SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Department 16
(Dept 16 is now hearing cases that were formerly in Dept 2)
Honorable Amber Rosen, Presiding

Felicia Samoy, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: 408.882.2270

DATE: 12-19-23 TIME: 9 A.M.

All those intending to speak at the hearing are requested to appear by video.

To contest the ruling, call (408) 808-6856 before 4:00 P.M.
Make sure to let the other side know before 4:00 P.M. that you plan to contest the ruling, in accordance with California Rule of Court 3.1308(a)(1) and Local Rule 8.E.
The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)

TO CONTEST THE RULING: Before 4:00 p.m. today 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 strongly prefers in person appearances. If you must appear virtually, please use video. To access the link, click on the below link or copy and paste into your internet browser and scroll down to Department 16.
https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml

TO SET YOUR NEXT HEARING DATE: You no longer need to file a blank notice of motion to obtain a hearing date. Phone lines are now open for you to call and reserve a date before you file your motion. If moving papers are not filed within 5 business days of reserving the date, the date will be released for use in other cases. Where to call for your hearing date: 408-882-2430 When you can call: Monday to Friday, 8:30 am to 12:30 pm

FINAL ORDERS: The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)

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.

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LINE #	CASE #	CASE TITLE	RULING
LINE 1	23CV417706 Hearing: Demurrer	JAMES MCLEAN et al vs MARK LONG et al	Motion withdrawn.
LINE 2	23CV417706 Hearing: Pro Hac Vice Counsel	JAMES MCLEAN et al vs MARK LONG et al	Notice appearing proper, the unopposed motion is GRANTED.
LINE 3	23CV418336 Hearing: Demurrer	Mantrapoynt, Inc. vs Oracle, Inc	Moot, as complaint was dismissed.
LINE 4	23CV418336 Hearing: Motion for Sanctions	Mantrapoynt, Inc. vs Oracle, Inc	See Tentative Ruling. Court will prepare the final order.
LINE 5	22CV393909 Motion: Compel	Sutter Bay Hospitals et al vs HCA Health Services of California, Inc. et al	Off Calendar
LINE 6	22CV404685 Motion: Compel	YUDHVEER SINGH vs GENERAL MOTORS, LLC	See Tentative Ruling. Defendant shall submit the final order.

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LINE 7	18CV321891 Hearing: Motion to Release Undertaking	Christopher Treble vs Perry Hariri et al	Notice appearing proper and good cause appearing, the unopposed motion is GRANTED. Plaintiff shall prepare the final order.
LINE 8	20CV368897 Hearing: Motion to Amend Judgment	Hoge, Fenton, Jones & Appel, Inc. et al vs G9 Smart Solutions LLC	Motion continued to 3/19/24.
LINE 9	21CV392689 Motion: Reconsider	Professional Plastics, Inc. vs Advoque Safeguard LLC et al	Under CCP 1008(a), a motion for reconsideration brought by a litigant must be brought within 10 days after service is made. Plaintiff admits that it was required to file the motion by April 23, 2023, concedes that it did not even attempt to file the motion until April 26, 2023, and further acknowledges that due to its own errors, the motion was not in fact filed until June 14, 2023. (Though Plaintiff claims to have filed it on May 8, 2023, the docket date reflects the date items were efiled, regardless of how long it takes the court to process them.) As such, Plaintiff filed the motion for reconsideration more than a month late. The 10-day time limit is jurisdiction. See *Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500; and see *Case v. Lazben Financial Co.* (2002) 99 Cal. App. 4th 172 (jurisdictional when motion brought by litigant). Moreover, Plaintiff has not presented new facts, law, or circumstances that were not known at the time the original motion was brought. The motion is DENIED. Plaintiff shall submit the final order.

