

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

Department 20, Honorable Socrates Peter Manoukian, Presiding

Courtroom Clerk: Hien-Trang Tran-Thien

191 North First Street, San Jose, CA 95113

Telephone: 408.882.2320

Department20@scscourt.org

"Every case is important" "No case is more important than any other." —
United States District Judge Edward Weinfeld (<https://www.nytimes.com/1988/01/18/obituaries/judge-edward-weinfeld-86-dies-on-us-bench-nearly-4-decades.html>)

"The Opposing Counsel on the Second-Biggest Case of Your Life Will Be the Trial Judge on the
Biggest Case of Your Life." — Common Wisdom.

As Shakespeare observed, it is not uncommon for legal adversaries to "strive mightily, but eat and
drink as friends." (Shakespeare, *The Taming of the Shrew*, act I, scene ii.)" (*Gregori v. Bank of
America* (1989) 207 Cal.App.3d 291, 309.)

Counsel is duty-bound to know the rules of civil procedure. (See *Ten Eyck v. Industrial Forklifts Co.*
(1989) 216 Cal.App.3d 540, 545.) The rules of civil procedure must apply equally to parties represented
by counsel and those who forgo attorney representation. (*McClain v. Kissler* (2019) 39 Cal.App.5th 399.)

By Standing Order of this Court, all parties appearing in this Court are expected to comply with the
Code of Professionalism adopted by the Santa Clara County Bar Association:

<https://www.sccba.com/code-of-professional-conduct/>

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DATE: Tuesday, 03 October 2023

TIME: 9:00 A.M.

**Please note that for the indefinite future, all hearings will be conducted remotely as the Old
Courthouse will be closed. This Department prefers that litigants use Zoom for Law and
Motion and for Case Management Calendars. Please use the Zoom link below.**

"A person's name is to him or her the sweetest and most important sound in any language."—Dale Carnegie. All Courts of
California celebrate the diversity of the attorneys and the litigants who appear in our Courts. Do not hesitate to correct the Court or Court Staff
concerning the pronunciation of any name or how anyone prefers to be addressed. As this Court is fond of saying, "with a name like mine, I try
to be careful how I pronounce the names of others." Please inform the Court how you, or if your client is with you, you and your client prefer to
be introduced. The Court encourages the use of diacritical marks, multiple surnames and the like for the names of attorneys, litigants and in
court papers. You might also try www.pronouncenames.com but that site mispronounces my name.

**You may use these links for Case Management Conferences and Trial Setting Conferences without Court permission. Informal
Discovery Conferences and appearances on Ex Parte applications will be set on Order by the Court.**

Join Zoom Meeting
<https://scu.zoom.us/j/96144427712?pwd=cW1JYmg5dTdsc3NKNFBpSjlEam5xUT09>
Meeting ID: 961 4442 7712
Password: 017350

Join by phone:
+1 (669) 900-6833
Meeting ID: 961 4442 7712

One tap mobile
+16699006833,,961 4442 7712#

APPEARANCES.

Appearances are usually held on the Zoom virtual platform. However, we are currently allowing in court appearances as well. If you do intend to appear in person, please advise us when you call to contest the tentative ruling so we can give you current instructions as to how to enter the building.

Whether appearing in person or on a virtual platform, the usual custom and practices of decorum and attire apply. (See *Jensen v. Superior Court (San Diego)* (1984) 154 Cal.App.3d 533.). Counsel should use good quality equipment and with sufficient bandwidth. Cellphones are very low quality in using a virtual platform. Please use the video function when accessing the Zoom platform. The Court expects to see the faces of the parties appearing on a virtual platform as opposed to listening to a disembodied voice.

For new Rules of Court concerning remote hearings and appearances, please review California *Rules of Court*, rule 3.672.

This Court expects all counsel and litigants to comply with the Tentative Rulings Procedures that are outlined in Local Civil Rule 8(E) and *California Rules of Court*, rule 3.1308. If the Court has not directed argument, oral argument must be permitted only if a party notifies all other parties and the Court at (408) 808-6856 before 4:00 p.m. on the court day before the hearing of the party's intention to appear. A party must notify all other parties by telephone or in person. A failure to timely notify this Court and/or the opposing parties may result in the tentative ruling being the final order in the matter.

