

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN MATEO

Law and Motion Calendar  
Judge: HONORABLE RICHARD H. DUBOIS  
Department 16

400 County Center, Redwood City  
Courtroom 7A

Thursday, August 16, 2018

**NOTICE TO ALL COUNSEL**

Until further order of the Court, no endorsed-filed "courtesy copy" of pleadings is required to be provided to the Law and Motion Department.

IF YOU **INTEND TO APPEAR** ON ANY CASE ON THIS CALENDAR YOU MUST DO THE FOLLOWING:

1. YOU MUST CALL (650) 261-5019 BEFORE 4:00 P.M. TO INFORM THE COURT OF YOUR INTENT TO APPEAR.
2. You must give notice before 4:00 P.M. to all parties of your intent to appear pursuant to California Rules of Court 3.1308(a)(1).

Failure to do both items 1 and 2 will result in no oral presentation.

**Notifying CourtCall with your intent to appear is not an alternative to notifying the court.**

All Counsel are reminded to comply with California Rule of Court 3.1110. The Court will expect all exhibits to be tabbed accordingly.

Case

Title / Nature of Case

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9:00

LINE: 1

16-CIV-02080 GEORGY SHUPPE VS. DAVID LIBERMAN, ET AL.

GEORGY SHUPPE  
DAVID LIBERMAN

TYLER G. NEWBY  
CHRISTOPHER BANKS

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DEFENDANTS AND CROSSCOMPLAINANTS DAVID AND DANIIL LIBERMANS' MOTION TO COMPEL FURTHER RESPONSES AND PRODUCTION FROM PLAINTIFF GEORGY SHUPPE TO (1) SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS; AND (2) FIRST SET OF SPECIAL INTERROGATORIES PURSUANT TO CCP §§ 2031.320, 2030.300, AND 2031.300

**TENTATIVE RULING:**

The motion to compel is continued to September 18, 2018 to be heard after the pending motion for complex case designation. If this case is designation a complex civil case, the parties shall contact the assigned judge to reset the matter.

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9:00

LINE: 2

16-CIV-02657      MARNA SKAAR VS. SEVERSON & WERSON, APC, ET AL.

MARNA SKAAR  
SEVERSON & WERSON, APC

PRO/PER  
DAVID A. ERICKSEN

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DEMURRER TO FIRST AMENDED COMPLAINT BY DEFENDANTS J. ANDREW LAWSON AND  
JOEL L. HALVERSON

**TENTATIVE RULING:**

This motion is dropped from calendar as a second amended complaint has  
been filed.

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9:00

LINE: 3

18-CIV-00308 DENNISON V. RAVAL, ET AL. VS. WELLS FARGO BANK, N.A., ET AL.

DENNISON V. RAVAL  
WELLS FARGO BANK, N.A.

PRO/PER  
ADAM N. BARASCH

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DEFENDANTS WELLS FARGO HSBC, AND MERS' DEMURRER TO PLAINTIFF'S COMPLAINT  
**TENTATIVE RULING:**

This motion is dropped from calendar as an amended complaint has been filed.

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9:00

LINE: 4

18-CIV-00608 AMERICAN LINEN DIVISION (ALSCO) VS. TASTE CATERING, ET AL.

AMERICAN LINEN DIVISION (ALSCO)  
TASTE CATERING, A PARTNERSHIP

STEVEN A. BOOSKA  
KAVEH MIRSHAFEI

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DEFENDANTS' DEMURRER TO COMPLAINT

**TENTATIVE RULING:**

The demurring party failed to file a declaration, as required by CCP §430.41(a)(3), showing that the parties met and conferred, in person or by telephone, for the purpose of determining whether an agreement could be reached to resolve the objections to be raised in the demurrer. The declaration of Kaveh Mirshafiei merely states that he sent a letter to plaintiff's counsel.

