TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, April 15, 2026 3:00 p.m.
Courtroom 17 – Hon. Thomas M. Anderson for the Hon.Jane Gaskell
3035 Cleveland Avenue, Santa Rosa

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

CourtCall is not permitted for this calendar.

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

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

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

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

1. 24CV07290, Wolkenhauer v. American Refrigeration Supplies, Inc.

The hearing on Plaintiff's motion for final approval on behalf of the Class and Representative PAGA Action Settlement is **CONTINUED** to **May 20, 2026**, at 3:00 P.M. in Department 17. Due to delays in processing times for the Court, the motion filed on March 23, 2026, was not processed into the record until April 7, 2026, which is less than 16 court days prior to the hearing on the motion. To allow sufficient time for the moving papers to be served with the new hearing date and allow at least 16 court days for any opposition or objection to be filed, the hearing is continued.

2. 25CV00587, Midland Credit Management Inc. v. Durra

Defendant Oliver J. Durra, self-represented, moves unopposed to vacate the default judgment entered against him on May 12, 2025, per Code of Civil Procedure ("C.C.P.") section 473(b) and Civil Code section 1788.61. The unopposed motion is **GRANTED** per C.C.P. section 473(b). Defendant Durra shall file her attached proposed Answer within 10 days of this Court's order.

FACTS & PROCEDURE

Plaintiff Midland Credit Management, Inc. ("Plaintiff") commenced this action to collect credit card debt allegedly incurred by Defendant, who defaulted by failing to make monthly payments on the credit card. (Complaint, ¶¶ 7-48.) Per the Proof of Service of Summons filed February 7, 2025, Plaintiff effectuated personal service upon Defendant via registered process server Nellie Nichols who stated:

> "I delivered the documents to OLIVER J DURRA AKA OLIVER DURRA with identity confirmed by subject saying yes when named. The individual accepted service with direct delivery. The individual appeared to be a brown-haired white male contact 25-35 years of age, 5'8"-5'10" tall and weighing 160-180 lbs."

(Proof of Service of Summons, ¶ 5.a.) Defendant failed to timely file a responsive pleading, so Plaintiff requested entry of default judgment, which the Court entered on May 12, 2025.

Defendant now moves to set aside the default judgment, stating that he was in the custody of Sonoma County's Main Adult Detention Facility between January 30, 2025, and July 28, 2025, (with the exception of a brief period in February when he was out on bail). (Motion, 6:10-14.) He states that he was diagnosed with a mental or psychiatric disorder, did not have access to any records, and did not have time to research records regarding the debt claimed in this action. (*Id*. at 6:14-23.)

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

ANALYSIS

Legal Standard

Relief from Judgment

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

Failure to Serve Process (Civ. Code § 1788.61)

Notwithstanding C.C.P. section 473.5, if service of a summons has not resulted in actual notice to a person in time to defend an action brought by a debt buyer and a default or default judgment has been entered against the person in the action, the person may serve and file a notice of motion and motion to set aside the default or default judgment and for leave to defend the action. (Civ. Code. § 1788.61(a)(1).) The deadline to file such a motion is either: (1) six years after entry of the default or default judgment against the person; or (2) one hundred eighty days of the first actual notice of the action. (Civ. Code § 1788.61(a)(2).)

Defendant's Motion

Defendant timely moves to set aside the default judgment per C.C.P. section 473(b) and Civ. Code section 1788.61. (Motion, p. 1.) Defendant makes a compelling argument that he was incarcerated immediately after receiving service of the summons and Complaint, so he did not have access to the records or time to research them as needed to respond to the Complaint while incarcerated. (Motion, 6:16-23.) He also claims he was diagnosed with a mental or psychiatric disorder, without disclosing whether the disorder affected his ability to adequately respond to the Complaint. (*Id*. at 6:14-16.)

Plaintiff did not file an Opposition and Defendant did not file a Reply brief.

