

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

Law and Motion Calendar  
HONORABLE SUSAN GREENBERG  
Department 3

400 County Center, Redwood City  
Courtroom 2B

Tuesday, October 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

17-CIV-01923 SALVADOR MIRANDA VS. FRANCISCO SUAREZ, ET AL.

SALVADOR MIRANDA  
FRANCISCO SUAREZ

JASON LUNDBERG  
PRO/PER

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MOTION FOR TERMINATING SANCTIONS

**TENTATIVE RULING:**

The motion for terminating sanctions is granted. The answer filed by defendant Francisco Suarez is stricken. The evidence indicates that defendant has failed to respond to written discovery, failed to appear for his deposition, failed to oppose motions to compel him to provide discovery and failed to obey two court orders compelling discovery.

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: 2

17-CIV-02038 JASON FONG VS. DONNA J. WOOD, ET AL.

JASON FONG  
DONNA J. WOOD

RICHARD L. BECKMAN  
PETER W. GUMAER

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MOTION FOR ORDER

**TENTATIVE RULING:**

Plaintiff's motion for leave to file a cross-complaint is GRANTED. Plaintiff shall file a cross-complaint with five days of this order. Defendant's request to impose conditions is DENIED.

Defendant suggests that a claim for indemnity cannot arise from a breach of contract (non-tort) claim. This is refuted by established precedent: "A defendant sued for breach of contract may have a right of implied indemnity against a third person whose wrong caused the defendant's breach." (*County of Los Angeles v. Superior Court* (1984) 155 Cal.App.3d 798, 202 Cal.Rptr. 444; *Nomellini Construction Co. v. Harris* (1969) 272 Cal.App.2d 352, 77 Cal.Rptr. 361.); *Considine Co. v. Shadle, Hunt & Hagar*, 187 Cal. App. 3d 760, 769-70, 232 Cal. Rptr. 250, 256 (Ct. App. 1986); see also 14A Cal. Jur. 3d Contribution and Indemnification § 55. Defendant has not persuasively argued it is inconceivable that GE could be liable for Defendant's alleged damages relating to her security deposit or abated rent.

Defendant also contends that Plaintiff's proposed cross-complaint violates the economic loss rule because Plaintiff's claim for indemnification amounts to a claim for loss of profit. Defendant, however, does not present any authority indicating that the economic loss rule applies to claims for indemnification, as opposed to causes of action for strict liability or negligence.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, counsel for Plaintiff 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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9:00

LINE: 3

17-CIV-03338 ANTHONY PISANO, ET AL. VS. JACQUEL CAMILLE ANDERSON, ET AL

ANTHONY PISANO  
JACQUEL CAMILLE ANDERSON

DANIEL OJEDA  
SHELLEY O'CONNOR

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MOTION TO BE RELIEVED AS COUNSEL

**TENTATIVE RULING:**

The motion to be relieved as counsel of record is granted.

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, ATTORNEY is directed to prepare, circulate, and submit a written order on the appropriate judicial council form for the Court's signature, consistent with the requirements of CRC Rule 3.1312. The proposed order is to be submitted directly to Judge Susan L. Greenberg, Department 3.

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9:00

LINE: 4

17-CIV-03338 ANTHONY PISANO, ET AL. VS. JACQUEL CAMILLE ANDERSON, ET AL

ANTHONY PISANO  
JACQUEL CAMILLE ANDERSON

DANIEL OJEDA  
SHELLEY O'CONNOR

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MOTION TO BE RELIEVED AS COUNSEL

**TENTATIVE RULING:**

The motion to be relieved as counsel of record is granted.

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, ATTORNEY is directed to prepare, circulate, and submit a written order on the appropriate judicial council form for the Court's signature, consistent with the requirements of CRC Rule 3.1312. The proposed order is to be submitted directly to Judge Susan L. Greenberg, Department 3.

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9:00

LINE: 5

17-CIV-04035 DENNIS MORRONE, ET AL. VS. MICHAEL SEAN GALLAGHER, ET AL.

DENNIS MORRONE  
MICHAEL SEAN GALLAGHER

WILLIAM C. DRESSER  
PETER J. HIRSIG

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MOTION TO STRIKE PUNITIVE DAMAGES

**TENTATIVE RULING:**

Defendants MICHAEL SEAN GALLAGHER; JOSHUA FIELDS; and ANGELA ISRANI's Motion to Strike is DENIED in its entirety. Plaintiffs' First Amended Complaint sufficiently states a basis for an award of punitive damages and attorney's fees.

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: 6

17-CIV-04881      GURJIVAN GREWAL SINGH VS. MARIADB USA, INC., ET AL.

GURJIVAN GREWAL SINGH  
MARIADB USA, INC

MULLAN T. JOHN  
EDWARD J. WES

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MOTION TO COMPEL PRODUCTION OF DOCUMENTS

**TENTATIVE RULING:**

This motion is dropped at the request of the moving party.

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-CIV-03274 STT&A, LLC VS. FCM CAPITAL PARTNERS, INC., ET AL.

STT&A, LLC  
FCM CAPITAL PARTNERS, INC.

BRUCE M. LUBARSKY  
CARY P. GREISEN

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WRIT OF ATTACHMENT

**TENTATIVE RULING:**

The matter is ordered off calendar. Plaintiff has filed a Notice of Application and Hearing, Memorandum of Points and Authorities, and two supporting declarations. However, Plaintiff has not filed any Application. (See Judicial Council Form AT-105). There is nothing on which the Court can rule.

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: 8

CIV538117 GREGORY & TRACEY AGUILAR VS. UNION METAL CORP, ET AL.

GREGORY AGUILAR  
SAN MATEO COUNTY

CHRISTOPHER B. DOLAN

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MOTION FOR SUMMARY OF JUDGMENT/ADJUDICATION OF ISSUES

**TENTATIVE RULING:**

The motion for summary judgment is continued to November 8, 2018 at 9 am in the Law and Motion Department on the Court's own motion.

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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