plaintiff cites Probate Code sections 11950–11956 that allows for partition prior to distribution, this requires a proceeding *in the estate administration* to avoid "the necessity of commencing independent civil proceedings for partition after the undivided interests have been distributed." (Ross & Cohen, Cal. Practice Guide: Probate (The Rutter Group 2025 Update) ¶ 14:227 [emphasis in original].) However, this section is irrelevant to the instant case as the Complaint is seeking partition under C.C.P. section 874.311 et seq, i.e., the Partition of Real Property Act.

Plaintiff's attempts to distinguish *Amundson* and the different iterations of the Partition of Real Property Act are also unconvincing. The Legislature amended the Uniform Partition of Heirs Property Act (former § 874.311 et seq.), [applying to partition actions filed on or after January 1, 2022 (former § 874.313, subd. (a)], and renamed it as the Partition of Real Property Act (§ 874.311 et seq.) [applying to partition actions filed on or after January 1, 2023] (§ 874.311, subd. (c)). (Stats. 2022, ch. 82 § 3 (AB 2245).) However, the substantive requirements remain unchanged as the Legislature sought to "expand the scope of the Uniform Partition of Heirs Property Act to apply to any real property held in tenancy in common where there is no agreement in a record binding all the cotenants which governs the partition of the property." (*Ibid.*) The Partition of Real Property Act "supplements the statutory scheme governing civil partitions in general (¶ 14:226 ff.) unless there is a conflict, in which case the Act controls. [CCP §§ 874.311(a), 874.313(b)]." (Ross & Cohen, Cal. Practice Guide: Probate (The Rutter Group 2025 Update) ¶ 14:250.1.) Moreover, *Amundson* reaffirms the longstanding principle that clear title must be shown to initiate and maintain a partition action. (*Amundson v. Catello* (2025) 111 Cal.App.5th 817, 824–825 citing *American Medical International, Inc. v. Feller* (1976) 59 Cal.App.3d 1008, 1013 [“‘The only indispensable requirement to [a partition] award is that a clear title be shown’”].) The requirement of clear title in the statutory scheme governing civil partitions in general does not conflict with the Partition of Real Property Act. The Appellate Court further reasoned:

The "basic purposes" of estate administration include "distribut[ing] the residue of the property ... to those persons who are entitled to receive it." (*Estate of Bonanno* (2008) 165 Cal.App.4th 7, 17, 80 Cal.Rptr.3d 560.) Accordingly, at the conclusion of the probate proceedings, the court will issue a final order of distribution that "confirms the title which has accrued under the law of descent." (*Aronson v. Bank of America Nat. Trust & Sav. Assn.* (1941) 42 Cal.App.2d 710, 717–718, 109 P.2d 1001; accord Prob. Code, § 11605 [a final distribution "order binds and is conclusive as to the rights of all interested persons"]... But the party seeking partition must have clear title. (See *ante*, at pp. 552, 554) And because it is presently uncertain

who will succeed to Decedent's interest, that uncertainty in the ultimate outcome of the probate proceedings precluded the siblings from establishing the ownership interest required to bring a partition claim under section 872.210. This principle has been explained as follows: “[A]lthough real property of a decedent passes to the decedent's heirs at law, their right to it is subject to administration of the estate and to its distribution in accordance with the law or the will, and, until that distribution, they have no interest that will enable them to maintain an action for partition.” (48 Cal.Jur.3d (2025) Right of Heirs and Personal Representatives, § 41, citing *Bank of Ukiah*, *supra*, 143 Cal. 265, 76 P. 1020.)

(*Amundson, supra*, 111 Cal.App.5th at 825–826.)

