TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, July 10, 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.

TO JOIN ZOOM ONLINE:

Department 19 Hearings
MeetingID: 160-421-7577
Password: 410765
https://sonomacourt-org.zoomgov.com/j/1604217577

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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. 24CV02936, Oracle Consulting, Inc. v. Swami

Defendants Brahma Brewery and Brahma Swami (an individual doing business as Brahma Brewery) (together as "Defendants") move the Court to consolidate the instant action with a related action pending in another department in this Court: *Swami v. Harris* (24CV04528) (the "Brahma Action"). The unopposed motion is **GRANTED** pursuant to C.C.P. section 1048(a).

I. Procedural History

This action arises out of a contract entered into by Defendants and Plaintiff Oracle Consulting, Inc. ("Oracle") on August 3, 2023, for improvement work on the property located at 800 Helman Lane, Cotati, California 94931 (the "2023 Contract") (A.P.N. 0 46-074-002) (the "Property"). (See Exhibit 1 to the Complaint filed May 9, 2024.) The Complaint in the instant action claims that Defendants breached the Contract by failing to perform while the Complaint in the Brahma Action claims Oracle and David Harris (principal/agent of Oracle) breached a February 2021 contract for improvement of the Property which the parties reaffirmed in August 2023. Defendants now move the Court to consolidate the two cases, arguing that they involve common questions of law and fact.

II. Governing Law

A trial court has broad discretion to consolidate actions with common questions of law or fact to avoid unnecessary costs or delay. (C.C.P. § 1048(a); *Walker v. Walker* (1960) 177 Cal.App.2d 89, 91–92.) Rule 3.350 of the California Rules of Court governs the requirements of a motion to consolidate cases and the process of consolidation.

III. Analysis

The two cases proposed to be consolidated arise out of the parties' agreements for improvement of the Property, which necessarily involves common questions of law and fact. Both cases concern the evolving contractual relationship of the parties from 2021 to the filing of the Complaints in 2024. Both cases will involve analysis of the parties' contractual agreement(s), the duties of each party under the contract(s), the performance of each party under the contract(s), the amounts billed and paid for the work performed, and the quality of work performed. Furthermore, both Complaints allege breach of contract and seek relief related to the mechanic's lien Oracle recorded against the Property on May 7, 2024 (Defendants argue that the lien is invalid and Oracle seeking foreclosure on the lien). One of the differences between the actions is that the Brahma Action names David Harris as an additional defendant, but he is named in his capacity as a principal of Oracle. Nonetheless, both cases arise out of improvement contracts for the Property between the substantially same parties. Based on the commonalities of these actions, it is in the interest of judicial economy and efficiency for them to be consolidated and litigated together. The motion to consolidate is **GRANTED**.

Pursuant to California Rules of Court, Rule 3.350, the instant case (24CV02936) is lead case as the lowest numbered case and all documents filed must include the caption and case number of this case, followed by the case numbers of all the other consolidated cases.

IV. Conclusion

Defendants' motion to consolidate is **GRANTED**.

Defendants' 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).

2. 25CV06897, Callen v. Town of Windsor

Plaintiff Michael Callen ("Plaintiff") seeks a Court order (1) vacating the January 12, 2026, voluntary request for dismissal pursuant to C.C.P. section 473(b) and (2) granting his petition for relief from government claims under Government Code section 946.6. The motion is **DENIED**.

I. Procedural History

This action arises out of a series of events related to an employee of Defendant Town of Windsor, Braden Eggert, occurring in or around November and December 2024. Plaintiff is

married to Branden Heffelfinger, a process server in Sonoma County, who served Mr. Eggert with legal paperwork in the course of his job as a process server. Plaintiff alleges that Mr. Eggert, a Code Enforcement employee for the Town of Windsor, used Town's database to find Plaintiff's home address and then went to it apparently to confront Heffelfinger. Plaintiff alleges that he made a Public Records Act request for Mr. Eggert's information so that he could request a temporary restraining order against Mr. Eggert because Mr. Eggert had sent an email stating that he had gone to the couple's home and was waiting outside for them. For several months, Mr. Eggert allegedly stalked, threatened, and harassed Plaintiff, including appearing at his place of employment several times. On July 16, 2025, Plaintiff submitted his claims to the Town of Windsor, which was denied on August 19, 2025, for failing to bring his claims within six months after the incident pursuant to Government Code sections 901 and 911.2. (Hight Decl., Exhibits 1–2.) The letter from the Town of Windsor also informed Plaintiff that the only recourse was to apply for leave to present a late government claim under sections 911.4 to 912.2 and 946.6. (Hight Decl., Exhibit 2.) Subsequently, Plaintiff filed an application to present a late claim under section 911.4 with the Town of Windsor on September 2, 2025 (the Town of Windsor says this claim was presented on September 8, 2025). (Hight Decl., Exhibits 3–4.) The Town of Windsor then denied Plaintiff's timely application to present a late claim without providing any reasoning for the denial on September 9, 2025. (Hight Decl., Exhibit 4.) The letter also informed Plaintiff that he may petition a court for an order relieving him of section 945.4 (claim-presentation requirement) under section 946.6. (Hight Decl., Exhibit 4.) On October 3, 2025, Plaintiff filed his Complaint in this action asserting a single claim of general negligence against the Town of Windsor and DOES 1–10. Plaintiff did not seek relief under section 946.6 in his Complaint.

