

February 9, 2026 Truckee Civil Law & Motion Tentative Rulings

1. CL0002298 WELLS FARGO BANK, N.A. vs. VICTORIA BOLSHAKOFF, an individual

No appearances required. On the Court's own motion, the default prove up hearing is continued to March 9, 2026 at 1:30 p.m. in Dept. A. Plaintiff filed a proof of service evidencing Defendant was served by mail on January 23, 2026 with a Notice of Prove Up Hearing. While there are many attachments to this notice and its inclusive proof of service, the Court cannot determine if, how and when all the attachments including those previously ordered to be served were served. Thus, new notice and evidence of service of all documents shall be filed. In addition, the Court admonishes Plaintiff on the Court's local rules related to bookmarking and courtesy copies.

2. CL0003301 Capital One, N.A., successor by merger to Discover Bank vs. Christine Martindale

Appearance required by Plaintiff to show cause as to why this case should not be dismissed and/or Plaintiff sanctioned for failure to serve the Summons and Complaint on Defendants via some approved method after the Declaration of Non-Service was filed on December 15, 2025. Absent good cause being shown, the Court intends to set the matter for dismissal pursuant to CCP section 583.420.

3. CU0001216 Greg Bomhoff vs. Michael Decarlo et al

Appearances are required by all parties for a status update regarding Mr. Bomhoff's October 2, 2025 ex parte application for an OSC re Preliminary Injunction.

Cross-Defendant Ron Bomhoff's Special Motion to Strike Defendants' Cross-Complaint is DENIED.

Request for Judicial Notice

Cross-Defendant Ron Bomhoff's request for judicial notice is granted. However, in making its determination on this motion, the Court, "shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based." Code Civ. Proc. § 425.16(b)(2). Therefore, the Court will already consider the pleadings without the need for the request for judicial notice.

Objections to Evidence

The Court rules on Cross-complainants' objection to the declaration of Greg Bomhoff in support of Mr. Bomhoff's Anti-SLAPP motion as follows: Objection 1 is sustained (inadmissible opinion evidence, calls for legal conclusion); Objection 2 is overruled.

Standard of Review

Cross-Defendant Ron Bomhoff (“Cross-Defendant” or “Bomhoff”) filed a special motion to strike Cross-Complainants’ entire Cross-Complaint under Code of Civil Procedure § 425.16, also known as the anti-SLAPP (“strategic lawsuit against public participation”) statute. “The anti-SLAPP procedures are designed to shield *a defendant’s* constitutionally protected conduct from the undue burden of frivolous litigation.” *Baral v. Schnitt* (2016) 1 Cal.5th 376, 393 (emphasis added). “The anti-SLAPP statute does not insulate defendants from any liability for claims arising from the protected rights of petition or speech. It only provides a procedure for weeding out, at an early stage, meritless claims arising from protected activity.” *Id.* at 384.

“Resolution of an anti-SLAPP motion involves two steps. First, the defendant must establish that the challenged claim arises from activity protected by section 425.16. If the defendant makes the required showing, the burden shifts to the plaintiff to demonstrate the merit of the claim by establishing a probability of success” *Baral, supra*, 1 Cal.5th at 384 (citations omitted). The California Supreme Court has “described this second step as a ‘summary-judgment-like procedure.’ The court does not weigh evidence or resolve conflicting factual claims. Its inquiry is limited to whether the plaintiff has stated a legally sufficient claim and made a *prima facie* factual showing sufficient to sustain a favorable judgment. It accepts the plaintiff’s evidence as true, and evaluates the defendant’s showing only to determine if it defeats the plaintiff’s claim as a matter of law. [C]laims with the requisite minimal merit may proceed.” *Id.* at 384-385 (citations omitted).

Step One: Conduct in Furtherance of Right to Petition or Free Speech

Code of Civil Procedure § 425.16(b)(1) states, “A cause of action *against a person arising from any act of that person in furtherance of the person’s right of petition or free speech* under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim.” (Emphasis added.) Code of Civil Procedure § 425.16(e) states: “As used in this section, ‘act in furtherance of a person’s right of petition or free speech under the United States or California Constitution in connection with a public issue’ includes: ... (1) any written or oral statement or writing made before a legislative, executive, or judicial proceeding, or any other official proceeding authorized by law, (2) any written or oral statement or writing made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, (3) any written or oral statement or writing made in a place open to the public or a public forum in connection with an issue of public interest, or (4) any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest.” “In the anti-SLAPP context, the critical point is whether the plaintiff’s cause of action itself was based on an act in furtherance of the defendant’s right of petition or free speech.” *City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 78. Therefore, the anti-SLAPP’s statute focuses not on the form of cross-complainant’s cause of action but, rather, *cross-defendant’s* underlying activity that gives rise to the asserted liability and whether that activity constitutes protected speech or petitioning. *See, Navellier v. Sletten* (2002) 29 Cal.4th 82, 92.

