TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, April 8, 2026 3:00 p.m.
Courtroom 17 – Hon. Jane Gaskell
3035 Cleveland Avenue, Santa Rosa

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

CourtCall is not permitted for this calendar.

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

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

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By Phone (same meeting ID and password as listed for each calendar):
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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. 24CV07051, Payan v. Ford Motor Company

Defendant Ford Motor Company ("Ford") moves unopposed for summary adjudication ("MSA") against Plaintiff Reyna Payan's Fifth Cause of Action for Fraudulent Inducement-Concealment alleged in the Complaint is **GRANTED** per Code of Civil Procedure ("C.C.P.") section 437c(f).

I. PROCEDURAL BACKGROUND

Plaintiff's Complaint alleges various claims including a Fifth Cause of Action for Fraudulent Inducement-Concealment. (Complaint, ¶¶ 57-72.) In support of the claim, Plaintiff alleges that the 10-speed automatic transmission on the Plaintiff's vehicle was defective and susceptible to sudden and premature failure, which Ford knew of and failed to disclose. (*Id*. at ¶¶ 58-60.)

Ford's MSA argues that Plaintiff has not produced sufficient evidence in response to discovery requests to prove the necessary elements of the claim. (Amended Notice of Motion, 1:2-17.) Despite

proper and timely service of the motion and notice of the hearing date, Plaintiff failed to oppose the motion. (Notice of Non-Opposition, 1:16-21.)

II. ANALYSIS

Legal Standard

Motion for Summary Adjudication

Per C.C.P. section 437c(f), a party may move for summary adjudication "as to one or more causes of action within an action, one or more affirmative defenses…if the party contends that… that there is no affirmative defense to the cause of action, that there is no merit to an affirmative defense as to any cause of action, or that one or more defendants either owed or did not owe a duty to the plaintiff or plaintiffs."

An issue of fact exists if "the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 845.) A moving party does not meet the initial burden if some "reasonable inference" can be drawn from the moving party's own evidence which creates a triable issue of material fact. (*Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 840.) If the moving defendant cannot meet the initial burden, the plaintiff has no evidentiary burden. (C.C.P. § 437c(p)(2).)

Fraudulent Inducement-Concealment

To state a claim for fraud and deceit based on concealment, a plaintiff must allege: (1) the defendant concealed or suppressed a material fact; (2) the defendant was under a duty to disclose the fact to the plaintiff; (3) the defendant intentionally concealed or suppressed the fact with the intent to defraud the plaintiff; (4) the plaintiff was unaware of the fact and would not have acted as he did if he had known of the concealed or suppressed fact; and (5) as a result of the concealment or suppression of the fact, the plaintiff sustained damage. (*Marketing West, Inc. v. Sanyo Fisher (USA) Corp.* (1992) 6 Cal.App.4th 603, 612–613.)

Failure to disclose a fact can constitute actionable fraud or deceit in the following for circumstances: "(1) when the defendant is the plaintiff's fiduciary; (2) when the defendant has exclusive knowledge of material facts not known or reasonably accessible to the plaintiff; (3) when the defendant actively conceals a material fact from the plaintiff; and (4) when the defendant makes partial representations that are misleading because some other material fact has not been disclosed." (*Collins v. eMachines, Inc*. (2011) 202 Cal.App.4th 249, 255.)

Ford's MSA

Pursuant to *Union Bank v. Superior Court* (1995) 31 Cal.App.4th 573, 589, Ford argues that a moving defendant may rely on factually devoid discovery responses to shift the burden of proof

pursuant to section 437c(o)(2), such that plaintiff must set forth the specific facts which prove the existence of a triable issue of material fact. Here, Ford argues that Plaintiff's factually devoid discovery responses demonstrate that there is no evidence to support the fraud claim. (MSA, pp. 1, 6-7.) Plaintiff simply referred back to the Complaint and Plaintiff's documents produced did not provide evidence that Ford knew of any transmission defect in Plaintiff's vehicle or that Ford concealed that defect from Plaintiff at the time of purchase. (*Ibid*.)

As mentioned above, Plaintiff failed to oppose the motion to establish the existence of a triable issue of material fact as to essential elements of Plaintiff's fraud claim.

