

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

UPDATED

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. 25CV00913, Evans v. Black

Defendants Bud and Tanya Black (together as "Defendants") demur to Plaintiff Camilla Evans' Complaint. The demurrer is **SUSTAINED** in its entirety pursuant to C.C.P. section 430.10(e). Leave to amend is **GRANTED** for the First and Third Causes of Action. Leave to amend is **DENIED** for the Second Cause of Action as explained below.

Plaintiff shall file an amended Complaint within 30 days of notice of the Order on this motion. Plaintiff shall abide by the California Code of Civil Procedure and applicable Rules of Court.

I. FACTUAL & PROCEDURAL HISTORY

On February 12, 2025, Plaintiff filed her Complaint alleging habitability issues against landlord Defendants at the property where Plaintiff resides: 716 Beaver Street, Santa Rosa, California (the "Property"). The Complaint alleges three causes of action: breach of implied warranty of habitability, violation of health and safety codes, and disability discrimination (failure to accommodate).

Defendants were served with a summons and the Complaint on February 25, 2026, and now demur to Plaintiff's Complaint. Defendants argue that Plaintiff's Complaint fails to allege the elements to state a cause of action against Defendant for the three causes of action and that the Complaint is uncertain.

II. DISCUSSION

A. Standard at Demurrer

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).) A party may demur to a pleading when there is another action pending between the same parties on the same cause of action. (C.C.P. § 430.10(c).) 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. (*Coshov 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.) 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.)

B. Defendants' Blanket Arguments

Defendant makes several generalized arguments applicable to the entire Complaint and argues separately that all three causes of action fail to state a claim upon which relief can be granted. First, the Court may construe Plaintiff's petition as a complaint to consider Defendants' demurrer on its merits. "The label given a petition, action or other pleading is not determinative; rather, the true nature of a petition or cause of action is based on the facts alleged and remedy sought in that pleading." (*Escamilla v. Department of Corrections & Rehabilitation* (2006) 141 Cal.App.4th 498, 511.) Second, complaints generally do not need to be verified unless required by statute. Since Plaintiff prays for injunctive relief, her pleading should be verified. (See C.C.P. § 527(a).) Plaintiff must also provide the requisite facts to support her claim for injunctive relief. Furthermore, Defendants argue that Plaintiff's comingled facts violate the requirements to separately state each cause of action with separate counts, elements, or supporting ultimate facts for each cause of action as required by C.C.P. section 430.10(g). Section 430.10(g) does not support this argument and relates to the sufficiency of pleading a contract. Plaintiff has stated three separate causes of action.

Lastly, while the Complaint is not a model of clarity, it is not incomprehensible. Demurrers for uncertainty are disfavored and only granted "if the pleading is so incomprehensible that a defendant cannot reasonably respond." (*Morris v. JPMorgan Chase Bank, N.A.* (2022) 78 Cal.App.5th 279, 292 [internal citation omitted].) Defendants fail to show that the alleged inconsistencies are material, rendering the Complaint so deficient that they cannot reasonably respond. Plaintiff alleges three causes of action supported by various preceding facts to support her claims. The demurrer is **OVERRULED** on the basis of uncertainty pursuant to C.C.P. section 430.10(f). However, the Court addresses the sufficiency of each of cause of action below.

C. First Cause of Action – Breach of Implied Warranty of Habitability

The elements required to assert a cause of action for breach of implied warranty of habitability are (1) the existence of a material defective condition affecting the premises' habitability (2) notice to the landlord of the condition within a reasonable time after the tenant's discovery of the condition, (3) the landlord was given a reasonable time to correct the deficiency, and (4) resulting damages. (*Erlach v. Sierra Asset Servicing, LLC* (2014) 226 Cal.App.4th 1281, 1297.) Plaintiff alleges several substandard conditions and resulting physical injuries. However, Plaintiff fails to allege notice to Defendants of the condition within a reasonable time after her discovery of the conditions and that Defendants were given a reasonable time to correct the issues. While some of the attachments to the Complaint may contain evidence of some of these elements, the facts supporting the elements must be pled in the Complaint itself. Defendants' demurrer to the First Cause of Action is **SUSTAINED with leave to amend** because there is a reasonable possibility these defects can be cured through an amendment. (*The Swahn Group, Inc., supra*, 183 Cal.App.4th at 852.)

