

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

**Department 3
Honorable William J. Monahan, Presiding**

Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: (408) 882-2130

DATE: 7/11/2024 TIME: 9:00 A.M.

TO CONTEST THE RULING: Before 4:00 p.m. today (7/10/2024) you must notify the:

- (1) Court by calling (408) 808-6856 and
- (2) Other side by phone or email that you plan to appear and contest the ruling.
(California Rule of Court 3.1308(a)(1) and Local Rule 8.E.)

TO APPEAR AT THE HEARING: The Court prefers in-person appearances or by Teams. If you must appear virtually, please use video.

FOR YOUR NEXT HEARING DATE: Please reserve your next hearing date using Court Schedule—an online scheduling tool that can be found on the Santa Clara County court website.

FINAL ORDERS: The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.) **Please Note:** Any proposed orders must be submitted with the Judicial Council Form EFS-020 Proposed Order (Cover Sheet). Please include the date, time, dept., and line number.

COURT REPORTERS: The Court no longer provides official court reporters. If any party wants a court reporter, the appropriate form must be submitted. See court website for policy and forms.

LINE #	CASE #	CASE TITLE	RULING
LINE 1	21CV392455	Advoque Safeguard LLC et al vs Benham Pourdeyhimi et al	Hearing: Demurrer [**Set per Dept. 3 ** HRG 7/11/2024 c/f 6/11/2024] Demurrer to Cross-Complainant Robert Sigler's Cross-Complaint by Cross-Defendants Sanctuary Systems, LLC, Bryan Sigler, and 305 Consulting, LLC Unopposed and SUSTAINED WITH 15 DAYS LEAVE TO AMEND. The moving parties shall serve notice of entry of this order. Moving parties to prepare order for court's signature.

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LINE 2	21CV392455	Advoque Safeguard LLC et al vs Benham Pourdeyhimi et al	<p>Motion: Compel [HRG 7/11/2024 c/f 6/18/2024]</p> <p>Plaintiffs Advoque Safeguard, LLC and Ciasom LLC (collectively "Plaintiffs")' Motion to Compel Further Discovery Responses, Form Interrogatories, Special Interrogatories, Production of Documents and privilege log by Defendant Sanctuary Systems LLC</p> <p>Unopposed and GRANTED. Plaintiffs' verifications, supplemental and complete further responses, production of documents and privilege log are due within 20 days of this [signed] order. The moving party shall serve notice of entry of this [signed] order.</p> <p>PLEASE NOTE: In the future, please file each motion document separately. The moving papers were filed as one 474-page document. This makes it very hard to locate the supporting memorandum, declaration, and separate statement. Each one should be filed separately.</p> <p>Moving party to prepare order for court's signature (including the language from Nos. 1-10 from the notice of motion).</p>
LINE 3	23CV420090	Why Systems LLC vs Emodo, Inc.	<p>Motion: Compel Yehuda Lublin to Further Respond to Requests for Production of Documents and Special Interrogatories and for Sanctions by Emodo Inc.</p> <p>[**Continued to 7/11/2024 per 5/29/2024 Order**]</p> <p>OFF CALENDAR. See Stipulation filed 6/24/2024 and Stipulated Order for Appointment of [of Hon. Jack Komar (Ret.) as Discovery] Referee signed by court on 7/5/2024.</p>

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LINE 4	23CV420090	Why Systems LLC vs Emodo, Inc.	<p>Motion: Compel Def's Further response to Form Interrogatories, Set One, and Request for Sanctions by Plaintiff/ Cross Defendant Why System LLC</p> <p>[**Continued to 7/11/2024 per 5/29/2024 Order**]</p> <p>OFF CALENDAR. See Stipulation filed 6/24/2024 and Stipulated Order for Appointment of [of Hon. Jack Komar (Ret.) as Discovery] Referee signed by court on 7/5/2024.</p>
LINE 5	23CV420090	Why Systems LLC vs Emodo, Inc.	<p>Motion: Order for Assignment Discovery Referee by Plaintiff Why Systems</p> <p>[**Continued to 7/11/2024 per 5/29/2024 Order**]</p> <p>OFF CALENDAR. See Stipulation filed 6/24/2024 and Stipulated Order for Appointment of [of Hon. Jack Komar (Ret.) as Discovery] Referee signed by court on 7/5/2024.</p>
LINE 6	24CV437917	Kevin Rizzi vs Karen Christopher	<p>Motion: Compel Responses to Subpoena Duces Tecum, Set Number 1 from Karen Christopher, and for Sanctions by Kevin Rizzi (in pro per)</p> <p>Ctrl click (or scroll down) on Line 6 for tentative ruling. The court will prepare the order.</p>
LINE 7	21CV388229	Byung Park vs Suzane Bourgault	<p>Motion: Sanctions. Motion by defendant Suzane Bourgault for terminating and monetary sanctions against plaintiff Byung Park (in pro per)</p> <p>OFF CALENDAR. The proof of service for this motion is insufficient. The proof of service is only by electronic service. There is nothing filed by Plaintiff showing his electronic address. There is no indication in the file that the in pro per Plaintiff agreed to electronic service. (See CCP § 1010.6(c)(2); Cal. Rules Ct., rule 2.251(c)(3)(B) [self-represented parties must be served with documents by nonelectronic means unless the party affirmatively consents to electronic service.]</p>