Application

As Defendant concedes to actually receiving service before he was incarcerated, the Court does not find sufficient basis to grant the motion under Civ. Code section 1788.61. (Motion, 11:20-24.) However, the Court does find that relief is available to Defendant under C.C.P. section 473(b). Defendant timely filed the motion under section 473(b) for relief from the default judgment due to his own mistake, inadvertence, or excusable neglect. Defendant also submitted a proposed Answer for the Court's consideration with the Motion. As such, the Court will grant the motion under section 473(b) and order that the proposed Answer be filed and served on Plaintiff within 10 days of the Order.

CONCLUSION

The motion is **GRANTED**. Defendant shall file the attached proposed Answer within 10 days of this Order. Defendant shall submit a written order on this motion consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

3. 25CV01532, Luria v. Patterson

Pursuant to California Rules of Court ("C.R.C."), rules 2.550 and 2.551, the Court **GRANTS** Plaintiff Karen Luria's unopposed motion to seal portions of Plaintiff's Opposition to Specially Appearing Defendant The Invus Group, LLC's Motion to Quash Service of Summons for Lack of

Personal Jurisdiction (“Opposition”), portions of the Declaration of Plaintiff Karen Luria in Support of the Opposition (“Luria Decl.”), and Exhibits A-FF of the Luria Decl.

I. PROCEDURAL HISTORY

Plaintiff’s Second Amended Complaint alleges various employment claims and labor code violations against named defendants. On October 20, 2025, specially appearing Defendant The Invus Group, LLC filed a motion to quash service of summons for lack of personal jurisdiction.

On the same date that Plaintiff filed the opposition to the motion to quash, Plaintiff also filed the instant motion to seal portions of the Opposition, the Luria Decl., and Exhibits A-FF. Despite proper service of the moving papers, there was no opposition or objection filed. Plaintiff filed a reply to note that there was no opposition.

II. PLAINTIFF’S MOTIONS TO SEAL

Legal Standard

California Rules of Court (“C.R.C.”), Rules 2.550-2.551 allow the sealing and unsealing of records by court order.

Rule 2.550(c)-(e) set forth factors to consider with respect to sealing court records. The factors needed to seal records are that: (1) there is an overriding interest overcoming the right of public access; (2) the overriding interest supports sealing the record; (3) a substantial probability exists that not sealing the record will prejudice the overriding interest; (4) the proposed sealing is narrowly tailored; and (5) no less restrictive means exist to achieve the overriding interest. (C.R.C., Rule 2.550(d).) An order to seal records must specifically state the facts supporting the findings and order sealed only those documents or pages that contain the material that should be sealed; if the records are voluminous, the court may appoint a referee. (C.R.C., Rule 2.550(e).)

To file a record under seal, Rule 2.551(b) requires the requesting party to file a motion or application including a memorandum and declaration containing facts sufficient to justify the sealing. The requesting party must serve copies of the moving papers on all parties who have appeared in the case. (C.R.C., Rule 2.551(b)(2).)

Plaintiff’s Motion to Seal

Plaintiff moves to seal portions of the Opposition, the Luria Decl., and Exhibits A-FF of the Luria Decl. pursuant to C.R.C., Rules 2.550 and 2.551 on the grounds that they contain confidential information, specifically non-public corporate documents and emails containing sensitive proprietary, competitive and/or commercial information, and private information about Plaintiff, Defendants, and numerous current and former employees of Defendants that are not individually named parties in this action. (Motion, 3:2-11.)

Plaintiff argues that:

1. The interests in the right to privacy and likelihood of disclosure of sensitive business information outweigh the right of the public to access such records;

2. A substantial probability exists that the overriding interests will be prejudiced if the record is not sealed because the disclosure of the confidential information would make non-public internal company communications and documents reflecting proprietary information, trade secrets, and commercially sensitive information available to competitors;

3. The proposed sealing is narrowly tailored; and

4. No less restrictive means exist to achieve the overriding interests of the parties.

(Motion, 3:17-26, 4:1-23.) As mentioned, there is no opposition or objection to the motion.

As such, the Court finds sufficient basis to grant the unopposed motion to protect the parties' privacy interests. The portions of the Opposition, the Luria Decl., and Exhibits A-FF of the Luria Decl. are sealed for the purposes of consideration of the Motion to Quash set to be heard on June 10, 2026.