D. Second Cause of Action – Violation of Health and Safety Codes

The Second Cause of Action states "Violation of Health & Safety Codes" and cites to section 17940. In the factual allegations section, Plaintiff then cites to Health and Safety Code section 17920.3. Section 17940 appears to be an inoperative provision of California's State Housing Law (Health & Saf. Code § 17910 et seq.), while Section 17920.3 is a definitional provision that defines a "substandard building." Section 17920.3 does not create a standalone basis to recover damages but rather acts as a predicate condition for causes of action created by other statutes. There is no reasonable possibility this defect can be cured through an amendment neither Section 17940 nor 17920.3 creates a standalone basis to recover damages. (*The Swahn Group, Inc., supra*, 183 Cal.App.4th at 852.) The demurrer is **SUSTAINED without leave to amend** as to the Second Cause of Action.

E. Third Cause of Action – Disability Discrimination (Failure to Accommodate)

The Third Cause of Action alleges disability discrimination under California's Fair Employment and Housing Act ("FEHA") and the Americans with Disabilities Act ("ADA"). Under FEHA, an owner may not refuse "to make reasonable housing accommodations in rules, policies, practices, or services when these accommodations may be necessary to afford a disabled person equal opportunity to use and enjoy a dwelling." (Gov. Code § 12927(c)(1).) Under the ADA, "No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation" which includes "a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities." (42 U.S.C. §§ 12182(a), 12182(b)(2)(A)(ii).)

Here, Plaintiff has failed to plead that she has a disability as defined by FEHA and the ADA, that she requested reasonable housing accommodations, and Defendants refused to accommodate her. Even though FEHA and the ADA are similar in their protections, they are distinct, separate statutes creating separate causes of action. Both statutes contain various provisions for disability discrimination. Without further facts and specificity, Plaintiff fails to plead that Defendants violated FEHA and ADA protections as required. Therefore, Defendants' demurrer to the Third Cause of

Action is **SUSTAINED with leave to amend** because there is a reasonable possibility these defects can be cured through an amendment. (*The Swahn Group, Inc.*, *supra*, 183 Cal.App.4th at 852.)

III. CONCLUSION

Based on the foregoing, Defendants' demurrer to the Complaint is **SUSTAINED with leave to amend** as to the First and Third Causes of Action. Defendants' demurrer is **SUSTAINED without leave to amend** as to the Second Cause of Action.

Typically the Court complies with the default position of allowing Plaintiff 10 days to file an amended complaint. However, given her particular challenges, Plaintiff shall file an amended Complaint within 30 days of notice of the Order on this motion.

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. 24CV03151, Zabala v. Task Mortgage and Investment Inc.

Defendant Task Mortgage and Investment Inc. ("Defendant") moves the Court for an order compelling further responses to Form Interrogatories–Set One, Requests for Production of Documents ("RFPD")–Set One, and Special Interrogatories–Set One from Plaintiff Anidia Zabala ("Plaintiff"). Defendant further requests monetary sanctions and evidentiary sanctions to be imposed against Plaintiff.

The motion to compel further is **DENIED as MOOT**. Monetary sanctions are **GRANTED** in the amount of \$6,692.95 pursuant to C.C.P. sections 2030.300(d) and 2031.310(h). Sanctions are **ORDERED** in favor of Defendant against Plaintiff and her counsel, jointly and severally, payable no later than 30 calendar days from entry of an order on this motion. Evidentiary sanctions are **GRANTED in part** as outlined below pursuant to C.C.P. sections 2030.300(e) and 2031.310(i).

I. FACTUAL & PROCEDURAL HISTORY

On November 22, 2024, Defendant propounded Form Interrogatories and RFPDs on Plaintiff. (Makdisi Decl., Exhibits A–B.) Defendant then brought a motion to compel responses to these requests, which the Court granted on March 5, 2025, ordering Plaintiff to serve objection-free responses and \$3,435 in sanctions. (See Order After Hearing Granting Motion to Compel, filed March 25, 2025.) Defendant then filed a motion to compel further responses to the Form Interrogatories and RFPDs, which the Court granted, ordering Plaintiff to serve objection-free responses and an additional \$5,500.00 in sanctions. (See Order After Hearing Granting Motion to Compel Further Discovery Responses, filed December 22, 2025.) The Court issued an Order to Show Cause ("OSC") for November 20, 2025, where Plaintiff failed to appear, and the Court set a subsequent OSC on February 26, 2026, and set deadlines for Plaintiff to produce further responses by and to pay the \$8,935.00 sanctions. (See Order After Hearing re Order to Show Cause, filed January 20, 2026.)

