

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

Department 18b
Honorable Shella Deen, Presiding
Catherine A. Pham, Courtroom Clerk
191 North First Street, San Jose, CA 95113

DATE: October 24, 2024 TIME: 9:00 A.M.

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

****Please specify the issue to be contested when calling the Court and Counsel****

LAW AND MOTION TENTATIVE RULINGS

FOR APPEARANCES: Department 18 is fully open for in-person hearings. The Court strongly prefers **in-person** appearances for all contested law and motion matters. For all other hearings, the Court strongly prefers either **in-person or video** appearances. If you must appear virtually, you must use video. Audio-only appearances are permitted, but disfavored, as they cause significant disruptions and delays to the proceedings. Please use telephone-only appearances as a last resort. To access the courtroom, click or copy and paste this link into your internet browser and scroll down to Department 18:

https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml

SCHEDULING MOTION HEARINGS: Please go to <https://reservations.scsccourt.org> or call 408-882-2430 between 8:30 a.m. and 12:30 p.m. (Mon.-Fri.) to reserve a hearing date for your motion before you file and serve it. You must then file your motion papers no more than five court days after reserving the hearing date, or else the date will be released to other cases.

FOR COURT REPORTERS: The Court is no longer able to provide official court reporters for civil proceedings (as of July 24, 2017). If you want to have a court reporter to report your hearing, you must submit the appropriate form, which can be found here:

https://www.scsccourt.org/general_info/court_reporters.shtml

RECORDING IS PROHIBITED: As a reminder, most hearings are open to the public, but state and local court rules prohibit recording of court proceedings without a court order. This prohibition applies to both in-person and remote appearances.

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LAW AND MOTION TENTATIVE RULINGS

LINE #	CASE #	CASE TITLE	RULING
<u>LINE 1</u>	22CV394300	Knights Flooring, Inc. vs FPC Builders, Inc. et al	<p>Motion to Compel Deposition and Documents</p> <p>Plaintiff Knights Flooring, Inc.'s motion to compel deposition of the person(s) most knowledgeable for Defendant FPC Builders, Inc. and request for \$7,970 in monetary sanctions. For some ten months, Defendant canceled its deposition on four occasions, failed to respond to the document request in the deposition notice, and refused to appear in California for its deposition. Defendant opposes the motion, but the arguments it presents are without merit. Good cause appearing, the motion is GRANTED. Defendant FPC Builders Inc. shall produce its person(s) most knowledgeable for their deposition, in person, in San Francisco, California, to testify on the specified topics set forth in the deposition notice. The deposition shall take place no later than November 22, 2024. Defendant FPC Builders Inc. shall also produce the documents requested in the deposition notice at least three days before the court ordered deposition. Sanctions in the amount of \$2,840 are awarded to Plaintiff, to be paid by Defendant FPC Builders, Inc. by November 7, 2024. (Code Civ. Proc., §§2025.250, 2025.250(b), 2025.450(a) and 2025.450(g)(1)).</p> <p>Moving party to prepare formal order.</p>

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LAW AND MOTION TENTATIVE RULINGS

LINE 2	23CV421814	Elaine Lee vs AMERICAN HONDA MOTOR CO., INC. et al	Motion to Compel (Form Interrogatories) The Court appreciates the efforts by counsel to narrow and resolve the issues in dispute for all three motions to compel. As Defendant has provided a supplemental response to Form Interrogatory No. 12.1 and has agreed to make a reasonable and good-faith effort to obtain the names of the technicians involved in the service/repair history for the vehicle, per Plaintiff, this motion is MOOT. Moving party to prepare the formal order.
LINE 3	23CV421814	Elaine Lee vs AMERICAN HONDA MOTOR CO., INC. et al	Motion to Compel (Special Interrogatories) This motion has been rendered MOOT after the parties' successful meet and confer efforts.

