

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

Department 10

Honorable Frederick S. Chung

Rachel Tien, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: 408-882-2210

DATE: November 21, 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.

The courthouse is open: Department 10 is now fully open for in-person hearings, as of April 18, 2023. The court strongly prefers **in-person** appearances for all contested law-and-motion matters. For all other hearings (*e.g.*, case management conferences), the court strongly prefers either **in-person or video** appearances. 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.

Scheduling motion hearings: Please go to <https://reservations.scscourt.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.

CourtCall is no longer available: Department 10 uses Microsoft Teams for remote hearings. Please click on this link if you need to appear remotely, and then scroll down to click the link for Department 10: https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml. Again, the court strongly prefers in-person or video appearances. Telephonic appearances are a sub-optimal relic of a bygone era.

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.

Court reporters: Unfortunately, the court is no longer able to provide official court reporters for civil proceedings (as of July 24, 2017). If any party wishes to have a court reporter, the appropriate form must be submitted. See https://www.scscourt.org/general_info/court_reporters.shtml.

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LINE #	CASE #	CASE TITLE	RULING
LINE 1	23CV419499	Rosendo Cortes Fernandez v. Pacific Weathershield, Inc. et al.	Motion to deem RFAs admitted: notice is proper, and the court has received no response to the motion. Good cause appearing, the court GRANTS defendant's motion as to Requests Nos. 24, 26-28, 31, 34, 37, 39, 41, 43, 47, 49, and 53-54. The court DENIES the motion as to the remaining requests (Nos. 23, 25, 29-30, 32-33, 35-36, 38, 40, 42, 44-46, 48, and 50-52), which either lack foundation <i>on their face</i> or call for a legal conclusion, or both. The court GRANTS defendant's request for monetary sanctions IN PART: plaintiff shall pay \$862.50 (1.5 hours at \$575/hour) to defendant within 30 days of notice of entry of the court's order. Moving party to prepare proposed order.
LINE 2	23CV425863	OneMain Financial Group, LLC v. Monique A. Romero	Motion to deem RFAs admitted: notice is proper, and the court has received no response to the motion. Good cause appearing, the court GRANTS the motion. Moving party to prepare proposed order.
LINE 3	23CV427904	Eric F. Hartman v. Lynn Dornon Kuehn	Click on LINE 3 or scroll down for ruling.
LINE 4	2012-1-CV-232865	Lobel Financial Corp. v. Marisol Gonzalez	Claim of exemption: the claim is DENIED. The court finds that Gonzalez's financial statement shows sufficient non-exempt funds to satisfy judgment creditor's request to withhold \$80 per pay period. Although Gonzalez appears to have substantial debts, the present judgment takes priority over those other debts, and her proposed amount to be withheld from earnings of \$0 is singularly unreasonable (CCP § 706.123).
LINE 5	19CV360439	Mesfin Regassa Ayle et al. v. Keith Laverne Booth et al.	Click on LINE 5 or scroll down for tentative order in lines 5-7.

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LINE #	CASE #	CASE TITLE	RULING
LINE 6	19CV360439	Mesfin Regassa Ayle et al. v. Keith Laverne Booth et al.	Click on LINE 5 or scroll down for tentative order in lines 5-7.
LINE 7	19CV360439	Mesfin Regassa Ayle et al. v. Keith Laverne Booth et al.	Click on LINE 5 or scroll down for tentative order in lines 5-7.
LINE 8	24CV433612	Carlos Luis Gonzalez Sanchez v. Farmers Insurance Exchange	Motion to compel arbitration: there is no proof of service of the motion, and the court has received no response from defendant. At the October 15, 2024 case management conference, defendant indicated that they had not been served with any motion to compel. <u>Parties to appear</u> to address the apparent notice defect.
LINE 9	24CV444662	Kam Hong Lui et al. v. Rozita Dadgostari	Click on LINE 9 or scroll down for ruling.

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Calendar Line 3

Case Name: *Eric F. Hartman v. Lynn Dornon Kuehn*

Case No.: 23CV427904

This is a motion to compel further responses to defendant Lynn Dornon Kuehn's third set of requests for production of documents. Plaintiff Eric Hartman opposes.