As cited by the Appellate Court in *Amundson*, the probate court issues a final order of distribution confirming the title which has accrued under the law of descent at the conclusion of probate proceedings. (*Id.* at 825 [citations omitted].) Here, the probate proceedings have not concluded, and as evidenced by the record of the probate proceedings and the moving papers in this civil action, title is contested amongst the Parties. Neither Party presents an order from the Probate Court determining title to the Property nor does the Complaint allege that such an order has been made. The Complaint avers that “Pursuant to the laws of intestate succession, Robert L. Gordon, Tricia Chandler and Carrington “Tony” Anthony Ambrose each had a 1/3 interest in the assets of the Estate of Lennice Ambrose-Gordon.” (Complaint, ¶ 5.) Plaintiff's characterization of the Property does not create clear title. Such a claim is not a fact and is a legal conclusion and need not be given any weight at demurrer. (See *Serrano, supra*, 5 Cal.3d at 591.) Plaintiff's right to the Property through the law of descent “is subject to administration of the estate and to its distribution in accordance with the law... and, until that distribution, [he has] no interest that will enable [him] to maintain an action for partition.” (*Amundson, supra*, 111 Cal.App.5th at 826 [citations omitted].) Therefore, Plaintiff lacks standing to bring this partition action as he does not have clear title and cannot allege clear title until the Probate Court distributes the Property.

Furthermore, since probate courts issue final orders of distribution confirming the title accruing under the law of descent, this Civil Court would be acting in excess of its jurisdiction if it were to proceed on a partition action for real property while the estate at issue is concurrently being administered, title has not been confirmed by the Probate Court and title to such property is contested, including findings against Plaintiff that he mismanaged the Estate (and affirmed by the Court of Appeals). (Singler Declaration, Exhibit D; *Conservatorship of O'Connor* (1996) 48 Cal.App.4th 1076, 1087–1088 [“In contrast [to subject matter jurisdiction], a court acts in excess of jurisdiction ‘where, though the court has jurisdiction over the subject matter and the parties in the fundamental sense, it has no “jurisdiction” (or power) to act except in a particular manner, or to give certain kinds of relief, or to act without the occurrence of certain procedural prerequisites.’ ” [citations omitted]].) The Court has subject matter jurisdiction over the partition action pursuant to the civil partition statutory scheme, including the Partition of Real Property Act, but cannot give relief via partition, or determine if such relief is appropriate, until the Probate Court determines title to the Property considering the facts presented in the instant case as discussed above.

Therefore, the demurrer is **SUSTAINED** *without* leave to amend as there is no reasonable possibility that Plaintiff may cure the defect through amendment because the Probate Court has not determined title of the Property. However, the action is dismissed without prejudice as Plaintiff may refile the request for partition once the Probate Court makes its determination as to title of the Property.

D. Attorney's Fees and Costs

Defendant requests attorney's fees and costs of the suit pursuant to C.C.P. sections 874.040 and 874.321(5) as the prevailing party of the action. Section 874.040 "apportion[s] *the costs of partition* among the parties in proportion to their interests or make such other apportionment as may be equitable." (Emphasis added.) Therefore, this section is inapplicable as partition was not substantively considered on the merits. Section 874.321(5) is entirely inapplicable as this section concerns the report of a broker appointed to offer property for open-market sale in a partition action. In the Reply, Defendant's counsel clarifies this request, citing C.C.P. section 874.321.5, not 874.321(5). However, similar to section 874.040, section 874.321.5 concerns the cost of partition, which is inapplicable here as determined above. Thus, Defendant's request for attorney's fees and costs is **DENIED**.

IV. Conclusion

Based on the foregoing, Defendant's demurrer to the Complaint is **SUSTAINED** *without* leave to amend. However, the action is dismissed without prejudice as Plaintiff may refile the request for partition once the Probate Court makes its determination as to title of the Property. Defendant's request for attorney's fees and costs pursuant to C.C.P. sections 874.040 and 874.321(5) is **DENIED**.

Defendant'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).

4. MCV-237704, Portfolio Recovery v. Fish

I. Introduction

Plaintiff Portfolio Recovery Associates, LLC, ("Plaintiff" or "Judgment Creditor") filed a complaint ("Complaint") against Defendant Sherry M. Fish ("Defendant" or "Judgment Debtor") on February 5, 2016, asserting claims for (1) account stated and (2) Open Book Account and praying for \$3,556.93, in damages and any other appropriate relief. Plaintiff secured a default and a subsequent default judgment in the amount of \$3,840.93 on August 4, 2016. A Writ of Execution was then issued on September 28, 2016. Plaintiff secured a second Writ of Execution on July 14, 2025, now for \$3,880.93. Plaintiff asserts that Defendant has made no payments toward the judgment and that the outstanding balance is now \$3,925.93.