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LAW AND MOTION TENTATIVE RULINGS

LINE 4	23CV421814	Elaine Lee vs AMERICAN HONDA MOTOR CO., INC. et al	Motion to Compel (Document Request) Defendant agreed to provide a further response to Requests for Production Nos. 1 and 2. After further meet and confer efforts, Plaintiff agreed to waive its objections to Defendant's responses to Request for Production Nos. 33, 37, 38, 40, 45, 48, 49 and 72. Thus Requests Nos. 34, 35 and 36 remain in dispute. These requests seek documents concerning customer complaints of owners of other vehicles of the <i>same year, make and model for the same stalling concern</i> for which Plaintiff presented her vehicle. Plaintiff alleges that she took her vehicle in repeatedly for the same stop/start stalling concern, after which Defendant issued Technical Service Bulletins TSB 23-002 Engine Does Not Auto Restart After Entering Auto Idle Stop and TSB 23-001 2016-2020 MDX PGM-FI Stop Software Update, that both relate to this defect. As Plaintiff's Request Nos. 34, 35 and 36 seek evidence related to defects of the same nature as Plaintiff and the same year and vehicle model, the motion to compel is GRANTED. The information sought is relevant both to the existence and nature of the defect as well as Defendant's knowledge of that defect when it failed to repurchase Plaintiff's vehicle. Defendant shall provide code-compliant verified responses and responsive documents to Request Nos. 34, 35 and 36 by November 14, 2024. Moving party to prepare the formal order.
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LINE 5	20CV369138	Chicago Title Company vs 28th ST Villa Apts LLC et al	Motion for Leave to File Notice of Settlement of Entire Case was filed on August 16, 2024, and this motion was VACATED per counsel's stipulation at the Case Status Review hearing on October 3, 2024.
LINE 6	22CV402218	Dolores Mattson vs Adi De La Zerda et al	Motion to Enforce Settlement This motion was CONTINUED to December 19, 2024, at the September 24, 2024 hearing. The remaining issue regarding stock will be heard on December 19, 2024 at 9:00 a.m. in Department 18b, with the Motion to Withdraw. The parties are to file a joint statement with an update of any outstanding issues by December 10, 2024.
LINE 7	24CV441178	Daniel Miles et al vs Infinite Loop Moorpark Hotel, LLC et al	Pro Hac Vice Application (Eric M. Jenniges) No objection <i>per se</i> filed. Plaintiffs do not oppose the motion, provided that attorneys from the current law firm representing the Defendants, Bowman and Brooke, participate in all aspects of this litigation, including attending all court appearances and depositions. Good cause appearing, the application is GRANTED. Moving party to prepare formal order.

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LINE 8	24CV441178	Daniel Miles et al vs Infinite Loop Moorpark Hotel, LLC et al	Pro Hac Vice Application (Ronald F. Negin) No objection <i>per se</i> filed. Plaintiffs do not oppose the motion, provided that attorneys from the current law firm representing the Defendants, Bowman and Brooke, participate in all aspects of this litigation, including attending all court appearances and depositions. Good cause appearing, the application is GRANTED. Moving party to prepare formal order.
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LAW AND MOTION TENTATIVE RULINGS

LINE 9	23CV419558	Shannon Williams et al vs FCA US LLC et al	Motion for Attorney's Fees Plaintiff's motion for attorney's fees of \$26,803 and \$857.12 in costs (and an additional \$5000 for post motion filing fees) against Defendant pursuant to Civil Code §1794(d). The motion is opposed by Defendant. The Court has reviewed the hundreds of pages of briefing and specifically the time entries submitted, and the arguments presented in support of the hourly rates requested. The Court has discretion to reduce attorney fee awards. (<i>Mikaeilpoor v. BMW of North America, LLC</i> (2020) 48 Cal.App.5th 240). Every lemon law case is different, but in this case the Court does not see any unique issues or extraordinary motions and deems the time charged for standard form lemon law discovery and the litigation of this case to be excessive and the hourly rates elevated. The Court determines that (1) the fees incurred are unreasonable and excessive – the award requested is reduced to account for overbilling, lack of accounting for using form template discovery and pleadings, and litigation inefficiencies; and (2) the requested hourly rates are reduced for this standard lemon law case (<i>Nightingale v. Hyundai Motor America</i> (1994) 31 Cal.App.4th 99, 152) and no fees are permitted for administrative tasks or post filing motion fees. Plaintiff's motion for attorney's fees is GRANTED in the amount of \$17,118.40 and costs of \$857.12 to be paid within 10 days of the hearing. Moving party to prepare the order.
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LINE 10	24CV430688	Galina Zybina vs Linh Ngo	Compromise of Minor's Claim This matter was continued to October 24, 2024, at the October 15, 2024, hearing as there was no proof of service on file for service of the Petition for Approval of Compromise of Claim. No proof of service has been filed. This matter is therefore OFF CALENDAR.
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