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The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)

LINE 10	23CV419618 Hearing: Petition Compel Arbitration	Roberto Ruiz-Cervantes vs Ford Motor Company et al	Off Calendar
LINE 11	23CV421013 Hearing: Pro Hac Vice Counsel	STARS BAY AREA, INC. vs VADIM PESKOV et al	Notice appearing proper, the unopposed motion re Jillian Cole is GRANTED.
LINE 12	23CV421013 Hearing: Pro Hac Vice Counsel	STARS BAY AREA, INC. vs VADIM PESKOV et al	Notice appearing proper, the unopposed motion re Marcus Harris is GRANTED.
LINE 13	2012-1-CV-220303 Hearing: Motion to enter Renewal of Judgment Nunc pro Tunc	Cavalry SPV I, LLC vs O. Williams	Notice does not appear proper. If moving party appears, motion will be continued to allow for proper notice. If moving party fails to appear, the motion will be taken off calendar.

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Calendar line 4
Case Name: *Mantrapoynt, Inc. v. Oracle, Inc.*
Case No.: 23CV418336

I. Background

This is an action for fraud. Plaintiff Mantrapoynt, Inc. ("Plaintiff") is a software developing company. (First Amended Complaint, ("FAC"), ¶ 8.) Manish Chakraborty is its chief operating officer, and he worked for defendant Oracle, Inc. ("Oracle") for twenty years. (*Ibid.*) In April 2019, Chakraborty contacted Oracle about services Plaintiff could provide, and related discussions followed. (*Id.* at ¶¶ 9-13.)

Oracle proposed a financial relationship with Plaintiff on July 20, 2018. (FAC, ¶ 14.) Oracle knew its representation about Plaintiff's compensation was false. (*Id.* at ¶ 17.) Plaintiff relied on Oracle's representation when it began sharing its know-how and expertise with Oracle. (*Id.* at ¶ 15.) By September 2019, Oracle had changed its arrangement with Plaintiff and declared that a referral fee financial scheme was no longer available to Plaintiff. (*Id.* at ¶ 18.)

Oracle continued to praise Plaintiff's efforts and expertise in recruiting new clients, including in an email on April 8, 2021. (FAC, ¶ 19.) Oracle cut Plaintiff out completely and replaced it with another company in April 2021. (*Id.* at ¶ 20.)

Plaintiff filed a complaint against Oracle on June 27, 2023, alleging one cause of action for fraud. Plaintiff filed the FAC against Oracle on August 3, 2023, also alleging one cause of action for fraud. Oracle filed a demurrer to the FAC on September 11, 2023, and a motion for sanctions against Plaintiff and its counsel, Rattan Dev. S. Dhaliwal, on October 6, 2023.

Plaintiff filed a request for dismissal of the entire action without prejudice on November 14, 2023.

II. Oracle's Motion for Sanctions

Oracle seeks sanctions pursuant to Code of Civil Procedure[1] sections 128.7 and 128.5, which provide authority for sanctions on different grounds. As to both grounds, the crux of Oracle's position is that Plaintiff's fraud claim is time-barred by facts alleged on the face of the complaint, and Plaintiff cannot plead around this defect without violating the sham pleading doctrine.

A. Jurisdiction Post-dismissal

As an initial matter, Plaintiff has filed a voluntary request for dismissal. "As a general rule, a voluntary request for dismissal of an action deprives the court of both subject matter and personal jurisdiction in that case. Based on this general rule, most orders entered after the dismissal are void and have no effect. That said, notwithstanding this general principle, courts have carved out a number of exceptions to this rule in order to give meaning and effect to a former party's statutory rights." (*Manhan v. Gallagher* (2021) 62 Cal.App.5th 504, 509

[1] Further unspecified statutory references are to the Code of Civil Procedure.

[internal punctuation and citations omitted].) "When a postdismissal or postjudgment motion involves collateral statutory rights, then the court may retain jurisdiction to determine and enforce those rights. As particularly relevant here, courts have held jurisdiction is retained postdismissal and postjudgment to decide motions for sanctions." (*Ibid.*)

Here, based on the authority set forth above, the court has jurisdiction to hear Oracle's motion for sanctions.