On January 9, 2026, at 11:40 a.m., Plaintiff filed a dismissal of the entire action but cancelled the filing the same date at 11:46 a.m. On January 12, 2026, at 2:51 p.m. Plaintiff filed a petition to be relieved from Government Code section 945.4 pursuant to section 946.6 and simultaneously filed a dismissal of the entire action without prejudice at 2:58 p.m. on the same date. Plaintiff cancelled the filing of the petition for relief on January 14, 2026, at 12:30 p.m. but did not cancel the filing of the dismissal. The Clerk's Office reviewed and accepted the January 12th dismissal on January 16, 2026, at 8:30 a.m. Plaintiff then attempted to re-file the petition for relief on January 14, 2026, at 2:23 p.m. but the Clerk's Office rejected the filing on February 6, 2026, due to Plaintiff's January 12th dismissal. On March 11, 2026, Plaintiff filed an *ex parte* application to set aside the January 12th dismissal pursuant to C.C.P. section 473(b) and for leave to file the petition for relief. On March 16, 2026, this Court denied the *ex parte* application for failure to provide proper notice to Defendant and for lack of clarity in the requested relief. (See Order Denied, filed March 16, 2026.) Plaintiff then filed the instant motion on March 24, 2026, for relief under C.C.P. section 473(b) to vacate the January 12th dismissal and for an order granting his petition for relief from Government Code section 945.4 pursuant to section 946.6. The Court now considers Plaintiff's requests under C.C.P. section 473(b) below.

II. <u>Governing Law</u>

C.C.P. Section 473 allows the court to amend pleadings and relieve parties from a judgment or order taken against a party. Under Section 473(b), an application for discretionary relief from a judgment, dismissal, order, or other proceedings taken against a party or their legal representative must be (1) due to the party or their legal representative's mistake, inadvertence,

surprise, or excusable neglect; (2) accompanied by a copy of the answer or other pleading proposed to be filed; (3) made within a reasonable time not to exceed six months after the judgment, dismissal, order, or proceeding was taken. Relief under the discretionary provision of the statute only allows relief from attorney error fairly imputable to the client, i.e., whether a reasonably prudent person under the same or similar circumstances might have made the same error. (*Toho-Towa Co. v. Morgan Creek Prods., Inc.* (2013) 217 Cal.App.4th 1096, 1112 [internal citations omitted].) Section 473 is remedial and is to be liberally construed so as to dispose of cases upon their substantial merits. (*Taliaferro v. Taliaferro* (1963) 217 Cal.App.2d 216, 220.)

Under C.C.P. section 473(b), an application for mandatory relief must be (1) made no more than six months after entry of judgment, (2) in proper form, and (3) "accompanied by an attorney's sworn affidavit attesting to his or her mistake, inadvertence, surprise, or neglect" for the court to vacate either the resulting default judgment or dismissal. The purpose of the mandatory relief provision is to "relieve the innocent client of the burden of the attorney's fault, to impose the burden on the erring attorney, and to avoid precipitating more litigation in the form of malpractice suits." (*Jackson v. Kaiser Foundation Hospitals, Inc.* (2019) 32 Cal.App.5th 166, 173, citing *Even Zohar Construction & Remodeling, Inc. v. Bellaire Townhouses, LLC* (2015) 61 Cal.4th 830, 839.)