III. CONCLUSION

Based on the foregoing, the unopposed motion to seal is **GRANTED**. Unless oral argument is requested, the Court will sign the proposed order lodged with the motion.

4. 25CV02545, County of Sonoma v. Shapiro

The Court rules as follows on Plaintiff County of Sonoma's unopposed discovery motion filed against Defendants Barnes and Shapiro:

1. The motion is **DENIED as moot** as to Defendant Shapiro, whose discovery responses are subject to a separate Motion to Compel Further Responses filed by the County on January 8, 2026, which the Court heard on April 10, 2026.

2. The motion is **GRANTED** as to Defendant Barnes. Barnes shall serve verified, objection-free responses to Form Interrogatories, Special Interrogatories, and Requests for Production within 20 days of this Court's order. Barnes shall also produce any documents responsive to Requests for Productions in a code-complaint manner. The County's Requests for Admissions to be deemed as admitted is **GRANTED**.

In the Court's discretion, sanctions are awarded in the amount of $1,615.00 for the motion as to Barnes.

I. PROCEDURAL HISTORY

The County served Defendants Shapiro and Barnes with Set One of discovery requests, including Form Interrogatories, Special Interrogatories, Requests for Production of Documents, and Requests for Admissions. (Motion, 1:21-27; Gomez Decl., ¶ 6.) Barnes never responded to these, but after various meet and confer efforts, Barnes served late responses on behalf of Shapiro on December 8, 2025, as noted in the County's separate Motion to Compel Further Responses, which the Court heard on April 10, 2026. (See Motion to Compel Further Responses, 2:10-18, 3:12-13.) In the Tentative Ruling issued prior to that hearing, the Court stated the following:

> "The County represents that Defendant Barnes has not responded at all to the discovery requests. (See Gomez Decl., ¶ 7.) In the opposition to this motion to compel further responses, Defendant Barnes claims she did not receive any discovery requests. (Defendant's Reply to Plaintiff's Motion to Compel Further Responses to Special Interrogatories and Request for Production of
> Documents from Defendant Stephen Shapiro, filed March 30, 2026, 2:9–10.)"

Regardless, the County submitted declarations and proofs of service stating timely service of the discovery responses and also timely and proper service of the moving papers of this motion. Nneither party has served any opposition.

II. ANALYSIS

Legal Standard

a. Interrogatories

A party who fails to serve a timely response to interrogatories absent evidence showing mistake, inadvertence, or excusable neglect, waives any right to object to the interrogatory, including objections based on privilege or work product, and the court shall impose monetary sanctions upon the party who unsuccessfully opposes a motion to compel initial responses. (C.C.P. § 2030.290.)

b. Demand for Production of Documents

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. (C.C.P. §2031.210(a).) If a responding party is not able to comply with a particular request, or part thereof, that party "shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." (C.C.P. § 2031.230.) If the responding party fails to timely respond, the demanding party may move for an order compelling a response. (C.C.P. § 2031.300(b).)

c. Requests for Admission

A party who "fails to serve a timely response" to requests for admissions waives any objection to those requests. (C.C.P. § 2033.280(a).) After a lack of response, the requesting party can move for

an order "that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted." (C.C.P. § 2033.280(b).) However, if the Court finds that the lack of response was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining the party's action or defense on the merits, then the Court may permit leave to withdraw or amend an admission after notice to all parties. (C.C.P. § 2033.300(a)-(b).)

d. Discovery Sanctions

Under the Discovery Act, the court may impose sanctions after notice to any affected party, person, or attorney, and after an opportunity for hearing, against anyone engaging in conduct that is a misuse of the discovery process. (C.C.P. § 2023.030(a).) Sanctions may include reasonable expenses, including attorney fees. (*Ibid*.) A request for sanctions under the Discovery Act shall, in the notice of motion, identify every person, party, and attorney against whom the sanction is sought, and specify the type of sanction sought, shall be supported by a memorandum of points and authorities, and shall be accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought. (C.C.P. § 2023.040.)