B. Section 128.7 Sanctions

Oracle's motion focuses initially on section 128.7. Section 128.7 "provides a remedy for improperly speculative pleading." (*Bockrath v. Aldrich Chemical Co.* (1999) 21 Cal.4th 71, 82 (*Bockrath*).) It requires that all pleadings filed with the court be signed by an attorney of a represented party, or, if the party is not represented by counsel, by the party. (§ 128.7, subd. (a).)

"The signing of a filed pleading constitutes a certification by the person signing it that after a reasonable inquiry, the pleading (1) is not being presented for an improper purpose; (2) contains positions that are not frivolous; (3) alleges factual matter having evidentiary support; and (4) contains denials of factual allegations, which denials have evidentiary support. (§ 128.7, subd. (b).)" (*Optimal Markets, Inc. v. Salant* (2013) 221 Cal.App.4th 912, 919 (*Optimal*).) "Based upon these requirements, the court, after proper statutory notice, may impose sanctions upon the attorneys, law firms, or parties who have improperly certified a pleading in violation of subdivision (b) of section 128.7. (§ 128.7, subd. (c).)" (*Id.* at pp. 919-920.)

The party bringing a motion for sanctions under section 128.7 must comply with a two-step "safe harbor" process. (*Optimal*, *supra*, 221 Cal.App.4th at p. 920.) "First, the party must serve a notice of motion for sanctions on the offending party at least [21[2]] days before filing the motion with the court, which specifically describes the sanctionable conduct. (§ 128.8, subd. (c)(1).)" (*Ibid.*) "Service of the motion on the offending party begins a [21]-day safe harbor period during which the sanctions motion may not be filed with the court. If the pleading is withdrawn, the motion for sanctions may not be filed with the court. If the pleading is not withdrawn, the motion for sanctions may then be filed." (*Ibid.* [internal punctuation and citations omitted].)

The safe harbor provision "permits a party to withdraw a questionable pleading without penalty, thus saving the court and the parties time and money litigating the pleading as well as the sanctions request. [Citations.]" (*Optimal*, *supra*, 221 Cal.App.4th at p. 920.) "The primary purpose of [section 128.7] is deterrence of filing abuses, not to provide compensation for those impacted by those abuses." (*Ibid.*)

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[2] *Optimal* quotes and cites language from *Levy v. Blum* (2001) 92 Cal.App.4th 625, 637 (*Levy*), referencing a 30-day safe harbor. At the time of the *Levy* decision, section 128.7's safe harbor was 30 days long, but the statute was amended in 2002, reducing the duration to 21 days, as the section reads currently. (*Optimal*, *supra*, 221 Cal.App.4th at p. 219-220, fn. 13; Stats 2002 ch 491 § 1 (SB 2009); Stats 2005 ch 706 § 9 (AB 1742).)

Here, Oracle presents facts establishing compliance with section 128.7's safe harbor requirements. (Mot., p. 12:5-9; Declaration of Joseph Poppen in support of motion for sanctions ("Poppen Decl."), ¶ 8.) Oracle asserts it served Plaintiff with its sanctions motion on September 11, 2023, and waited more than 21 days before filing its sanctions motion on October 6, 2023. (*Ibid*.) Plaintiff did not withdraw its FAC in the interim. (*Ibid.*) These facts are corroborated by court records, and Plaintiff does not dispute them in opposition.

Next, Oracle contends Plaintiff's fraud claim is legally and factually frivolous because it is time barred on its face. (Mot., pp. 14-17.) The limitations period for fraud is three years. (§ 338, subd. (d) ["Within three years: [¶…¶] (d) An action for relief on the ground of fraud or mistake. The cause of action in that case is not deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake"].)

Here, the complaint and FAC both begin by alleging that Plaintiff relied on Oracle's representation that it would be paid. (Complaint[3], ¶¶ 9-17; FAC, ¶¶ 9 -17.) The complaint then alleges at paragraph 18: "Then in September of 2019, ORACLE unilaterally changed its arrangement with Plaintiff and declared that a referral fee financial scheme was no longer available to MANTRAPOYNT." (Complaint, ¶ 18.)