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LINE 8	24CV429550	Yoshi Umemura vs Wan Zhang	<p>Hearing: Motion by plaintiff Yoshie Umemura to Recover Costs of Personal Service against defendant Wan Zhang (“Defendant”)</p> <p>Plaintiff Yoshie Umemura (“Plaintiff”)’s motion for an order allowing Plaintiff to recover the costs or expenses incurred in serving the summons and complaint on defendant Wen Zhang (“Defendant”) pursuant to Code of Civil Procedure (“CCP”) section 415.30 is DENIED.</p> <p>Plaintiff failed to comply with CCP section 415.30(a) which requires the summons, complaint and other documents be served by mail (first class or airmail, postage prepaid). Plaintiff sent the documents by FedEx (instead of mail) as required by the statute.</p> <p>If it had been properly "mailed pursuant to this section", Defendant would be liable for "reasonable expenses thereafter incurred in serving or attempting to serve the party by another method permitted by this chapter...." (CCP 415.30(d).) However, as discussed above, it was <i>not</i> properly mailed pursuant to this section.</p> <p>In addition, the proof of service of this motion may be insufficient, or the motion may be premature. Defendant has not appeared in this action nor has their default been entered by Plaintiff.</p> <p>This order is without prejudice to recovery of the costs or expenses under any other statute.</p> <p>Plaintiff shall serve notice of entry of this order.</p> <p>The court will prepare the order</p>
LINE 9	2013-1-CV-252335	BH Financial Services, Inc. vs S. Ho	<p>Motion: Reconsider order from 3/29/2024 by Stephen Ho (Pro Per) [**C/F 5/23/2024 **. * Per MO from 05/21/2024*]</p> <p>APPEAR.</p>

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Case Name: Kevin Rizzi vs Karen Christopher

Case No.: 24CV437917

Plaintiff Kevin Rizzi, in pro per (“Plaintiff”)’s motion to compel defendant Karen Christopher (“Plaintiff”)’s responses to subpoena duces tecum set 1 and for monetary sanctions is DENIED.

“Pro. per. litigants are held to the same standards as attorneys.” (*Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 543.)

The file shows that Plaintiff’s complaint was filed 5/2/2024. Accordingly, Plaintiff’s declaration that he served this subpoena on 1/17/2024 *before* he even filed his complaint would be premature and invalid. Next, Plaintiff ‘s proof of service of the summons and complaint and the subpoena states they were all served 5/28/2024 the *same day* he requested Plaintiff respond to the subpoena, which would be premature and invalid. In addition, Plaintiff’s purported meet and confer letter and motion to compel were also filed the *same day* this motion was filed on 5/28/2024. This is *not* a good faith meet and confer by Plaintiff.

Plaintiff’s motion to compel Plaintiff’s response to subpoena duces tecum set 1 is DENIED. Defendant’s request that the court quash this entirely defective subpoena pursuant to Code of Civil Procedure (“CCP”) section 1987.1(a) is GRANTED. Plaintiff failed to comply with CCP sections 1985, 1985.3, 1987, 1987.1 and/or 1987.5. The purported subpoena is an attempt to conduct premature discovery in violation of CCP sections 2025.210(b) and/or 2031.020(b).

Plaintiff’s request for monetary sanctions is DENIED. The motion to compel was made by Plaintiff in bad faith and/or without substantial justification.

Defendant’s request for monetary sanctions against Plaintiff is GRANTED in the reasonable amount of 4.8 hours at \$600 per hour for a total of \$2,280. Plaintiff shall pay this amount in full to Defendant within 15 days of this order.

The court will prepare the order.

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