Consequently, the hearing on the demurrer is continued until September 19, 2018 at 9:00 a.m. in the Law and Motion Department so that the parties may meet and confer. The demurring party is required to file, no later than 7 days prior to the new hearing date, a code-compliant declaration stating either (1) the parties have met and conferred and (a) the parties have resolved the objections raised in the demurrer, which shall be taken off calendar or (b) the parties did not reach an agreement resolving the objections raised in the demurrer or (2) the party who filed the pleading subject to demurrer failed to respond to the meet and confer request or otherwise failed to meet and confer in good faith. If the parties fail to file and serve the declaration demonstrating compliance with the requirements of Section 430.41, the demurrer will be stricken as procedurally improper.

If the tentative ruling is uncontested, it shall become the order of the Court, pursuant to Rule 3.1308(a)(1), adopted by Local Rule 3.10, effective immediately, and no formal order pursuant to Rule 3.1312 or any other notice is required as the tentative ruling affords sufficient notice to the parties.

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9:00

LINE: 5

18-CIV-02489 BEKAH DU BOIS VS. ISMAEL PEREZ, ET AL.

BEKAH DU BOIS  
ISMAEL PEREZ

PRO/PER  
JAMES A. MURPHY

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DEFENDANT ISMAEL PEREZ'S MOTION TO TRANSFER VENUE TO SANTA CLARA COUNTY  
**TENTATIVE RULING:**

Defendant Ismael Perez's Motion to Transfer Venue to Santa Clara County is GRANTED. Code Civ. Proc. §§ 395, 396b, 397.

This is legal malpractice case. The Complaint alleges an oral agreement to provide legal services in Santa Clara County. The only named defendant resides in, and has a principal place of business in, Santa Clara County. Perez Decl., ¶2. Further, the motion is unopposed. Accordingly, the motion is granted and the case is transferred to Santa Clara County. Defendant to bear any cost of transfer.

If the tentative ruling is uncontested, it shall become the order of the Court, pursuant to CRC Rule 3.1308(a)(1), adopted by Local Rule 3.10. If the tentative ruling is uncontested, moving party is directed to prepare, circulate, and submit a written order reflecting this Court's ruling verbatim for the Court's signature, consistent with the requirements of CRC Rule 3.1312. The proposed order is to be submitted directly to Judge Richard H. DuBois, Department 16.

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9:00

LINE: 6

18-CIV-03162 JOSHUA O'BRIEN VS. GAURANG PATEL, ET AL.

JOSHUA O'BRIEN  
GAURANG PATEL

GREG SCHAFFER  
LANCE BURROW

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GAURANG PATEL'S MOTION TO STRIKE CLAIMS AND PRAYER FOR PUNITIVE DAMAGES

**TENTATIVE RULING:**

Defendant has failed to file a declaration, as required by CCP §435.5(a)(3), showing that the parties met and conferred, in person or by telephone, for the purpose of determining whether an agreement could be reached to resolve the objections to be raised in the motion to strike. Consequently, the hearing on the motion is continued to September 18, 2018 at 9:00 a.m. in the Law and Motion Department so that the parties may meet and confer.

Defendant is required to file, no later than 7 days prior to the new hearing date, a code-compliant declaration stating either (1) the parties have met and conferred in person or by telephone and (a) the parties have resolved the objections raised in the motion, which shall be taken off calendar or (b) the parties did not reach an agreement resolving the objections raised in the motion or (2) the party who filed the pleading subject to the motion failed to respond to the meet and confer request or otherwise failed to meet and confer in good faith. If defendant fails to file and serve the declaration demonstrating compliance with the requirements of CCP §435.5, the motion will be stricken as procedurally improper.

If the tentative ruling is uncontested, it shall become the order of the Court, pursuant to Rule 3.1308(a)(1), adopted by Local Rule 3.10, effective immediately, and no formal order pursuant to Rule 3.1312 or any other notice is required as the tentative ruling affords sufficient notice to the parties.

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9:00

LINE: 7

18-CLJ-01794 EMPLOYERS COMPENSATION INSURANCE COMPANY VS. LUXURATI,  
INC., ET AL.