According to Oracle, the complaint's allegation at paragraph 18 establishes Plaintiff's knowledge of the alleged fraud as of September 2019. It follows that the three-year limitations period began running at that time and closed at least by September 30, 2022. But Plaintiff did not file the complaint until June 27, 2023. Oracle brought this limitations issue to Plaintiff's attention on July 19, 2023, and on repeated occasions since then. (Poppen Decl., ¶¶ 2-8.)

In an attempt to address the limitations issue, Plaintiff filed an amended complaint with slightly different language concerning what Oracle communicated in September 2019.[4] However, as Plaintiff now acknowledges, the facts alleged relating to the limitations issue are "fatal" to its fraud claim. (Opp., pp. 3-4; Declaration of Rattan Dev. S. Dhaliwal ("Dhaliwal Decl."), ¶¶ 2-6.) Plaintiff opposes the motion for sanctions in part because Dhaliwal "cut the action short [by requesting dismissal], as soon as he found out it was going to be fruitless." (Opp., p. 7:12-13.)

But Plaintiff continued to pursue its fraud claim – for nearly four months – until it requested dismissal on November 13, 2023, well after Oracle first raised the issue on July 19, 2023. Again, section 128.7 provides for sanctions when the claims presented are not warranted by existing law or lack evidentiary support. (§ 128.7, subds. (b)(2), (b)(3).) The certification of a pleading is measured by an objective standard, that is, whether the paper filed is frivolous, legally unreasonable or without factual foundation. (*Bockrath, supra*, 21 Cal.4th at p. 81 ["The actual-belief standard requires more than a hunch, speculative belief, or wishful thinking: it

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[3] Oracle requests judicial notice of the complaint. As the pleading is already part of the record in this case, taking judicial notice of it is unnecessary; the request is DENIED. (*Duarte v. Pacific Specialty Insurance Company* (2017) 13 Cal.App.5th 45, 51, fn. 6—denying request where judicial notice is not necessary, helpful, or relevant.)

[4] "Then it seemed in September of 2019, ORACLE had unilaterally changed its arrangement with Plaintiff and declared that a referral fee financial scheme was no longer available to MANTRAPOYNT." (FAC, ¶ 18.)

requires a well-found belief. We measure the truthfinding inquiry's reasonableness under an objective standard, and apply this standard both to attorneys and to their clients. [Citation.]"].)

Oracle persuasively argues that Plaintiffs' fraud claim fails to meet the standard under section 128.7. (Mot., pp. 14-17.) An inquiry reasonable under the circumstances as to the legal and factual contentions purportedly supporting Plaintiff's fraud claim would have revealed that the claim was time barred by section 338, subdivision (d). Even accepting counsel's admission that he made a mistake, his position that the mistake was simultaneously "fatal" and "redeemable" fails to persuade the court the delay in dismissing the FAC is warranted under the section 128.7 standard.

Here, Plaintiff's dismissal of the action *after* the motion for sanctions was filed does not preclude a sanctions order. (*Eichenbaum v. Alon* (2003) 106 Cal.App.4th 967, 976 (*Eichenbaum*).) "Where timely, a voluntary dismissal without prejudice is sufficient to *preclude* a later motion for sanctions. [Citation.] But an untimely dismissal, with prejudice or without, is not." (*Ibid.*) "Sanctions under section 128.7 are calculated to deter repetition of this conduct or comparable conduct by others similarly situated. Their function to deter frivolous filing is not limited to the course of the case in which they are awarded." (*Ibid.*)

In *Eichenbaum*, the "appellants were given the full latitude of the safe harbor period. They ignored it, and did not withdraw their FAC, by dismissal, until after the sanctions motion had been filed, argued, and submitted for decision. (*Ibid.*) The voluntary dismissal "did not deprive the court of power to grant the motion." (*Ibid.*) Similarly here, the court may order sanctions despite the dismissal because Plaintiff ignored the safe-harbor period and sanctions would serve the function of deterring this or comparable conduct in the future, whether by Plaintiff or others similarly situated.