III. <u>Analysis</u>

A. <u>The Court Declines to Exercise Discretionary Relief under C.C.P. Section 473(b)</u>

Plaintiff's request is timely as the dismissal was entered on January 12, 2026, and Plaintiff filed the instant motion on March 24, 2026. Plaintiff's counsel failed to understand the timing requirements for filing claims under the Government Code and related requests for relief for untimely claims. The issue is whether ignorance of the law constitutes a mistake within the meaning of C.C.P. section 473(b). As framed by the court in *Hopkins*:

> An "honest mistake of law" can provide "a valid ground for relief," at least "where a problem is complex and debatable," but relief may be properly denied where the record shows only "ignorance of the law coupled with negligence in ascertaining it." (*A & S Air Conditioning v. John J. Moore Co.* (1960) 184 Cal.App.2d 617, 620, 7 Cal.Rptr. 592.) In considering whether a mistake of law furnishes grounds for relief, " 'the determining factors are the reasonableness of the misconception and the justifiability of lack of determination of the correct law.' " (*Torbitt v. State of California* (1984) 161 Cal.App.3d 860, 866, 208 Cal.Rptr. 1, quoting *Tammen v. County of San Diego* (1967) 66 Cal.2d 468, 476, 58 Cal.Rptr. 249, 426 P.2d 753.)

(*Hopkins & Carley v. Gens* (2011) 200 Cal.App.4th 1401, 1412–1413.) Furthermore, discretionary relief may apply to cases involving attorney mistake only when the mistake is excusable, but attorney conduct falling below the professional standard of care is not excusable because holding otherwise "would be to eliminate the express statutory requirement of excusability and effectively eviscerate the concept of attorney malpractice." (*Jackson v. Kaiser*

Foundation Hospitals, Inc. (2019) 32 Cal.App.5th 166, 174, citing *Zamora v. Clayborn Contracting Group, Inc.* (2002) 28 Cal.4th 249, 258.)

Here, there are several compounded issues that have put this case in its current posture. First, Plaintiff's Counsel failed to understand the requirements to bring a tort claim against a government entity (The Town of Windsor) under the Government Claims Act. Second, Plaintiff's Counsel failed to understand the requirements for relief for failure to timely bring a claim under the Government Claims Act. Third, Plaintiff's Counsel misunderstands the applicability of C.C.P. section 473(b) to his requested relief in the instant action.

The issue does not involve a mistake of law that is complex and debatable but rather is a straightforward procedural error from failing to adequately research the Government Claims Act. Plaintiff seeks relief from the January 12th dismissal itself in addition to a court order granting his section 946.6 petition. However, there is no justifiability for filing a dismissal of the entire action upon Counsel realizing that he needed to first file relief under Government Code section 946.6 before filing his Complaint. The lack of understanding of the procedural requirements for government claims does not adequately explain why Counsel filed a voluntary dismissal of the entire action that would then justify the Court to exercise its discretionary authority to set aside the dismissal. These facts mirror ignorance of the law coupled with negligence in ascertaining it, which is not an excusable mistake. Plaintiff's Counsel does not identify any misconception except for generally not understanding the procedural requirements. In Counsel's declaration, he does not take responsibility for his own errors and states "Plaintiff was unaware court approval under 946.6 was required", "Plaintiff acted promptly", etc. (Hight Decl., 2:5–14.) The misconception was not reasonable and there is little, if any, justifiability of Counsel's lack of determination of the correct law for bringing claims against a government entity. As summarized in the procedural history above, Counsel's actions in this Court and with the Town of Windsor exemplify simple ignorance of the law, not an excusable mistake under the discretionary provision of C.C.P. section 473(b).

Furthermore, setting aside the January 12th dismissal neither permits the Court to grant Plaintiff's section 946.6 petition nor renders such petition timely. Section 946.6 contains its own timing and filing requirements, which would not allow the Court to grant such a petition without considering the merits. Even assuming *arguendo* the Court set aside the dismissal, the earliest the 946.6 petition could be deemed filed would be July 10, 2026, which is beyond the six-month filing requirement of section 946.6. (See Gov. Code § 946.6(b) ["The petition shall be filed within six months after the application to the board is denied or deemed to be denied pursuant to Section 911.6."].)

B. Mandatory Relief is Inapplicable to Plaintiff's Claims

While it is unclear whether Plaintiff applies for relief under the discretionary or mandatory provision of the statute, the mandatory relief provision under C.C.P. section 473(b) is unavailable for parties who voluntarily dismiss their own actions. (See *Jackson, supra,* 31 Cal.App.5th at 172–177.)

C. Conclusion

Based on the foregoing, the motion is **DENIED**.