Here, Cross-Defendant moves to strike the entire Cross-Complaint. Cross-Defendant contends that his acts are protected because the causes of action arise from protected activity.¹ The Cross-Complaint alleges Bomhoff and Roe Cross-Defendants made a series of public statements falsely accusing Cross-Complainant Bothelio of misconduct including physical assault, emotional abuse or harassment, and unlawful acts. Cross-Complaint, ¶¶ 7-11, 24, 38-39. While the underlying Third Amended Complaint alleges civil assault and battery claims, it does not allege emotional abuse, harassment, commission of unlawful acts, illegal deeds, or bullying. Thus, the gravamen of the Cross-Complaint is not based solely on oral or written statements made regarding the underlying litigation filed by Bomhoff. Moreover, Code of Civil Procedure § 425.16(b)(1) specifies a person is protected from a cause of action arising *from any act of that person* made in furtherance of his right of petition or free speech, meaning only Bomhoff's actions are protected under the statute. Bomhoff has no standing to challenge statements that do not arise from his own acts, including written posts or speech made by Roe Cross-Defendants.

A motion to strike may be used to attack parts of a count as pleaded such as a complaint which includes "mixed causes of action" that combine allegations of activity protected by the statute with allegations of unprotected activity. *Baral, supra*, 1 Cal.5th at 393. In such instances, the moving party has "the burden of identifying the allegations susceptible to a special motion to strike. If a defendant wants the trial court to take a surgical approach, whether in the alternative or not, the defendant must propose where to make the incisions." *Park v. Nazari* (2023) 93 Cal.App.5th 1099, 1109. Here, Bomhoff's motion is directed at the entire Cross-Complaint with no request in the alternative for narrower relief. Since Bomhoff does not indicate specific allegations in the Cross-Complaint should be stricken, the Court need not contemplate whether any specific allegations must be stricken. In other words, it is an all or nothing request.

Step Two: Probability of Prevailing on the Merits

"To establish a probability of prevailing, the plaintiff must demonstrate the complaint is both legally sufficient and supported by a sufficient *prima facie* showing of facts to sustain a favorable judgment if the evidence submitted by the plaintiff is credited. For purposes of this inquiry, the trial court considers the pleadings and evidentiary submissions of both the plaintiff and the defendant (§ 425.16, subd. (b)(2)); though the court does not weigh the credibility or comparative probative strength of competing evidence, it should grant the motion if, as a matter of law, the defendant's evidence supporting the motion defeats the plaintiff's attempt to establish evidentiary support for the claim." *Hawran v. Hixson* (2012) 209 Cal.App.4th 256, 273-74. However, the Court must accept as true the evidence favorable to Cross-Complainant. *See, Soukup v. Law Offices of Herbert Hafif* (2006) 39 Cal.4th 260, 291. Cross-Complainant needs only to establish that the claim has minimal merit. *Id.*

¹ While the Notice of Motion does not make clear the provisions of CCP § 425.16(e) Cross-Defendant is relying on, the body of the motion appears to argue the Cross-Complaint encompasses protected activity described in §425.16(e)(1) and (2). The Court notes, under Code of Civil Procedure § 425.16(e)(1), homeowners association meetings are not considered "official proceedings". *Talega Maintenance Corp. v. Standard Pacific Corp.* (2014) 225 Cal.App.4th 722, 732. Other cases addressing anti-SLAPP motions arising from statements made at homeowners association board meetings and writings in homeowners association forums have analyzed such under the rubric of Code of Civil Procedure § 425.16(e)(3) or (4). *Id.; Damon v. Ocean Hills Journalism Club* (2000) 85 Cal.App.4th 468, 474; *Ruiz v. Harbor View Community Assn.* (2005) 134 Cal.App.4th 1456, 1468.

However, because the Court finds Cross-Defendant has not met his burden to show his conduct giving rise to the Cross-Complaint was protected under the anti-SLAPP statute, the burden does not shift to Cross-Complainants to show by competent and admissible evidence they will prevail on the merits of their claims. *Macias v. Hartwell* (1997) 55 Cal.App.4th 669, 675.