Application

Ford timely and properly served the moving papers and notice of hearing date on Plaintiff and Plaintiff failed to file any opposition. Ford's MSA shifted the burden to Plaintiff of proving that there remain triable issues of material fact as to the fraud claim, but Plaintiff has failed to meet this burden. As such, the Court will grant the MSA in its entirety.

III. CONCLUSION

Ford's MSA is **GRANTED**. Unless oral argument is requested, the Court will sign the proposed order lodged with this motion.

2-3. 25CV01244, Hallock v. CMOUTS LLC

The hearings on Defendants Wendy C. Jardine and CMOUTS LLC's demurrer and motion to strike regarding Plaintiff Hallock's Second Amended Complaint set for April 8, 2026, and the hearings on Plaintiff's two motions to strike these motions set for April 10, 2026, and May 20, 2026, are all **CONTINUED** to be heard on Friday, May 22, 2026, at 3:00 P.M. in Department 17. The motions will be heard on the same date as Plaintiff's pending motion to compel.

4. 25CV03025, King v. Ward

Defendant Charles Ward ("Defendant") moves to strike Paragraph 28 and the punitive damages prayed for in Plaintiffs Amy and Nathaniel King's ("Plaintiffs") First Amended Complaint ("FAC"). The motion is **DENIED**.

I. PROCEDURAL HISTORY

This matter involves a residential lease agreement by which Plaintiffs rented property from Defendant, based on which Plaintiffs allege causes of action for breach of contract, nuisance, breach of the implied covenant of quiet enjoyment, breach of implied warranty of habitability, and constructive eviction. (FAC, ¶¶ 13-43.) Paragraph 38 of the FAC alleges that, "the conduct of Defendant alleged

herein was willful and malicious. Defendant acted, or failed to act, deliberately and in conscious disregard of the rights and safety of Plaintiffs. As a result, Plaintiffs are entitled to punitive damages in an amount to be determined at trial." The FAC also prays for punitive damages in the Prayer for Relief. (7:18, 7:22-23.) Defendant moves to strike these portions of the FAC. Plaintiffs oppose. Defendant submitted a Reply to the Opposition.

II. ANALYSIS

Legal Standard

Motion to Strike

The court may, "upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper: (a) Strike out any irrelevant, false, or improper matter inserted in any pleading. (b) Strike out all or any part of any pleading 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.) Any party may serve and file a notice of motion to strike the whole or any part of a pleading within the time allowed to respond to the pleading, within the notice specifying the hearing date on a motion to strike the complaint. (*Id*. at § 435(a)-(b).) Where the defect subject to the motion to strike is capable of cure, the court should allow leave to amend. (*Vaccaro v. Kaiman* (1998) 63 Cal.App.4th 761.)

Punitive or Exemplary 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).)

Defendant's Motion to Strike

Defendant argues that there is no basis for punitive damages in the Complaint because the FAC fails to state in more detail what Defendant knew about the numerous habitability issues pleaded in the FAC and what Plaintiffs specifically reported to Defendant. (Motion, pp. 6-7.)

Plaintiffs' Opposition

In the Opposition, Plaintiffs argue that the FAC properly pleaded specific factual allegations to claim punitive damages, specifically Paragraphs 9 through 12 which detail the issues with the property

that Plaintiffs notified Defendant of and allowed five months to remedy the issues, which Defendant failed to do. (Opposition, 2:5-25, 3:1-5.) Furthermore, Plaintiffs specifically plead in Paragraph 12 that, "in light of the hazardous conditions at the Subject Property, Defendant's chronic failure to take remedial measures and reckless disregard for the health and well-being of the Plaintiffs, the Plaintiffs were compelled to move out…" (FAC, ¶ 12.) Plaintiffs argue that these are all sufficient to support a claim for punitive damages.

Defendant's Reply

Defendant takes issue with the FAC not pleading despicable conduct on the part of Defendant. (Reply, 2:2-22.) Defendant otherwise generally reaffirms similar arguments made in the motion.

Application

The Court finds that the Complaint sufficiently alleges ultimate facts to allege the "despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others" element of malice to support a prayer for punitive damages at the pleadings stage.

III. CONCLUSION

The motion is **DENIED**. Plaintiffs shall submit a written order on the motion consistent with this tentative ruling and in compliance with California Rules of Court, Rules 3.1312(a) and (b).