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

3. <u>MCV-255415, Looney v. Kyodai Sushi, LLC</u>

Court-appointed receiver Michael Brewer ("Mr. Brewer" or "Receiver") moves for an order finding the following pursuant to California Rule of Court, Rule 3.1184:

1. The Receiver complied with this Court's Order Granting Motion to Appoint Michael Brewer as Receiver dated March 9, 2022, and satisfactorily completed all of his duties; (Motion, 2:4–6.)
2. The Final Report and Account of the Receiver is approved. (*Id.* at 2:7.)
3. The final fees and expenses of the Receiver, his counsel, his agents, and brokers be approved. (Motion, 2:8–9.)
4. The Receiver's acts, transactions, and judgment be approved. (*Id.* at. 2:10.)
5. The Receiver and his other professionals, at the expense of the Receivership Estate, are authorized to abandon or destroy any and all business records relating to the Receivership or to this action that are in their possession, control or custody, if not claimed by a party entitled thereto, in writing, within thirty (30) days of entry of the Order on this motion. Any party claiming such records must pay for all costs of taking possession of and delivery of such records. (*Id.* at. 2:11–16.)
6. The Receivership is terminated, and the Receiver is discharged from his official duties, and the Receiver, attorneys, employees, and agents, and each of them, are fully exonerated from all liability as provided by law and in furtherance thereof, all persons and entities enjoined and restrained from commencing or prosecuting any action or proceeding against the Receiver on account of debts, claims and obligations of them Receivership. Any Receiver's bond is exonerated. (*Id.* at 2:17–22.)
7. The Receiver shall not be liable in any manner for any outstanding obligations and debts of the Receivership Estate, known or unknown, and that the Receiver shall not be liable to any person or entity, including taxing authorities. The Receiver shall make all financial documents of the Receivership Estate available to the parties in accordance with Paragraph 5 above. (*Id.* at 2:23–27.)
8. Should the Receiver, his agents, professionals, counsel or employees be called as a witness in any future proceeding or be required to respond to a document subpoena in connection with the Receiver's services in this matter, the requesting party shall pay the subpoenaed person's then current billing rate for the time and reimburse all fees and expenses in connection with such discovery response obligations. (*Id.* at 2:28–3:4.)
9. This Court reserves exclusive jurisdiction over any claim or claims that may be asserted against the Receiver or his professionals, for their respective services herein and all issues that were part of the subject matter of the Receivership and this Order, or that have arisen or may arise therefrom. (*Id.* at 3:5–8.)
10. Notice of this Motion was proper. (*Id.* at 3:9.)

On March 9, 2022, Mr. Brewer was appointed as receiver to take control of Defendant Kyodai Sushi, LLC's liquor license (No. 548013) to satisfy a judgment entered against it. (Brewer Decl., ¶ 2, Exhibit 1.) Mr. Brewer sold the liquor license to another party, which was completed by the California Department of Alcohol Beverage Control on September 30, 2025. (Brewer Decl., ¶¶ 6–7.) Mr. Brewer now seeks to be discharged as the sale and transfer of the license terminated any duties owed under the Appointment Order. (Brewer Decl., ¶ 10.) No party filed an opposition to the motion. (See Proof of Service, filed June 5, 2026.)

Mr. Brewer seeks approval of the Final Report and Accounting, which totals $2,353.47. All of the acquired charges and costs appear to be actual and reasonable. (*Melikian v. Aquila, Ltd.* (1998) 63 Cal.App.4th 1364, 1368, quoting *People v. Riverside University* (1973) 35 Cal.App.3d 572, 587 ["The amount of fees awarded to a receiver is "in the sound discretion of the trial court and in the absence of a clear showing of an abuse of discretion, a reviewing court is not justified in setting aside an order fixing fees."].)

The Court **GRANTS** the motion and approves Mr. Brewer's Final Report and Accounting in the amount of $2,353.47. The Receiver shall submit a written order on his motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

4. SCV-245738, Liebling v. Goodrich

Judgment Creditor Richard Abel moves the Court to enforce its January 6, 2026, discovery order against Judgment Debtor Robert E. Zuckerman or to issue an Order to Show Cause re Contempt in the alternative. The motion is **GRANTED in part and DENIED in part**. Mr. Zuckerman will serve objection-free supplemental responses to Special Interrogatories Nos. 13, 14, 15, 16, and 33 and Requests for Production of Documents Nos. 1, 15, 21, 26, and 30 within fifteen (15) days of notice of this order for his failure to obey the Court's January 6th Order. Mr. Abel's request for judicial notice is **DENIED** for lack of relevancy.

