

TENTATIVE RULINGS: CIVIL LAW & MOTION

Wednesday, September 17, 2025 at ~~3:00 p.m.~~ **4:00 p.m.**
Courtroom 18 – Hon. Kenneth G. English – **Heard in D19**
Civil and Family Law Courthouse
3055 Cleveland Avenue
Santa Rosa, California 95403

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) 521-6604**, 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 18:

Meeting ID: 160—739—4368

Password: 000169

<https://sonomacourtorg.zoomgov.com/j/1607394368?pwd=aW1JTWIL3NBcE9LVHU2NVVpQlVRUT09>

TO JOIN ZOOM BY PHONE:

By Phone (same meeting ID and password as listed for each calendar):

Call: +1 669 900 6833 US (San Jose)

Unless notification of an appearance has been given as provided above, the tentative ruling shall become the ruling of the Court the day of the hearing at the beginning of the calendar.

1. & 2. 24CV06128, Khazal v. Shellpoint Mortgage Servicing LLC: Demurrer & Motion to Strike

This matter is on calendar for a demurrer and motion to strike filed by Defendants Rushmore Servicing, erroneously sued as Rushmore Loan Management Services LLC, and Carrington Mortgage Services, LLC. Both of these defendants were dismissed from this matter with prejudice on August 7, 2025. Therefore, these motions are **DROPPED** from calendar as **MOOT**.

3. SCV-271379, T. v. County of Sonoma: Motion for Judgment on the Pleadings

Appearances required.

4. SCV-270527, Jane Doe #1 v. Foppoli: Motion to Change Venue

Defendant Dominic Foppoli's ("Foppoli") motion for change of venue per Code of Civil Procedure ("C.C.P.") section 397 is **DENIED**. Plaintiffs' request for judicial notice is **GRANTED**.

Plaintiffs Jane Does #1-#7 in this action allege causes of actions including sexual assault and battery and the violation of the Ralph Act against Foppoli and other named defendants. (SAC, ¶¶ 95-227.) Plaintiffs allege that they are victims of sexual assault committed by, or attempted to be committed by, Foppoli under Penal Code sections 243.4, 261, 264.1, 273.5, 286, 287, or 289. (SAC, ¶¶ 2, 13-82.)

While Foppoli was serving as the Mayor of Windsor at the time Plaintiffs' allegations first surfaced, news and social media reported extensively in Sonoma County on the allegations made against him, which Foppoli claims show extreme prejudice towards him. (*Id.* at 2:1-22.) Due to this, Foppoli moves to change venue to San Mateo County under C.C.P. section 397(b) on grounds that it is highly unlikely for him to receive an impartial trial in the Sonoma County. (Motion, 1:22-27.) Plaintiffs filed an opposition to the motion, to which Foppoli replied.

Plaintiffs request judicial notice of a the Sonoma County Health and Human Services webpage that discusses the population demographics within the County. Per Evidence Code section 452(h), the Court may take judicial notice of "facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." Per section 452(h), the Court **GRANTS** judicial notice of the webpage.

Upon noticed motion by a party, the court may change the place of a trial on five grounds:

- a. The court designated in the complaint is not the proper court;
- b. There is reason to believe that an impartial trial cannot be had therein;
- c. The convenience of witnesses and the ends of justice would be promoted by the change;
- d. From any cause there is no judge of the court qualified to act; and
- e. In certain circumstances in a proceeding for dissolution of marriage.

(C.C.P. § 397(a)-(e).)

Should the court order transfer of an action pursuant to subdivisions b, c, or d listed above, the action shall be transferred to a court having jurisdiction of the subject matter of the action upon agreement of the parties by stipulation in writing, or in open court and entered in the minutes or docket. (C.C.P. § 398(a).) Where the parties cannot agree, the action or proceeding shall be transferred to the nearest or most accessible court where the like objection or cause for making the transfer order does not exist. (*Ibid.*)

Foppoli argues that transfer to a new venue is necessary to ensure an impartial and just trial due to the widespread feeling of prejudice and hostility towards him in Sonoma County that can be revealed through an internet search of news stories about the allegations stated against him. (Motion, pp. 4-8.) He argues that the prejudice has existed in Sonoma County for at least seven years prior and has not yet dissipated. (*Id.* at 8:14-28, 9:1-19.) He argues that the size of Sonoma County weighs in favor of venue change and that he ought to have an opportunity to restore his reputation prior to trial. (*Id.* at 9:20-27, 10:1-21.) Finally, Foppoli states that this motion was brought within a reasonable timeframe, which rests largely in the trial court's discretion per *Cooney v. Cooney* (1944) 25 Cal.2d 202, 208. (Motion, 10:21-28, 11:1-4.)