5. SCV-260676, The National Collection Agency, Inc. v. Monraz

Plaintiff and Judgment Creditor The National Collection Agency, Inc. ("National") moves unopposed for an assignment order for all or part of a right to payment due or to become due to Defendant and Judgment Debtor Sergio A. Monraz ("Monraz"), pursuant to Code of Civil Procedure ("C.C.P.") section 708.510. The motion is **GRANTED**.

National obtained a Judgment in its favor against Monraz on October 6, 2017, for the total amount of $110,890.09. (Motion, 2:6-7.) Per section 708.510, "upon application of the judgment creditor on noticed motion, the court may order the judgment debtor to assign to the judgment creditor…all or part of a right to payment due or to become due…" National moves for such an assignment order and has duly served the moving papers with notice of the hearing date on Monraz by mail.

There being no opposition or objection to the motion, the Court **GRANTS** the motion per section 708.510. National shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with California Rules of Court, Rules 3.1312(a) and (b).

6. SCV-264723, Addington v. Ridgeway Distribution, LLC

Self-represented Plaintiff/Cross-Defendant David Addington's ("Addington") to correct clerical error in the Amended Final Statement of Decision and Judgment (the "Judgment") dated November 8, 2023, is **DENIED**.

Relief is available under Code of Civil Procedure section 473(d) to "correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed." When correcting clerical mistakes, "the function of a nunc pro tunc order is merely to correct the record of the judgment and not to alter the judgment actually rendered—not to make an order now for then, but to enter now for then an order previously made. (*In re Marriage of Padgett* (2009) 172 Cal.App.4th 830, 852.) In other words, "the court can only make the record show that something was actually done at a previous time; a nunc pro tunc order cannot declare that something was done which was not done." (*Johnson & Johnson v. Sup. Ct.* (1985) 38 Cal.3d 243, 256.)

Since its entry, Addington has made numerous attempts to set aside or vacate the Judgment. This particular motion finds issue with the second distributorship costs of $600,000.00 awarded in the Judgment arguing that the total should have been $439,000.00 instead. (Motion, 3:9-27.)

The Opposition argues that the Judgment clearly states that "Humboldt's QuickBooks, payroll records, and receipts" were verified by Tobias Dodge and Humboldt spent a total of $600,000.00 in building and operations, with the largest costs specified under the "major categories" outlined in the Judgment as noted in Addington's Motion. (Opposition, 1:23-27, 2:1-5.) The Opposition states that Addington is ignoring the plain wording of the Judgment regarding the total being $600,000.00 with the largest costs specified in the Judgment, but not every cost. (*Id*. at 2:6-11.)

Overall, the Court does not find that Addington's Motion states any grounds in support of the relief requested under C.C.P. §473(d) because no clerical error was identified. Addington again disagrees with the substance of the Court's Judgment entered. The purpose of section 473(d) is not to make changes retroactively to how a judgment was rendered, but to correct errors in recording said judgments.

As the Court is not persuaded by Addington's arguments regarding the second distributorship costs, the motion is **DENIED** in its entirety. Humboldt shall submit a written order on this motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312.

7-8. SCV-268096, Schram v. Shiloh Homeowners Association

Defendant Shiloh Homeowners Association's ("Shiloh HOA") motion for attorney's fees and costs is **GRANTED** in its entirety for the total amount of $212,752.75 against Plaintiffs Katherine and Richard Schram.

Defendant Nessinger's motion for attorney's fees and costs is also **GRANTED** in its entirety for the total amount of $535,394.00 against Plaintiffs.

I. PROCEDURAL HISTORY

Nessinger planted olive trees along his private driveway to restore landscaping destroyed in the 2019 Kincade Fire after he had been advised by Plaintiff Richard Schram, chairman of the Architectural Committee, that Nessinger would not need to submit an application to replace his landscaping to the Shiloh HOA prior to doing so. (Shiloh HOA's Motion, 2:14-15; Nessinger Motion, 3:3-18.) Plaintiffs complained about the olive trees and demanded their removal claiming they violated the Shiloh HOA design criteria. (Nessinger Motion, 3:19-26.) Shiloh HOA's board took action on the dispute and approved Nessinger's landscaping. (*Id*. at 3:27-28, 4:1-2.) Unhappy with the decision, Plaintiffs filed this action against both Nessinger and Shiloh HOA, but it was determined ultimately after a jury trial that the Board's decision was reasonable and lawful regarding Nessinger's landscaping. (*Id*. at 4:8-20.) Now both Nessinger and Shiloh HOA move separately for attorney's fees, which Plaintiffs oppose.