The Court may also award sanctions under the Discovery Act "in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed, or opposition to the motion was withdrawn, or the requested discovery was provided to the moving party after the motion was filed." (California Rules of Court, Rule 3.1348(a).) At the same time, "the failure to file a written opposition or to appear at a hearing or the voluntary provision of discovery shall not be deemed an admission that the motion was proper or that sanctions should be awarded." (C.R.C., Rule 3.1348(b).)

The County's Motion to Compel

As stated, the motion as to Shapiro is moot.

Plaintiff seeks to compel Barnes' objection-free and verified responses to the discovery requests having waived all objections by failing to timely serve any responses. The County also seeks that the Requests for Admission be deemed as admitted against Barnes. The County requests sanctions of $2,615.00 in sanctions for the motion, which includes: (1) the County's fees incurred for 5 hours of time seeking responses at a rate of $323.00 per hour; and (2) $1,000.00 in monetary sanctions for misuse of the discovery process. (Gomez Decl., ¶ 11.)

As mentioned above, there was no opposition filed.

Application

The Court finds that the County's unopposed motion is warranted as are the sanctions requested due to Barnes' complete lack of engagement in the discovery process. Though Barnes is a self-represented party, Barnes nonetheless must abide by the requirements under the Discovery Act for responding to discovery requests and meeting and conferring in good faith with counsel if any issues

arise in responding to those requests. Barnes has not fulfilled those obligations and has also not opposed this motion to offer any substantial justification for the lack of response. Thus, the Court will grant the motion, but only award sanctions of $1,615.00 for the County's time meeting and conferring to obtain responses and preparing this motion.

III. CONCLUSION

As stated above, Plaintiff's motion is **GRANTED** as follows:

1. The motion is **DENIED as moot** as to Defendant Shapiro.
2. The motion is **GRANTED** as to Defendant Barnes. Barnes shall serve verified, objection-free responses to Form Interrogatories, Special Interrogatories, and Requests for Production within 20 days of this Court's order. Barnes shall also produce any documents responsive to Requests for Productions in a code-complaint manner. The County's Requests for Admissions are deemed as admitted.

In the Court's discretion, sanctions are awarded in the amount of $1,615.00 against Barnes. The County 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. 25CV03018, Citibank N.A. v. Varela

Plaintiff CitiBank, N.A.'s ("Plaintiff" or "CitiBank") unopposed motion to vacate the dismissal and entered judgment pursuant to Code of Civil Procedure ("C.C.P.") section 664.6 is **GRANTED**. Judgment shall be entered in the amount of **$3,104.66** against Defendant Eugenio Varela ("Varela") for the outstanding debt plus costs. Per Evidence Code sections 452 and 453, CitiBank's request for judicial notice of the party's Stipulated Agreement is **GRANTED**.

PROCEDURAL HISTORY

CitiBank brought this action against Varela to collect payment on credit card debt owed on the account number ending in 7438. (Request for Judicial Notice, Exhibit B, ¶ 2.) The parties entered into a Stipulation Agreement pursuant to C.C.P. § 664.6 (the "Stipulation"), according to which Varela agreed to pay CitiBank to satisfy the debt owed. (*Id*. at Exhibit B, ¶ 1.) Varela agreed to make the following payments: (1) a minimum of $114.00 on or before the 20th day of each and every month commencing in August 20, 2025; and (2) a final payment of $104.05 on or before July 20, 2027. (*Id*. at Exhibit B, ¶ 4.) The total settlement amount was $2,726.05. (*Ibid*.) If Varela satisfied the payments, then CitiBank would dismiss the matter. (*Id*. at Exhibit B, ¶ 8.) However, if Varella defaulted on the payments, then CitiBank could file a request for a judgment for the full amount of the debt remaining, less payments made under the Stipulation and plus costs incurred pursuant to written declaration submitted by CitiBank. (Request for Judicial Notice, Exhibit B, ¶ 4.) Varela did not make a single payment. (DiPiero Decl., ¶ 5.) CitiBank provided Plaintiff with a 10-day written notice of the failure to make payment and intention to request the Court to enter judgment under the terms of the Stipulation.