Thus, for the reasons set forth above, the court will grant the order for sanctions under section 128.7. Having reached this determination, the court declines to address whether sanctions are alternatively available for the same conduct under section 128.5.

C. Amount of Sanctions

Oracle seeks a "total amount of at least $30,000.00 which is far less than the total amount of reasonable attorneys' fees and costs that Oracle actually incurred as a result of their sanctionable conduct, and to draft and file this motion." (Mot., p. 15:9-12.) The court finds this amount to be excessive for several reasons.

First, Oracle's amount is based on its purported attorneys' fees incurred from the filing of the complaint to the present. (See Poppen Decl., ¶¶ 12-14.) But section 128.7 provides: "If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred *in presenting or opposing the motion*." (§ 127.7, subd. (c)(1) [emphasis added].) Oracle contends it incurred "more than $12,214 with respect to this sanctions motion." (Poppen Decl., ¶ 14.) The court also notes that Oracle's original "more than $30,000.00" figure includes $28,891 in fees for its demurrers to the complaint and the FAC. (*Id.* at ¶¶ 12, 13.) This figure includes 17 hours of work valued at $13,702.00 for the demurrer to the FAC – on top of the 19 hours of work ($15,189) for the demurrer to the complaint. (*Ibid.*) But Oracle asserts the FAC made minimal amendments to the complaint. (Mot., pp. 11,

15-16.) Thus, the court fails to see how a demurrer nearly identical to one already prepared would take 17 hours to complete.

Further, as addressed above, section 128.7 states: "A sanction imposed for violation of subdivision (b) shall be limited to what is sufficient to deter repetition of this conduct or comparable conduct by others similarly situated." Under this standard, the court finds sanctions in the amount of $2,500.00 to be sufficient to serve the statute's deterrence purpose.

Accordingly, the motion for sanctions under section 128.7 is GRANTED. Plaintiff and its counsel are directed to pay Oracle the amount of $2,500.00 within 30 days of the filing of this order.

III. Conclusion

Defendant Oracle, Inc.'s motion for sanctions under Code of Civil Procedure section 128.7 is GRANTED. Plaintiff Mantrapoynt, Inc., and its counsel are ordered to collectively pay to Oracle, Inc., at total of $2,500.00 within 20 days of the filing of this order.

The Court will prepare the final order.

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Calendar Line 6
Case Name: *Yudhveer Singh v. General Motors*
Case No.: 22CV404685

Background

This is a lemon law case. Plaintiff now seeks an order to compel further responses to Requests for Production of Documents, Set One, Nos. 10-14, 17-21, and 37-42.

Legal Standard

Discovery is generally permitted "regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." (Code Civ. Pro. § 2017.010.) Everything that is relevant to the subject matter is presumed to be discoverable. (*Id.*) The Discovery Act further declares that "the court shall limit the scope of discovery" if it determines that the burden, expense, or intrusiveness of that discovery "clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence." (Code Civ. Pro. § 2017.020(a); *Greyhound Corp. v. Superior Court* (1961) 56 C.2d 355, 383-385.) The California Supreme Court teaches in *Greyhound* that the judge exercising discretion to limit discovery should construe disputed facts liberally in favor of discovery; reject objections such as hearsay that only apply at trial; permit fishing expeditions (within limits), avoid extending limitations on discovery, such as privileges; and, whenever possible, impose only partial limitations rather than denying discovery entirely. (*Greyhound Corp. v. Superior Court* (1961) 56 C.2d 355, 383-385; *see also Tylo v. Superior Court* (1997) 55 Cal.App.4th 1379, 1386.)