On December 9, 2025, Defendant served Plaintiff with additional discovery requests, including Special Interrogatories. (Makdisi Decl., Exhibit C.) Plaintiff failed to respond and Defendant moved to compel responses. (Makdisi Decl., ¶¶ 21–24.) On February 9, 2026, Plaintiff served untimely further responses to the Form Interrogatories, RFPDs, and Special Interrogatories. (Makdisi Decl., ¶ 25.) Upon

the Court's recommendation at the February 26th OSC, the parties submitted the matter to the Court's Discovery Facilitator Program. Plaintiff granted Defendant until April 13, 2026, to file further motions to compel and Defendant filed the instant motion on April 13, 2026. (Makdisi Decl., Exhibits D, F.)

In the Opposition and Reply, both parties concede that Plaintiff has since served sufficient responses. However, in Reply, Defendant moves for increased monetary sanctions and evidentiary sanctions.

II. DISCUSSION

A. The Motion to Compel Further Responses is Moot

Since both parties concede that Plaintiff has served sufficient responses to Form Interrogatories, RFPDs, and Special Interrogatories, compelling further responses is **DENIED as MOOT**.

B. Monetary Sanctions are Justified

Monetary sanctions are justified pursuant to C.C.P. sections 2030.300(d) and 2031.310(h). In Opposition, Plaintiff provides no justification, stating that she will accept monetary sanctions as ordered by the Court.

Defendant requests \$6,692.95 for drafting and filing the motion (15.3 hours of work at \$450 per hour plus \$60 filing fee and \$17.95 e-filing charge) plus an additional \$7,065.00 on post-filing tasks, including meeting and conferring with Plaintiff's counsel, participating in discovery facilitation, and drafting the Reply (15.7 hours of work at \$450 per hour), totaling \$13,757.95. The Court **GRANTS** counsel's fees for the filing of the motion totaling \$6,692.95 and **DENIES** Defendant's requested additional monetary sanctions for \$7,065.00. Sanctions are **ORDERED** in favor of Defendant against Plaintiff and her counsel, jointly and severally, payable no later than 30 calendar days from entry of an order on this motion.

C. Evidentiary Sanctions are Justified

The Court has previously denied Defendant's request for evidentiary sanctions. (See Order After Hearing Granting Motion to Compel Further Discovery Responses, filed December 22, 2025.) In Opposition, Plaintiff objects to any further discovery sanction. However, given Plaintiff's pattern of discovery abuse as outlined above, the Court finds that evidentiary sanctions are justified pursuant to C.C.P. sections 2030.300(e) and 2031.310(i). The Court imposes the following evidentiary sanctions:

1. Plaintiff is barred from introducing any witnesses, or witness testimony, other than herself and named defendants;
2. Plaintiff is barred from introducing any documents at trial or in any dispositive motion that have not already been provided by Plaintiff to Defendant with respect to the categories of documents contained in these requests.

Defendant's third proposed evidentiary sanction related to the nine Special Interrogatories at issue are **DENIED** as being disproportionate to the pattern of discovery abuse in this case.

III. CONCLUSION

The motion to compel further is **DENIED as MOOT**. Monetary sanctions are **GRANTED** in the amount of \$6,692.95 pursuant to C.C.P. sections 2030.300(d) and 2031.310(h). Sanctions are **ORDERED** in favor of Defendant against Plaintiff and her counsel, jointly and severally, payable no later than 30 calendar days from entry of an order on this motion. Evidentiary sanctions are **GRANTED in part** pursuant to C.C.P. sections 2030.300(e) and 2031.310(i).

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).

3. 25CV08140, Rowland v. Verve Funding LLC

Counsel Steven Mirsky and his firm Mirsky Corporate Advisors, APC requests to be relieved as counsel for Plaintiffs Lernalabs, Inc. and Alexander Rowland, an individual, due to a breakdown in the attorney-client relationship. As there is no opposition to the motion, the motion is **GRANTED** pursuant to C.C.P. section 284(2).

The Court notes that Plaintiff Alexander Rowland as an individual may represent himself in pro. per. However, Plaintiff Lernalabs, Inc. must be represented by licensed counsel in proceedings before the Court because it is a corporation and may not be represented by individual Plaintiff Alexander Rowland. (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141, 1145.)

The next hearing in this case is a Case Management Conference on September 17, 2026, at 3:00 p.m. in Department 17. The Court shall sign the proposed order lodged with the motion on April 13, 2026, noting the updated CMC hearing date. Counsel Mirsky shall serve the signed Order and a copy of this tentative ruling on all parties who have appeared in this case and file a proof of service with the Court within five (5) days of service pursuant to Rule 3.1362(e) of the California Rules of Court.

25CV03300, Hellman v. Toyota Motor Sales USA, Inc.

Dropped by request of the moving party due to settlement of the case.