(*Id*. at ¶ 6.) To date, Varela did not cure the default, so CitiBank now moves for entry of judgment. Despite proper and timely service of the moving papers and notice of hearing date, Varela did not oppose the motion.

ANALYSIS

Legal Standard

If parties to a pending litigation agree to sign a written stipulation for settlement of the case, then the court may upon noticed motion enter judgment pursuant to the terms of the settlement. (C.C.P. § 664.6(a).) The court may retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement if the parties request it. (*Ibid*.) "Section 664.6 was enacted to provide a summary procedure for specifically enforcing a settlement contract without the need for a new lawsuit." (*Weddington Productions, Inc. v. Flick* (1998) 60 Cal.App.4th 793, 809, 71 Cal.Rptr.2d 265.)

CitiBank's Motion

CitiBank moves unopposed to vacate the dismissal and moves to enter judgment per the Stipulation and section 664.6. (Motion, pp. 3-4.) CitiBank seeks the Court to enter judgment in the amount of $3,104.66, which includes the principal sum remaining on the debt in the amount of $2,726.05 plus court costs in the sum of $378.61. (DiPiero Decl., ¶¶ 7-8; Memorandum of Costs dated December 18, 2025.)

Application

CitiBank sufficiently demonstrated that the parties entered into a valid written and signed stipulated agreement, under which Varela continues to owe debt after defaulting on payment obligations. Per the motion, the parties' Stipulation, and C.C.P. section 664.6, the Court finds it reasonable to enter judgment in the amount requested against Varela for the remaining debt owed plus court costs in bringing this motion.

CONCLUSION

Accordingly, the motion is **GRANTED**. Judgment shall be entered in the amount of **$3,104.66** against Varela for the outstanding debt plus costs. Unless the parties request and appear for oral argument, the Court will sign the proposed order and proposed judgment.

6-7. 25CV04319, Souverain v. FCA US LLC

Defendants FCA US, LLC ("FCA")and CardinaleWay Chrysler Dodge Jeep Ram ("CardinaleWay") Santa Rosa (together "Defendants") demur to the Fifth and Sixth Causes of Action alleged in Plaintiff Lucson Souverain's ("Plaintiff") Complaint is **SUSTAINED with leave to amend**

as to the Fifth Cause of Action for Negligent Repair and **OVERRULED** as to the Sixth Cause of Action for Fraudulent Inducement-Concealment.

Defendants' concurrent motion to strike punitive damages in the Complaint is **DENIED**.

PROCEDURAL HISTORY

On or about September 25, 2020, Plaintiff purchased a 2019 Jeep Compass (the "Vehicle") from CardinaleWay and entered into a warranty contract with FCA, the manufacturer and distributor of the Vehicle. (Complaint, ¶¶ 4-8.) Plaintiff alleges that the Vehicle was defective and had "transmission defects, engine defects, start/stop defects, electrical defects; among other defects and non-conformities," of which Defendants were aware prior to selling Plaintiff the Vehicle. (*Id*. at ¶¶ 12-21.) The Complaint alleges four causes of action under the Song-Beverly Consumer Warranty Act, a Fifth Cause of Action for Negligent Repair, and a Sixth Cause of Action for Fraudulent Inducement-Concealment. (*Id*. at ¶¶ 40-72.)

Defendants' counsel met and conferred by email and telephone with Plaintiff's counsel regarding deficiencies in the Complaint, but the parties did not reach a resolution as to these issues. (Shirani Declarations, ¶¶ 2-4.) Defendants now demur to the Fifth and Sixth Causes of Action for Negligent Repair and Fraudulent Inducement Concealment in the Complaint pursuant to Code of Civil Procedure ("C.C.P.") section 430.10(e), and also move to strike the prayer for punitive damages in the Prayer for Relief of the Complaint. Plaintiff opposed both motions, to which Defendants submitted replies. These are considered below.