Please notify this Court immediately if the matter will not be heard on the scheduled date. *California Rules of Court*, rule 3.1304(b). If a party fails to appear at a law and motion hearing without having given notice, this Court may take the matter off calendar, to be reset only upon motion, or may rule on the matter. *California Rules of Court*, rule 3.1304(d). A party may give notice that he or she will not appear at a law and motion hearing and submit the matter without an appearance unless this Court orders otherwise. This Court will rule on the motion as if the party had appeared. *California Rules of Court*, rule 3.1304(c). Any uncontested matter or matters to which stipulations have been reached can be processed through the Clerk in the usual manner. Please include a proposed order.

All proposed orders and papers should be submitted to this Department's e-filing queue. Do not send documents to the Department email unless directed to do so.

While the Court will still allow physical appearances, all litigants are encouraged to use the Zoom platform for Law & Motion appearances and Case Management Conferences. Use of other virtual platform devices will make it difficult for all parties fully to participate in the hearings. Please note the requirement of entering a password (highlighted above.) As for personal appearances, protocols concerning social distancing and facial coverings in compliance with the directives of the Public Health Officer will be enforced. Currently, facemasks are not required in all courthouses. If you appear in person and do wear a mask, it will be helpful if you wear a disposable paper mask while using the courtroom microphones so that your voice will not be muffled.

Individuals who wish to access the Courthouse are advised to bring a plastic bag within which to place any personal items that are to go through the metal detector located at the doorway to the courthouse.

Sign-ins will begin at about 8:30 AM. Court staff will assist you when you sign in. If you are using the Zoom virtual platform, it will be helpful if you "rename" yourself as follows: in the upper right corner of the screen with your name you will see a blue box with three horizontal dots. Click on that and then click on the "rename" feature. You may type your name as: **Line #/name/party**. If you are a member of the public who wishes to view the Zoom session and remain anonymous, you may simply sign in as "Public."

CIVILITY.

In the 48 years that this Judge has been involved with the legal profession, the discussion of the decline in civility in the legal profession has always been one of the top topics of continuing education classes.

This Court is aware of a study being undertaken led by Justice Brian Currey and involving various lawyer groups to redefine rules of civility. This Judge has told Justice Currey that the lack of civility is due more to the inability or unwillingness of judicial officers to enforce the existing rules.

The parties are forewarned that this Court may consider the imposition of sanctions against the party or attorney who engages in disruptive and discourteous behavior during the pendency of this litigation.

COURT REPORTERS.

This session will not be recorded. No electronic recordings, video, still photography or audio capture of this live stream is allowed without the expressed, written permission of the Superior Court of California, County of Santa Clara. State and Local Court rules prohibit photographing or recording of court proceedings whether in the courtroom or while listening on the Public Access Line or other virtual platform, without a Court Order. See Local General Rule 2(A) and 2(B); *California Rules of Court*, rule 1.150.

This Court no longer provides for Court Reporters in civil actions except in limited circumstances. If you wish to arrange for a court reporter, please use Local Form #CV-5100. All reporters are encouraged to work from a remote location. Please inform this Court if

any reporter wishes to work in the courtroom. This Court will approve all requests to bring a court reporter. Counsel should meet and confer on the use of a court reporter so that only one reporter appears and serves as the official reporter for that hearing.

PROTOCOLS DURING THE HEARINGS.

During the calling of any hearing, this Court has found that the Zoom video platform works very well. But whether using Zoom or any telephone, it is preferable to use a landline if possible. IT IS ABSOLUTELY NECESSARY FOR ALL INDIVIDUALS TO SPEAK SLOWLY. Plaintiff should speak first, followed by any other person. All persons should spell their names for the benefit of Court Staff. Please do not use any hands-free mode if at all possible. Headsets or earbuds of good quality will be of great assistance to minimize feedback and distortion.

The Court will prepare the Final Order unless stated otherwise below or at the hearing. **DO NOT SEND PROPOSED ORDERS TO THIS DEPARTMENT'S EMAIL. ALL PROPOSED ORDERS ARE TO BE SUBMITTED THROUGH THE CLERK'S EFILING QUEUE.** Counsel are to comply with **California Rules of Court**, rule 3.1312.

TROUBLESHOOTING TENTATIVE RULINGS.

To access a tentative ruling, move your cursor over the line number, hold down the "Control" key and click. If you see last week's tentative rulings, you have checked prior to the posting of the current week's tentative rulings. You will need to either "REFRESH" or "QUIT" your browser and reopen it. Another suggestion is to "clean the cache" of your browser. Finally, you may have to switch browsers. If you fail to do any of these, your browser may pull up old information from old cookies even after the tentative rulings have been posted.