EMPLOYERS COMPENSATION INSURANCE COMPANY  
LUXURATI, INC.

LORNA WALKER  
PRO/PER

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PLAINTIFF'S MOTION TO STRIKE ANSWER AND ENTER DEFAULT JUDGMENT

**TENTATIVE RULING:**

On May 31, 2018, defendant filed its answer in propria persona. A corporation cannot appear in propria persona. *Merco Construction Engineers, Inc. v. Municipal Court* (1978) 21 Cal.3d 724.

The answer is signed by Ilya Rosenthal on behalf of Luxurati, Inc. No California Bar number is provided for Rosenthal and a search of the State Bar website does not indicate anyone by that name is licensed to practice law in California.

Rather than entering defendant's default, it should be given leave to amend its complaint if it obtains an attorney. In *CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4<sup>th</sup> 1141, 1149-1150,

Plaintiff has not filed a declaration indicating that the parties met and conferred, in person or by telephone, as required by CCP §435.5. Nevertheless, pursuant to CCP §436, the court will sua sponte strike defendant's answer with thirty days leave to file an amended answer should defendant retain counsel.

If the tentative ruling is uncontested, it shall become the order of the Court, pursuant to CRC Rule 3.1308(a)(1), adopted by Local Rule 3.10. If the tentative ruling is uncontested, moving party is directed to prepare, circulate, and submit a written order reflecting this Court's ruling verbatim for the Court's signature, consistent with the requirements of CRC Rule 3.1312. The proposed order is to be submitted directly to Judge Richard H. DuBois, Department 16.

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9:00

LINE: 8

18-CLJ-01795 EMPLOYERS PREFERRED INSURANCE COMPANY VS. LUXURATI,  
INC., ET AL.

EMPLOYERS PREFERRED INSURANCE COMPANY  
LUXURATI, INC.

LORNA WALKER  
PRO/PER

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PLAINTIFF'S MOTION TO STRIKE ANSWER AND ENTER DEFAULT JUDGMENT

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Plaintiff has not filed a declaration indicating that the parties met and conferred, in person or by telephone, as required by CCP §435.5. Nevertheless, pursuant to CCP §436, the court will sua sponte strike defendant's answer with thirty days leave to file an amended answer should defendant retain counsel.

If the tentative ruling is uncontested, it shall become the order of the Court, pursuant to CRC Rule 3.1308(a)(1), adopted by Local Rule 3.10. If the tentative ruling is uncontested, moving party is directed to prepare, circulate, and submit a written order reflecting this Court's ruling verbatim for the Court's signature, consistent with the requirements of CRC Rule 3.1312. The proposed order is to be submitted directly to Judge Richard H. DuBois, Department 16.

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9:00

LINE: 9

CIV538389 LEONARD DESOMMA VS. PACIFIC GAS AND ELECTRIC COMPANY

LEONARD B. DESOMMA  
PACIFIC GAS AND ELECTRIC COMPANY  
DAVEY TREE EXPERT COMPANY

GEORGE P. ESHOO  
MARK J. HANCOCK  
ROBERT BLUM

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MOTION FOR GOOD FAITH SETTLEMENT

**TENTATIVE RULING:**

The unopposed motion to deem the settlement between Plaintiffs and Defendant The DAVEY Tree Expert Company to be in good faith is GRANTED.

Although the approximate amount of Plaintiff's ultimate recovery is unknown, the \$55,000 paid in settlement is in good faith given that no evidence suggests that moving party DAVEY would be found liable in any amount. The motion also sufficiently demonstrates that the good-faith factors of *Tech-Bilt, Inc. v. Woodward- Clyde & Associates* (1985) 38 Cal.3d 488 are met.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Defendant The DAVEY Tree Expert Company shall prepare a written order consistent with the Court's ruling for the Court's signature, pursuant to California Rules of Court, Rule 3.1312, and provide written notice of the ruling to all parties who have appeared in the action, as required by law and the California Rules of Court.

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POSTED: 3:00 PM