Plaintiffs argue that, per *J.J. Case Threshing Mach. Co. v. Copen Bros.* (1917) 35 Cal.App. 70, it is the moving party's burden to establish the fact that a fair and impartial trial cannot be had. (Opposition, 2:7-11.) Plaintiffs also argue that a court cannot transfer based on mere speculation, insinuation, suspicion, conjecture, or hearsay. (*Id.* at 2:11-15.) Plaintiffs request the Court to deny the motion because Foppoli failed to make any showing that he cannot possibly have an impartial trial in Sonoma County because most of the articles produced were from four years ago and some of the articles are just factual recitations of things that occurred, such as the statement that "Foppoli is facing numerous accusations of sexual assault, which he denies." (*Id.* at pp. 3-6.) Plaintiffs hold the position that the motion is untimely and is a delay tactic because the answer was filed on or about June of 2022, but the motion was not brought until three years later only after multiple motions have been filed and trial has been continued several times. (*Id.* at 2:19-28, 3:1-9.) Plaintiffs additionally argue that the ends of justice weigh in favor of Sonoma County retaining venue because the alleged assaults occurred in Sonoma County, because Foppoli is a resident of this Sonoma County, and because the vast majority of witnesses and businesses involved are located in Sonoma County. (*Id.* at 6:21-26, 7:1-3.) Finally, Plaintiffs note that voir dire is the appropriate method to establish whether jurors can be impartial or not, considering Foppoli's argument that the whole county is prejudiced against him. (*Id.* at 7:4-10.)

Foppoli's reply argues that the motion is not a delay tactic and that he has supplied substantial evidence that reflects prejudice against him in Sonoma County over years of social media pages and news articles discussing the allegations asserted against him. (Reply, pp. 1-3.)

The Court does not find that Foppoli has met his burden of showing that there cannot be an impartial trial held in this matter in Sonoma County and also has not offered sufficient justification for bringing the motion three years after the answer was filed when most of the news articles in question have been in circulation since before that time. The Court finds that some of the articles provided, such as Exhibits 1, 2, 4, 6-7, 11-12, 17-19, 21, 23-25, and 32-33 of the Watters Declaration, merely recite facts regarding the public allegations made against Foppoli in this matter, updates about ongoing investigations regarding those allegations, and Foppoli's actual public statements made regarding his resignation and denial of the allegations as false. Also, these articles are equally as available to citizens in nearby counties, such as San Mateo, to which he suggest transferring venue.

Accordingly, Foppoli's motion is **DENIED**. Plaintiffs 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(a) and (b).

5. SCV-269750, Villasenor v. KDF Forestry Inc: Motion to be Relieved as Counsel

The motion by Gordon Rees Scully Mansuhkani, LLP to be relieved as counsel for Defendant, KDP Forestry, Inc. is **GRANTED**. Counsel has represented that this request is due to circumstances arising in the attorney-client relationship. The trial in this matter is not yet scheduled.

The Court will sign the proposed order lodged with the moving papers.

6. 25CV00836, Kemiji v. Neighborly Senior Placement (NSP): Motion for Sanctions

Cross-Complainant's motion for sanctions against Cross-Defendant Rachel Kemiji and her counsel is **DENIED**.

Cross-Defendant's counsel shall submit a written order consistent with this tentative ruling and in compliance with Rule 3.1312.

Cross-Complainant seeks sanctions be imposed against Cross-Defendant, Rachel Kemiji, and her counsel, jointly, for Cross-Defendant's filing of her demurrer and Anti-SLAPP motion to the Cross-Complaint. Cross-Complaint makes this motion pursuant to CCP §§ 128.5, 128.7, and 1008. CCP § 1008 applies to motions for reconsideration. This is not such a motion. Therefore, the Court will analyze the motion under CCP §§ 128.5 and 128.7 only.