This Court's tentative ruling is just that—tentative. Trial courts are not bound by their tentative rulings, which are superseded by the final order. (See *Faulkinbury v. Boyd & Associates, Inc.* (2010) 185 Cal.App.4th 1363, 1374-1375.) The tentative ruling allows a party to focus his or her arguments at a subsequent hearing and to attempt to convince the Court the tentative should or should not become the Court's final order. (*Cowan v. Krayzman* (2011) 196 Cal.App.4th 907, 917.) If you wish to challenge a tentative ruling, please refer to a specific portion of the tentative ruling to which you disagree.

LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 1	18CV323876	SLC Cold Storage vs Harvest King Trading USA, Limited	Motion of Cross-Defendant SLC Cold Storage, LLC for Summary Judgment. Advanced from 31 October 2023. No party has filed opposition to this motion. Counsel for Harvest King Trading USA filed a motion to withdraw as counsel and the order granting the motion was entered on 30 June 2023, some 15 days after this motion was filed. It appears from the file that SLC Cold Storage, LLC served all proper notices. The motion is in good form and is GRANTED. Counsel for moving party SLC Cold Storage LLC shall prepare a judgment and submit it to this Department via the e-filing queue for execution. NO FORMAL TENTATIVE RULING.
LINE 2	20CV373332	Benito Hernandez et al vs Robert Bortolotto et al	Motion of Plaintiffs Benito Hernandez, Monica Hernandez, and Esteban Hernandez to Compel Defendant McKim Corporation to Provide Further Responses to Request for Admissions, Interrogatories, and Request for Production of Documents. NO TENTATIVE RULING. The parties are invited to appear and argue the matter on the merits or otherwise submit on the papers presented. They should use the Tentative Ruling Protocol to advise this Court how they wish to proceed.

LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 3	21CV383107	Giuliani Construction and Restoration, Inc. vs Rancho Homeowners Association; Albert Yeong.	<p>Motion of Defendant Albert Yeong to Compel Defendant Rancho Homeowners Association Responses to Request for Production of Documents, Special Interrogatories, Set Two, and Request for Monetary Sanctions.</p> <p>The motion is withdrawn.</p> <p>NO FORMAL TENTATIVE RULING.</p>
LINE 4	17CV319216	Cavalry SPV I, LLC vs Vanessa Soto	<p>Motion of Plaintiff to Set Aside Settlement and Release Agreement and Entered Judgment Pursuant to the Fault of Defendants.</p> <p>In an order filed on 04 December 2018, Judge Kirwan granted the motion of plaintiff to transfer venue to Los Angeles County, Chatsworth Courthouse, 9425 Penfield Ave., Chatsworth, CA 91311. Plaintiff was to pay transfer fees. It appears that the matter was never transferred to the County of Los Angeles</p> <p>NO FORMAL TENTATIVE RULING.</p>
LINE 5	21CV381755	Mazen Arakji vs. Flextronics International USA	<p>Proof of Plaintiff's Compliance With This Court's Order Requiring Plaintiff to Furnish Security According to the Motion of Defendant Granted on 05 September 2023.</p> <p>It up leaders that plaintiff has not posted the required security. However, he was given 30 days' leave to do so at that time will expire on 05 October 2023. The motion will be continued to 05 October 2023 at 9:00 AM for proof of compliance. Otherwise, the action will be DISMISSED WITHOUT PREJUDICE.</p> <p>NO FORMAL TENTATIVE RULING.</p>
LINE 6	22CV402002	In re: 3210 Pentland Court, San Jose, CA 95148	<p>Claims of Jermaine Baker and Eric Richard For Distribution of Surplus Funds.</p> <p>NO TENTATIVE RULING. The Court requests presence of counsel for the claimants to be present and answer a few questions from the Court.</p>
LINE 7	2013-1-CV-246409	Pahl & McCay vs Bic Duc Pho; Y. Chau	<p>Claim of Exemption.</p> <p>Plaintiff submits on the papers presented.</p> <p>As to Account 0187, Joint Holder Y. Chau has not demonstrated any basis for exemption. Joint Accounts are subject to Levy. (Code of Civil Procedure, § 700.160(b).)</p> <p>The claim of exemption is DENIED.</p> <p>NO FORMAL TENTATIVE RULING.</p>
LINE 8			SEE ATTACHED TENTATIVE RULING.
LINE 9			SEE ATTACHED TENTATIVE RULING.
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LINE #	CASE #	CASE TITLE	TENTATIVE RULING
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