DEMURRER

Legal Standard

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 judicially noticed facts 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, but the distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.) 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.) The burden of proving that there is a reasonable possibility to cure the defect is squarely on the party that filed the pleading, but if that burden is met and leave to amend is not granted, then that constitutes an abuse of discretion by the trial court. (*Ibid*.)

Demurrer to Fifth Cause of Action for Negligent Repair

Defendants demur to the Fifth Cause of Action for Negligent Repair arguing that the claim fails as a matter of law because it is barred by the economic loss rule which disallows a plaintiff to claim damages for a negligence of cause of action for economic loss alone without physical injury. (Demurrer, pp. 5-7.) Defendants also argue that Plaintiff failed to plead sufficient facts to show how CardinaleWay deviated from industry standards as claimed, what that conduct was, or when it happened. (*Ibid*.)

Plaintiff argues that the Complaint alleges all essential elements of Negligent Repair and the economic loss rule does not bar all cases involving the negligent performance of services, under *North American Chemical Co. v. Superior Court* (1997) 59 Cal.App.4th 764, 777-81.)

Defendants' Reply emphasizes that any duty to perform services, such as repairs arising from the service and warranty relationship, arises from the parties' agreement and not out of any independent tort duty, so the Negligent Repair does not fit an exception to the economic loss rule. (Reply, pp. 6-7.)

The Complaint alleges that CardinaleWay owed a duty to Plaintiff to use "ordinary care and skill in storage, preparation and repair of the Subject Vehicle in accordance with industry standards." (Complaint, ¶ 61.) However, Plaintiff does not sufficiently allege how this duty arises from an independent tort duty that does not arise out of the repair services and warranty agreement that exists between the parties. Furthermore, Plaintiff failed to state what damages occurred to Plaintiff and how CardinaleWay's alleged breach was the proximate cause of those damages.

For these reasons, the demurrer is **SUSTAINED** with leave to amend as to the Negligent Repair cause.

Demurrer to Sixth Cause of Action for Fraudulent Inducement-Concealment

Defendants demur to Plaintiff's Sixth Cause of Action for Fraudulent Inducement-Concealment for failure to constitute a cause of action because: (1) Plaintiff's allegations lack the requisite factual specificity; and (2) Plaintiff failed to plead facts that establish a direct transaction with FCA. (Demurrer, pp. 3-5.)

For the reasons stated below, the demurrer is **OVERRULED** as to this cause of action. The Court finds that Plaintiff sufficiently alleged facts at the pleading stage to show a transactional relationship between Plaintiff and Defendants giving rise to a duty of disclosure of material facts.

Requisite Specificity for Fraud

Defendants argue that the Complaint does not plead specific facts against Defendants, but rather relies on conclusory and vague statements to support the fraud claim. (Demurrer, pp. 3-4.)

Plaintiff argues that in cases where a party claims fraud through non-disclosure, it is not practical to allege facts that show how, when, and by what means the disclosure did not happen, per *Alfaro v. Community Housing Improvement System Planning Assn.* (2009) 171 Cal.App.4th 1356, 1384 ("*Alfaro*"). (Opposition, pp. 3-4.) Plaintiff claims the Complaint sufficiently alleges the elements of fraud under this standard. (*Ibid*.)

In the Reply, Defendants argue that Plaintiff's Complaint fails to allege: (1) facts showing FCA's knowledge of the alleged defect; (2) facts showing intentional concealment; (3) that the allegedly omitted information was inaccessible; (4) facts identifying when, where, or in what context FCA was supposedly required to disclose the omitted information; and (5) anything more than a conclusory allegation as to Plaintiff's reliance on statements or omissions made. (Reply, pp. 4-6.)

The Court finds that, at the pleading stage, Plaintiff has sufficiently pleaded the Sixth Cause of Action for Fraudulent Inducement-Concealment and that it is not practical at this stage to state in detail how, when, and by what means Defendants failed to disclose material facts under *Alfaro*.

Transactional Relationship

Defendants cite *Bigler-Engler v. Breg, Inc*. (2017) 7 Cal.App.5th 276, 311, in which case the Court of Appeal held that a transactional relationship is necessary between two parties to impose a duty to disclose. (MPA, pp. 4-5.) Defendants argue that Plaintiff failed to allege facts to support that there was any duty to disclose material facts to Plaintiff because there was no direct fiduciary or transactional relationship between Defendants and Plaintiff. (*Ibid*.)