I. Procedural History

On January 6, 2026, this Court granted Mr. Abel's motion to compel post-judgment discovery, ordering Judgment Debtor Robert E. Zuckerman to serve code-compliant, objection-free responses to Special Interrogatories ("SI") and Requests for Production of Documents ("RFPD") within 30 days of notice of the order. See Order Granted: Motion to Compel, filed January 6, 2026.) Mr. Abel now moves for the Court to compel Mr. Zuckerman's compliance with the January 6th Order pursuant to C.C.P. sections 2030.290(c), 2031.300(c), and 2023.030(e), arguing that he has not complied with the Order. In the alternative, Mr. Abel asks the Court to issue an Order to Show Cause re Contempt against Mr. Zuckerman pursuant to C.C.P. sections 1218 and 1219.

II. Request for Judicial Notice

The Court **DENIES** Mr. Abel's request for judicial notice of a statement contained in this Court's July 11, 2016, ruling on a discovery matter because it is irrelevant to the instant motion. (*Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301 ["But judicial notice, since it is a substitute for proof [citation], is always confined to those matters which are relevant to the issue at hand"].)

III. Analysis

Both parties concede that Mr. Zuckerman served supplemental responses to the SIs and RFPDs on January 13, 2026. (Abel Decl., ¶ 10; see also Gardner Decl., Exhibits 102–103.) Mr. Zuckerman contends that these responses are responsive to the January 6th Order, while Mr. Abel insists these responses are not responsive to the January 6th Order because they are non-compliant and were served on him before he filed notice of entry of the Court's January 6th Order on January 30, 2026. The Court's Order was entered on January 6, 2026, and there is no reason why Mr. Zuckerman could not serve responses before January 30, 2026, and Mr. Abel provides no authority to support this contention. Therefore, Mr. Zuckerman timely served supplemental responses as required by the Court's January 6th Order.

However, upon the Court's review of Mr. Zuckerman's January 13th responses, several responses contain objections based on privilege in direct violation of the Court's January 6th Order. The Court previously determined that Mr. Zuckerman had waived all objections, including those of privilege, for failing to respond to the discovery in first instance pursuant to C.C.P. sections 2030.290(a) and 2031.300(a) and ordered Mr. Zuckerman to serve objection-free responses. (See Order Granted: Motion to Compel, filed January 6, 2026.) Therefore, Mr. Zuckerman has failed to comply with the Court's January 6th Order requiring him to furnish objection-free responses when he served responses with objections on January 13th.

SI Nos. 13, 14, 15, 16, and 33 all fail to answer the request and assert an objection based on attorney-client privilege. All other SI responses answer the request "without waiving objection" but still answer the request. RFPD Nos. 1, 15, 21, 26, and 30 all contain the statement "Responding Party will produce all responsive, non-privileged documents to this Request within his custody and control after making a reasonable search in good faith to do so" and identify documents with corresponding Bates numbers. Therefore, Mr. Zuckerman's asserted privileges in response to the SIs and has possibly withheld documents on the basis of privilege when he was expressly ordered to serve objection-free responses. Accordingly, Mr. Zuckerman must serve supplemental responses to SI Nos. 13, 14, 16, 16, and 33 without objections, including those based on attorney-client privilege. Mr. Zuckerman must also provide supplemental responses to RFPD Nos. 1, 15, 21, 26, and 30 to include privileged documents, if any, and must specify if there are no privileged documents responsive to a particular request. Mr. Zuckerman must serve supplemental responses within <u>fifteen (15) days</u> of notice of this order.

Mr. Zuckerman argues that the instant motion acts as an untimely motion to compel further responses. The Court disagrees. The Court is enforcing its January 6th Order, which Mr. Zuckerman flouted by serving responses with objections after the Court ordered him to serve objection-free responses. The Court has the authority to enforce its own discovery orders and make any orders that are just when a party fails to obey an order compelling a response. (See C.C.P. §§ 2030.290(c) [interrogatories], 2031.300(c) [RFPDs].) Further violations of discovery orders in this matter will warrant the imposition of sanctions, including evidentiary sanctions. Mr. Abel's further arguments about the sufficiency and alleged falsities of Mr. Zuckerman's January 13th responses or related document production are not properly before this Court and not

subject to the Court's January 6th Order. The Court **DENIES** Mr. Abel's request to issue an Order to Show Cause re Contempt against Mr. Zuckerman.

IV. Conclusion

The motion is **GRANTED in part** and **DENIED in part**. Mr. Zuckerman will serve objection-free supplemental responses to Special Interrogatories Nos. 13, 14, 15, 16, and 33 and Requests for Production of Documents Nos. 1, 15, 21, 26, and 30 within fifteen (15) days of notice of this order for his failure to obey the Court's January 6th Order.

Mr. Abel 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).

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