II. ANALYSIS

Legal Standard

Per Civil Code section 1717, "the court, upon notice and motion by a party, shall determine who is the party prevailing on the contract for purposes of this section, whether or not the suit proceeds to final judgment. Except as provided in paragraph (2), the party prevailing on the contract shall be the party who recovered a greater relief in the action on the contract."

Per Civil Code section 5975, the prevailing party in an action to enforce governing documents under the Davis–Stirling Act shall be awarded reasonable attorney's fees and costs. (*Almanor Lakeside Villas Owners Assn. v. Carson* (2016) 246 Cal.App.4th 761, 776.)

Shiloh HOA's Fees

Shiloh HOA argues that it is entitled to recover attorney's fees under Civil Code sections 1717 and 5975 as a prevailing party after trial, and seeks a total of $212,752.75 for approximately 1,301 hours of work incurred in defendant against Plaintiffs' claims at attorney and paralegal rates ranging between $110.00-240.00 per hour depending one experience level and position. (Reagan Decl., ¶¶ 4-9; Supplemental Reagan Decl., ¶¶ 2-4.) Shiloh HOA argues that $3,630.20 has been removed from the overall fee request as a good-faith gesture to Plaintiffs for all the time billed for travel to and from Ventura and Santa Rosa. (*Id*. at ¶ 6.)

Nessinger's Motion

Nessinger also requests fees under sections 1717 and 5975 for the total amount of $535,394.00, which includes $514,176.00 in attorney's fees and $20,298.00 paid by Nessinger in connection with the matter while being represented by Nessinger's prior counsel; the total fees are generally supported

by extensive billing records. (Corrected Terry Decl., ¶¶ 2-6.) Nessinger's counsel requests a rate of $545.00 per hour for their experienced attorneys, $425.00 per hour for their litigation associates, and $225.00 per hour for their senior paralegal. (Corrected Terry Decl., ¶¶ 7-12.) A brief sentence states that they anticipate incurring another 5 hours at an increase rate of $645 per hour for their partners. (*Id*. at ¶ 12.)

Joint Opposition

Plaintiffs argue that neither Shiloh HOA nor Nessinger have established adequately that they are a "prevailing party" as required under Civil Code sections 1717 or 5975, that the action was not to enforce a contract or governing document, and that the fee requests are not supported by evidence, and that there are duplicative fees requested for the same work. (Opposition, 2:1-16.) Plaintiffs request the Court to deny the motions, or at least reduce the award. (*Id*. at 15:4-10.)

Replies

Shiloh and Nessinger both argue that they are "prevailing" parties within the meaning of Civil Code section 1717. (Shiloh HOA Reply, pp. 2-3; Nessinger Reply, pp. 2-3.) They otherwise reaffirm the arguments to support that their fees requested were reasonable and that the evidence submitted in support is proper. (Shiloh HOA Reply, pp. 4-8; Nessinger Reply, pp. 3-6.)

Application

The Judgment after trial states that "costs and fees to be awarded upon further order of the Court after hearing on noticed motion." (Judgment dated September 4, 2025, p. 17.) As mentioned above, sections 1717 and 5975 mandates an award to the prevailing party in an action for contracts or regarding a governing document.

Despite the Opposition claiming that this action is not one to enforce a contract or governing documents in a manner that requires the triggering of fee-shifting under, Plaintiffs claims are all based on the Amended and Restated Declaration of Covenants, Conditions, and Restrictions attached to the Second Amended Complaint. Therefore, the Court rejects the argument that neither section 1717 nor 5975 apply and finds that Defendants are both prevailing parties.

As the prevailing parties, they are entitled to attorney's fees under both sections. The Court finds that Defendants' hours and rates proposed in their respective motions are reasonable and well supported by the billing records submitted as evidence attached to counsels' declarations. The Court will grant the motions and has not heard a sufficient basis from Plaintiffs to reduce fees.

III. CONCLUSION

Based on the foregoing, both motions are **GRANTED**. Shiloh HOA and Nessinger shall submit written orders on the motions to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).