Accordingly, for the reasons set forth above, Cross-Defendant's Special Motion to Strike the Cross-Complaint pursuant to Code of Civil Procedure § 425.16 is hereby DENIED.

Attorney Fees

Cross-Defendant has not prevailed on his special Motion to Strike. Thus, his request for attorney fees is DENIED.

4. CU0001681 Randy Ryan Agno et al vs. James L Gould, IV. et al

Plaintiffs' motion to waive or reduce undertaking is denied.

The conditioning of the issuance of a preliminary injunction upon the posting of an undertaking is statutorily required: "On granting an injunction, the court or judge *must* require an undertaking on the part of the applicant...." (Code Civ.Proc., § 529, subd. (a); emphasis added.)" *Abba Rubber Co. v. Sequist* (1991) 235 Cal.App.3d 1, 10. "That duty is mandatory, not discretionary." *Ibid.*

Bond requirements can be waived or forfeited in narrow circumstances, outside the statutory exceptions in Code of Civil Procedure § 529(b). The California Supreme Court has approved waiver of an injunction bond in cases where the party seeking the injunction is indigent.

Conover v. Hall (1974) 11 Cal.3d 842, 852-853. The requirement for a preliminary injunction can also be waived where the parties stipulate to an injunction. *Greenly v. Cooper* (1978) 77 Cal.App.3d 382, 385. At bar, the trial court's waiver or forfeiture is currently unsupported by substantial evidence.

"[U]nder proper circumstances California courts do have the power to dispense with bond requirements intended to protect an adversary's financial interest." *Conover, supra*, 11 Cal.3d 842, 851. Additionally, a formal in forma pauperis application is not required before relief can be granted. *Id.*; *County of Sutter v. Superior Court* (1966) 244 Cal.App.2d 770, 772 ("[The plaintiff] did not in so many words seek—nor did the court grant—leave to proceed In forma pauperis. The order simply grants her leave to proceed without security for costs. Because it is grounded on her indigence, we view it by the same standards as an in forma pauperis order.") If the court can "reasonably conclude from the facts before it that plaintiffs were 'poor' and could not afford to post an injunction bond to cover the state's potential damages," the court may find a limited exception to the posting of an undertaking. *Conover, supra*, at 853-854.

In support of their reply, Plaintiffs filed a supplemental declaration attaching exhibits regarding their financial hardship. "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument." *American Drug Stores, Inc. v. Stoh* (1992) 10 Cal.App.4th 1446, 1453.

Defendants raised the purchase of a home by Plaintiff Randy Agno as a rebuttal to Plaintiffs' assertion of financial hardship in its opposition. See Defendants' Request for Judicial Notice. Although Plaintiffs failed to include substantial evidence of their assertions of financial hardship in their opening brief, consideration of the reply evidence does not alter the Court's determination. Thus, the Court's order is one that results from consideration of all pleadings submitted in relation to Plaintiff's request. It is notable this action stems from ownership of a vacation cabin, not a primary residence. In addition, Plaintiffs have asserted they acquired other vacation cabins during the pendency of this action. Finally, Plaintiff Randy Ryan Agno receives non-taxable disability income of almost \$5,000 per month, and, although her income is unknown, the Court is aware Plaintiff Amy Beth Agno is employed due to her multiple remote court appearances during which she indicates she is at work. The Court does not find Plaintiffs to be indigent nor that they have provided evidence of circumstances which would cause the Court to except them from the mandate of posting an undertaking.

Accordingly, Plaintiffs' request is hereby DENIED.

5. CU0001840 Richard A Perdomo Canales v. Best Western International, Inc., et al.

Defendant Best Western International, Inc. motion to compel responses to Form Interrogatories (Set One) is granted. Plaintiff Richard A. Perdomo Canales is ordered to provide further verified responses, *without objections*, to Form Interrogatories Nos. 12.2, 12.3, and 14.1 within thirty (30) days of notice of entry of this order.

Meet and Confer

Per the Declaration of Defendant’s counsel, efforts were made to meet and confer prior to this filing. Mezger Decl., ¶¶ 8-9, Exhs. 5-6. It appears Plaintiff’s counsel responded to these efforts by email noting Defendant’s meet and confer efforts were insufficient because they did not identify the specific deficiencies alleged and relief sought. Mezger Decl., ¶ 10, Exh. 7. However, Plaintiff failed to offer an extension to Defendant’s motion deadline to allow more time for meet and confer efforts. Thus, the Court admonishes Defendant for not engaging in meet and confer efforts prior to the eve of its motion deadline, and admonishes Plaintiff for arguing meet and confer efforts were insufficient without attempting to engage in further efforts prior to a motion being filed. The Court reminds the parties the discovery process is designed to be self-executing.