Both CCP §§ 128.5 and 128.7 require a 21-day safe harbor period be given to the responding party to allow them an opportunity to withdraw the challenged pleading prior to the filing of the sanctions motion. "A formal noticed motion is required to begin the 21-day period...Strict compliance with the statute's notice provisions serves its remedial purpose and underscores the seriousness of a motion for sanctions." (*Galleria Plus, Inc. v. Hanmi Bank* (2009) 179 Cal.App.4th 535, 538.) The code sections "mandate[] that notices of motion 'shall be served as provided in Section 1010.'" (*Ibid.*) Therefore, they must include a hearing date. (*Ibid.*)

Cross-Defendant argues in opposition that the safe harbor provisions of the sanctions statutes have not been complied with. Therefore, the motion should be denied as procedurally defective. Cross-Complaint argues that the motion was served upon Cross-Defendant on June 10, 2025, which was 22 days prior to the motion being filed.

While Cross-Complainant has filed proofs of service and the declaration of Thomas J. Walsh that show that a notice of motion, memorandum of points and authorities, and the declaration of Thomas J. Walsh were served upon Cross-Defendant on June 10th, there is nothing in the record showing that the notice of motion that was served on June 10th contained a hearing date, as required by CCP § 1010. Cross-Complainant did not file a copy of the documents served upon Cross-Defendant on June 10th.

In *Galleria, supra*, the copy of the notice of motion served to start the safe-harbor period contained no notice of the date of the hearing but instead stated that the hearing would occur on "AAA at BBB". (*Galleria, supra*, at 537.) The notice included that the sanctions motion could be filed "on and after May 23." (*Ibid.*) The motion was re-served after filing and assignment of a date and time by the court at the conclusion of the safe harbor period. (*Ibid.*) The court of appeal found that the utilization of "AAA at BBB" rendered the motion fatally defective due to its failure to comply with CCP § 1010. (*Id.* at 538.) CCP § 1010 requires that motions state when motions will be made, and a failure to provide when a motion will be made renders it fatally defective. (*Id.* at 537-538.)

Without proof that a hearing date was included in the notice of motion served on June 10th, Cross-Complainant cannot show strict compliance with the safe harbor provisions of the sanctions statutes. Therefore, the motion is denied as procedurally defective.

However, the Court will note that this motion is denied without prejudice to Cross-Complainant's ability to bring a motion under CCP § 425.16 for attorney's fees relating to the Anti-SLAPP motion.

7. **24CV00848, Looney v. OK Traders LLC:** Motion to Appoint Receiver

Judgment Creditor's unopposed motion to appoint Landon McPherson as the receiver to take possession and, if necessary, sell Judgment Debtors' California liquor license no. 638158 to satisfy the \$6,957.05 judgment is **GRANTED**.

The Court will sign the proposed order lodged with the moving papers.

Judgment was entered against Judgment Debtors on August 8, 2024, in the amount of \$ \$6,957.05 to be paid to Judgment Creditor Gary Looney dba Collectronics of California. Judgment Creditor represents that he has investigated Judgment Debtors' finances and has not found a bank or deposit account in their name. According to a web search, the business is open. Judgment Creditor states that he sent a letter to Judgment Debtors requesting the judgment be paid and that he served post-judgment discovery upon them, to which he has received no response. The Court granted Judgment Creditor's motion to compel answers to post-judgment discovery and Judgment Debtors have not complied with the Court's order. According to Judgment Creditor, the Sheriff will not sell liquor inventory and the value of restaurant equipment and fixtures is depressed. Thus, there is no other option but to appoint a receiver to seize and sell the liquor license to satisfy the judgment. Judgment Creditor has met his burden of proving that the appointment of a receiver is necessary.

The Court approves Landon McPherson as the receiver. Mr. McPherson shall post an undertaking in the amount of \$1,000.00 upon his appointment.

8. **24CV04936, Bell Rd. LLC v. Osborne:** Motion for Extension of Time to Obtain Entry of Default Judgment

Appearances required.

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