Plaintiff argues that FCA provided a warranty directly to Plaintiff which established a contractual relationship supporting a duty to disclose. (Opposition, pp. 4-5.) Furthermore, Plaintiff cites *Bader v. Johnson & Johnson* (2022) 86 Cal.App.5th 1094, 1132, in which the Court of Appeal held that Johnson & Johnson as baby powder manufacturers had a transactional relationship with consumers, which relationship was not interrupted by the distributor of Johnson & Johnson's products because those distributors were not Johnson & Johnson's agents. (Demurrer Opposition, pp. 5-6.) So, the Court of Appeal held that Johnson & Johnson could be held liable for concealing material information about its baby powder from consumers. (*Id*. at 5:27-28.) Relying on this ruling, Plaintiff argues that a transactional relationship can be found here between Plaintiff and FCA. (*Id*. at 6:1-2.)

In the Reply, Defendants generally reaffirm arguments for there being no direct, transactional relationship between Plaintiff and FCA. (Reply, pp. 1-4.)

The Court finds that Plaintiff's allegations are sufficient to show a transactional relationship between Defendants giving rise to a duty of disclosure.

MOTION TO STRIKE

Legal Standard

Motion to Strike

The Court may strike a pleading that contains "irrelevant, false, or improper matter[s]" or is "not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." (C.C.P. §§ 435, 436(b).)

Punitive Damages

When a plaintiff claims a breach of an obligation against a defendant, not arising from any contract, punitive damages may be recovered in addition to actual damages when it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice against the plaintiff. (Cal. Civ. Code § 3294.) The code describes "malice" as conduct that the defendant intended to cause injury to the plaintiff, or "despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others." (*Id*. at § 3294(c)(1.)) "Oppression" is defined as "despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights." (*Id.* at § 3294(c)(2).) Finally, "fraud" is defined as the "intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury." (*Id*. at § 3294(c)(3).)

Defendants' Motion to Strike

Defendants moves to strike the prayer for punitive damages from the Complaint, arguing that Plaintiff did not plead sufficient facts to support allegations of oppression, fraud, or malice under Civil Code section 3294. (Motion to Strike, pp. 2-3.) Defendants also argue that Plaintiff did not plead sufficient facts to identify any specific individual employed by FCA with whom they communicated, nor any advertisement or publication authored by FCA that Plaintiff allegedly saw and rely upon to their detriment. (*Id*. at pp. 3-4.)

Opposition

Plaintiff cites to *Dhital v. Nissan N. Am., Inc.* (2022) 84 Cal.App.5th 828 as authority to argue that the Complaint sufficiently pleaded enough facts to state a claim for fraud, and as such, punitive damages are available through Civil Code section 3294. (Motion to Strike Opposition, pp. 3-4.) Furthermore, the Complaint alleges Defendants' conscious disregard for the safety of others, which can satisfy the "malice" requirement for a prayer of punitive damages. (*Id*. at pp. 4-5.)

Reply

In the Reply, Defendants argue that Plaintiff's Opposition misrepresents the law and they re-emphasize that Song-Beverly claims do not provide for punitive damages. (Reply, pp. 2-3.)

Application

The motion to strike is **DENIED**. Plaintiff's prayer for punitive damages is based on the fraud claim, not the Song-Beverly claims. The Court is overruling the demurrer as to the sufficiency of Plaintiff's fraud claim, so the Court will also deny the motion to strike because the Complaint alleges sufficient facts to support a prayer for punitive damages under Civil Code section 3294.

CONCLUSION

As stated above, Defendants' Demurrer is **SUSTAINED with leave to amend** as to the Fifth Cause of Action for Negligent Repair and **OVERRULED** as to the Sixth Cause of Action for Fraudulent Inducement-Concealment. Defendants' Motion to Strike is **DENIED**.

Defendants shall submit a written order on their motions to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).