II. Relevant Facts

Defendant filed a Claim of Exemption asserting that she receives \$2,849.00 gross wages biweekly from her employer, \$2,036.20 after taxes. Defendant then identifies three dependents, one of them can be classified as a ‘partner’, who earns \$4,393.48 monthly. Defendant also lists total monthly expenses of \$6,863.00, for her family.

III. Applicable Law

CCP §706.050 requires an examination of the judgment debtor's financial statement and the Employer's Earnings Withholdings to determine how much a judgment creditor is entitled to each month. “Except as otherwise provided in this chapter, the maximum amount of disposable earnings of an individual judgment debtor for any workweek that is subject to levy under earnings withholding order shall not exceed the lesser of the following:

- (1) Twenty percent of the individual's disposable earnings for that week.
- (2) Forty percent of the amount by which the individual's disposable earnings for that week exceed 48 times the state minimum hourly wage in effect at the time the earnings are payable. If a judgment debtor works in a location where the local minimum hourly wage is greater than the state minimum hourly wage, the local minimum hourly wage in effect at the time the earnings are payable shall be used for the calculation made pursuant to this paragraph.” (CCP §706.050(a)(1)(2)).

Currently, Santa Rosa, CA’s minimum wage is set at \$18.21/hr. This amount would then be multiplied by 96 biweekly hours. (CCP §706.050(b)(4)). This would account for a \$3,168 gross monthly income ($\$18.21 * 96 = \$1,748.16 * 2 = \$3,496.32$).

IV. Analysis

Here, the amount that can be withheld under §706.050 by Judgment Creditor is the *lesser* of the following:

1. Mathematical analysis under CCP §706.050 (1):
 - a. Withholdings: Based on the financial statement prepared by Judgment Debtor, the following is the calculation of the withholdings based on a bi-weekly pay period. Because "Simple IRA" is not mandated by law according to CCP § 706.01 1(a) those expenses cannot be deducted from judgment debtor's disposable income.
 - i. Federal and state withholding = $\$1,454.66 / 2 = \727.33
 - ii. Total withholdings = $\$727.33$
 - b. $\$2,849.00 - \$727.33 = \$2,121.67$ (Judgment Debtor's disposable income per pay period).
 - c. $\$2,121.67 * 20\% = \424.33
 - d. Thus, under CCP § 706.050(1), the amount that can be withheld for each pay period is $\$424.33$.
2. Mathematical analysis under CCP §706.050(2)(b)(2):

- a. Withholdings: Based on the financial statement prepared by Judgment Debtor, the following is the calculation of the withholdings based on a bi-weekly pay period. Because "Simple IRA" is not mandated by law according to CCP § 706.01 1(a) those expenses cannot be deducted from judgment debtor's disposable income.
 - i. Federal and state withholding = $\$1,454.66 / 2 = \727.33
 - ii. Total withholdings = $\$727.33$
- b. $\$2,849.00 - \$727.33 = \$2,121.67$ (Judgment Debtor's disposable income per pay period).
- c. The mandated minimum hourly wage amount (Santa Rosa, CA) to be used for a bi-weekly pay period is $\$18.21$ ($\$18.21 * 96 = \$1,748.16$).
- d. $\$2,121.67 - \$1,748.16 = \$373.51 * 40\% = \149.40
- e. Thus, under CCP § 706.050(2)(b)(2), the amount that can be withheld each pay period is $\$149.40$.

In this case, based on the Employer's Earnings Withholding, the amount reachable by Judgment Creditor is $\$149.40$.

Plaintiff contests several of Defendant's expense entries as appearing excessive. However, the Court finds expenses to be reasonable for the Santa Rosa, CA area. What also appears reasonable, based on the information presented, is that Defendant begin making payments to Plaintiff in an amount commensurate with her financial condition. Under this reasoning, the Court is ordering bi-weekly payments to Plaintiff in the amount of $\$149.40$, in accordance with CCP §706.050(2)(b)(2).

V. Conclusion

Based on the information contained in Judgement Debtor's Claim of Exemption and Judgement Creditor's Opposition of Claim of Exemption, the Court **DENIES** Judgment Debtor's Claim and award Judgment Creditor the right to collect a bi-weekly wage garnishment in the amount of $\$149.40$.

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