The party to whom a request for production of documents has been directed can make one of three responses: (1) a statement that the party will comply with the demand, (2) a representation that the party lacks the ability to comply, or (3) an objection. (Code Civ. Pro. §2031.210(a).) A party may move for an order compelling a further response to a document demand on the ground that (1) an objection is without merit or too general, (2) a statement of compliance with the demand is incomplete, or (3) a representation of inability to comply is inadequate, incomplete, or evasive. (Code Civ. Pro. §2031.210(a).) A party seeking to compel is required to "set forth specific facts showing good cause justifying the discovery sought by the demand." (Code Civ. Pro. §2031.210(b)(1); *Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98.) This burden may be satisfied by a fact-specific showing of relevance. (*TBG Ins. Services Corp. v. Superior Court* (2002) 96 Cal.App.4th 443, 448.)

Plaintiff argues the documents it seeks are likely to lead to the discovery of admissible evidence regarding GM's knowledge of the defect which, presumably, relates to the "willful" requirement for a civil penalty. With respect to willfulness, one court has opined that "[a] decision made without the use of reasonably available information germane to that decision is not a reasonable, good faith decision." (*Kwan v. Mercedes-Benz of North America, Inc.* (1996) 23 Cal.App.4th 174, 186.) Some factors the court (or jury) may consider when making a willfulness determination include:

1. Whether the manufacturer knew the vehicle was a lemon (*Lukather v. General Motors, LLC* (2010) 181 Cal. App. 4th 1041, 1051-52);

2. Whether the manufacturer or its representative was provided with a reasonable period of time or reasonable number of attempts to repair the vehicle (*Jensen v. BMW of N. Am., Inc.* (1995) 35 Cal.App.4th 112, 136);

3. Whether the manufacturer knew the vehicle had not been repaired within a reasonable time or after a reasonable number of attempts (*Jensen v. BMW of N. Am., Inc.* (1995) 35 Cal.App.4th 112, 136);

4. The lengths the manufacturer or its representative went through to and diagnose and repair the vehicle's problems (*Ramos v. FCA US LLC* (2019) 385 F. Supp. 3d 1056, 1072);

5. Whether the vehicle usually operated normally while in the shop for diagnosis and repair (*Ramos v. FCA US LLC* (2019) 385 F. Supp. 3d 1056, 1072);

6. Whether the manufacturer had reasonable suspicions that the purchaser had tampered with the vehicle (*Ramos v. FCA US LLC* (2019) 385 F. Supp. 3d 1056, 1072);

7. Whether the manufacturer had a written policy on the statutory requirement to repair or replace the vehicle (*Jensen v. BMW of N. Am., Inc.* (1995) 35 Cal.App.4th 112, 136);

8. Whether the manufacturer knew the purchaser had requested replacement or restitution (*Lukather v. General Motors, LLC* (2010) 181 Cal. App. 4th 1041, 1051-52);

9. Whether the manufacturer actively discouraged the purchaser from requesting replacement or restitution (*Lukather v. General Motors, LLC* (2010) 181 Cal. App. 4th 1041, 1051-52);

10. Whether the manufacture relied on reasonably available and germane information when deciding whether to offer to replace or pay restitution (*Kwan v. Mercedes-Benz of North America, Inc.* (1996) 23 Cal.App.4th 174, 186);

11. Whether the purchaser made multiple unsuccessful requests for replacement or restitution (*Ramos v. FCA US LLC* (2019) 385 F. Supp. 3d 1056, 1072);

12. Whether the manufacturer's offer to pay restitution was a lowball offer or for an incorrect amount (*Ramos v. FCA US LLC* (2019) 385 F. Supp. 3d 1056, 1072).