Legal Standard

A motion to compel further responses lies where the responses to the interrogatories are deemed improper by the propounding party, i.e., meritless or overly general objections, evasive or incomplete answers. Code Civ. Proc., § 2030.300. A motion to compel further responses is addressed to the sound discretion of the trial court; the court considers the opposing party's objections; the relationship of the information sought to the issues framed in the pleadings; the likelihood that disclosure will be of practical benefit to the party seeking discovery; and the burden or expense likely to be encountered by the responding party in furnishing the information sought. *Columbia Broadcasting System, Inc. v. Superior Court* (1968) 263 Cal.App.2d 12, 19.

Where any objection is valid, it is an abuse of discretion to fully grant a motion to compel. *Deaile v. General Telephone Co. of California* (1974) 40 Cal.App.3d 841, 850.

Pursuant to Code of Civil Procedure section 2030.220, subdivision (a), “[e]ach answer in response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.” Code Civ. Proc., §2030.220(a). Similarly, “[w]here the question is specific and explicit, an answer which supplies only a portion of the information sought is wholly insufficient. Likewise, a party may not provide deftly worded conclusionary answers designed to evade a series of explicit questions.” *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 783. Moreover, “[i]f only partial answers can be supplied, the answers should reveal all information then available to the party.” *Id.* at 782. “If a person cannot furnish details, he should set forth the efforts made to secure the information. He cannot plead ignorance to information which can be obtained from sources under his control.” *Id.*

Analysis

The Court notes, additionally, Plaintiff failed to support any objections to the identified interrogatories. “[I]f a timely motion to compel has been filed, the burden is on responding party to justify any objection.” *Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255, citing *Coy v. Superior Court* (1962) 58 Cal.2d 210, 220-221.

Regarding Interrogatory Nos. 12.2 and 12.3, the objection challenged is the assertion of attorney-client privilege and attorney-client work product. Failing to respond to discovery within the 30-day time limit waives objections to the discovery, including claims of privilege and “work product” protection. Code Civ. Proc. § 2030.290(a), 2031.300(a); see *Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 905-906. Here, Plaintiff served untimely verified responses including objections. Motion, 5:9; Mezger Decl., ¶ 7. Therefore, all objections are waived.

While Plaintiff asserted an objection based on undue burden in response to Interrogatory No. 14.1, Plaintiff offers no evidence which establishes undue burden or a resulting injustice. *West Superior Court* (1961) 56 Cal.2d 407, 417. “The objection based upon burden must be sustained by evidence showing the quantum of work required, while to support an objection of oppression there must be some showing either of an intent to create an unreasonable burden or that the ultimate effect of the burden is incommensurate with the result sought.” *West Pico Furniture Co. of Los Angeles v. Superior Court* (1961) 56 Cal.2d 407, 417. “The objection of burden is valid only when that burden is demonstrated to result in injustice.” *Id.* at 418. Additionally, the untimeliness of Plaintiff’s verified responses results in all objections being waived.

Based on all of the above, further verified responses, without objections, are ordered as to Form Interrogatory Nos. 12.2, 12.3, and 14.1.

Sanctions

No sanctions were sought by Defendant, yet, statutorily, sanctions must be ordered in favor of a party who prevails on a discovery motion. It could be Defendant is waiving this right. Based on the lack of request and lack of information that would allow the Court to fashion an appropriate

sanction, the Court declines to order sanctions at this time reserving jurisdiction for a period of fifteen (15) days should counsel for Defendant file a declaration re sanctions and get the matter back on calendar.

6. CU0001912 Old Republic Insurance Company et al vs. United Parcel Service, Inc. et al

No appearances required. The Court notes a formal OSC re Dismissal is set for April 13, 2026. As such, appearance today is no longer necessary.

7. CU0002392 Castle Peak Construction, a California general partnership vs. Jim Huebner et al

Appearance required by Plaintiff to show cause as to why this case should not be dismissed and/or Plaintiff sanctioned for failure to serve the Summons and Complaint on Defendant despite the fact this case has been pending for almost four (4) months. Absent good cause being shown, the Court intends, on its own motion, to set the matter for dismissal pursuant to CCP section 583.420 and vacate the Case Management Conference date set for April 17, 2026 at 9:00 a.m.