A close study of the above categories reveals that the primary focus is on the vehicle at issue in a particular case—not sweeping discovery regarding other customers' complaints. Plaintiff's citation to *Donlen v. Ford Motor Co.* (2013) 217 Cal.App.4th 138 and *Doppes v. Bently Motors, Inc.* (2009) 174 Cal.App.4th 967 does not change this analysis. Neither of those cases directly addressed a trial court's discovery orders in a lemon law case. *Donlen*

finds the trial court did not commit error when it denied the manufacturer's motion in limine to exclude evidence of other customer complaints about the same transmission model in plaintiff's vehicle at issue in that case. *Doppes* examined the trial court's granting of terminating sanctions against the manufacturer for its repeated failure to comply with the trial court's discovery orders. Neither case ruled on the proper scope of discovery in the pretrial stage and neither opinion balanced the needs of the given case against the cost of expansive discovery sought, which this Court is called to do on a motion to compel. (Code Civ Proc § 2019.030(a)(2) ("The court shall restrict the frequency or extent of use of a discovery method. . . if it determines. . . The selected method of discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation.").)

Plaintiff seeks "all documents including electronically stored information and electronic mails" reflecting "any internal analysis or investigation" (nos. 10/17), "any decision to issue any notices, letters, campaigns, warranty extensions, technical service bulletins and recalls" (nos. 11/18), "constituting customer complaints, claims, reported failures, and warranty claims" (nos. 12/19), "failure rates of vehicles" (nos. 13/20), and "any fixes" (nos. 14/21), related to the HVAC DEFECT and the POWERTRAIN DEFECT for "all vehicles of the same year, make and model."

Here, Plaintiff defines "HVAC Defect" as a defect that "results in the following symptoms: hot air blows from rear seat vent(s); driver's side seat cooling inoperable; passenger's side seat cooling inoperable; seat ventilation blower duct(s) failure; seat ventilation duct(s) removal; cooling seat fan inoperable; hot air blows from rear seat fan(s); seat back blower inoperable; seat back blower and/or cooler replacement; seat cooler fan inoperable; blower motor(s) failure; and/or blower motor(s) replacement."

Plaintiff defines "Powertrain Defect" as a defect that "results in the following symptoms: vehicle needs jumpstarting; intermittent "Check Engine" Light ("CEL") illumination; harsh shifting on acceleration; harsh 1-2 shift; and /or harsh 2-3 shift."

While such information could be relevant to the issue of willfulness, the Court agrees with Defendant that these requests are overbroad, in that they relate to other vehicles, require a search where the terms are ill-defined ("any fixes"), vague ("vehicle needs jumpstarting"), and may not even relate to Plaintiff's particular complaints ("intermittent CEL illumination"). Plaintiff requests a search concerning "notices, letters, campaigns, warranty extensions, technical service bulletins and recalls," "customer complaints, claims, reported failures, and warranty claims." There is no way to focus a search for documents to narrowly capture Plaintiff's alleged issues. The amount of time, money and resources it would take GM to comply with an order to produce such materials vastly outweighs "the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation." Code Civ Proc § 2019.030(a)(2). Plaintiff's requests 10-14 and 17-21 are DENIED.

In requests 37-42, Plaintiff requests documents reflecting communications with NHTSA regarding the HVAC defect and Powertrain defect in all vehicles of the same year make and model (Nos. 37/39), all NHTSA complaints in "YOUR" possession regarding the HVAC and Powertrain defects in vehicles of the same year, make and model (Nos. 38/40), all early warning reports submitted to NHTSA regarding vehicles of the same year, make and model (No. 41), and all TREAD reports submitted by "YOU" relating to vehicles of the same

year, make and model. Again, because the requests relate to all vehicles of the same make, model, and year, rather than the subject vehicle, and relate to issues that may not correspond to the issues relevant to Plaintiff's vehicle, the amount of time, money and resources it would take GM to comply outweighs "the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation." Requests 37-42 are DENIED.

The Court notes that Defendant's opposition and declaration are subpar. The declaration referred to an attached Exhibit C which was not in fact attached. It referenced the wrong vehicle at issue. Defendant provided no specificity about the burden of complying with the requests or about other objections. The motion is only denied because the requests are grossly overbroad and vague.

Plaintiff's motion is DENIED. Defendant shall submit the final order.

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