The court finds that both sides' briefs are generally unhelpful in resolving this discovery dispute. Neither side's brief actually discusses the discovery requests at issue. As a result, the court has focused on the requests and responses themselves, as set forth in the separate statements.

Requests Nos. 41-44: These requests seek the invoices for blight citations issued to Hartman by the City of San Jose, as well as any communications with the city about the citations and invoices. The court finds that this discovery is at least potentially relevant to the issues in this case, and that the requests are appropriate in scope. The court is not persuaded by Hartman's objection that the information is "equally available" to Kuehn. GRANTED. Hartman shall serve amended supplemental responses with an appropriate statement of compliance within 15 days of notice of entry of this order.

Requests Nos. 45-53: These requests seek all pleadings, discovery, orders, and judgments in related cases involving Hartman and/or Kuehn. The court finds these requests to be exceedingly overbroad on their face. DENIED.

Requests Nos. 54-56: These requests have been withdrawn by the moving party, in light of the court's ruling striking the "cross-cross-complaint" in this case.

In short, the motion is granted in part and denied in part. The court DENIES each side's request for monetary sanctions.

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Calendar Lines 5-7

Case Name: *Mesfin Regassa Ayle et al. v. Keith Laverne Booth et al.*

Case No.: 19CV360439

Plaintiffs have filed three motions for a new trial, after the court granted summary judgment motions in favor of defendants County of Santa Clara, City of Santa Clara, and City of San Jose and then entered final judgments.

Under Code of Civil Procedure section 660, subdivision (c), “[T]he power of the court to rule on a motion for a new trial shall expire 75 days after the mailing of notice of entry of judgment by the clerk of the court pursuant to Section 664.5 or 75 days after service on the moving party by any party of written notice of entry of judgment, whichever is earlier, or if that notice has not been given, 75 days after the filing of the first notice of intention to move for a new trial. If the motion is not determined within the 75-day period, or within that period as extended, the effect shall be a denial of the motion without further order of the court.”

As the three notices of entry of judgment were filed and served by defendants well before Plaintiffs’ motions for new trial, those notices commenced the 75-day periods. The court’s power to rule on any motion for new trial as to the City of San Jose expired on October 21 (extended from October 19 under Code of Civil Procedure section 12a). The court’s power to rule on any motion for new trial as to the County of Santa Clara expired on October 22, 2024. And the court’s power to rule on any motion for new trial as to the City of Santa Clara expired on October 30, 2024.

Plaintiffs’ three motions were all set for hearing by the clerk’s office on November 21, 2024. On October 16, 2024, nearly two months after the filing of the first motion, Plaintiffs submitted an ex parte application seeking to have the hearing on the three motions advanced to October 21, 2024. The court denied this request on the morning of Thursday, October 17, 2024, given that October 21, 2024 was the upcoming Monday, given that the court does not have the capacity (including court staff) to hear law-and-motion matters on Mondays, and given the extreme last-minute nature of the request. Because the court was not able to hear the motions within the statutory 75-day period, the court lost the power to rule on them. (See *Garibotti v. Hinkle* (2015) 243 Cal.App.4th 470, 482 [“courts have emphasized [that] the jurisdictional nature of the time limit imposes a duty on the moving party to ensure his or her motion is decided timely”]; *Dakota Payphone, LLC v. Alcaraz* (2011) 192 Cal.App.4th 493, 500 [“It is the duty of the [moving] party to be present and see that his motion for a new trial is set for hearing within the statutory [time] period. If it has been inadvertently continued by the court to a date too late under the statute the party should move the court to advance the matter on the calendar. When [the party] is guilty of lack of diligence in the prosecution and presentation of his motion, he cannot complain of the court's inadvertence.”].)

Under section 660, subdivision (c), the motions for new trial must be DENIED by operation of law.

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Calendar Line 9

Case Name: *Kam Hong Lui et al. v. Rozita Dadgostari*

Case No.: 24CV444662

This is a contested motion to seal, filed by plaintiffs Kam Hong Lui, Weijia Cai, and Stanford Education Foundation LLC (“Plaintiffs”). In response, defendant Rozita Dadgostari argues that the information sought to be sealed is not confidential. The court ultimately concludes that both parties are partially correct. The motion is granted in part and denied in part.

The information at issue consists of three documents: (1) Exhibit A to Dadgostari’s opposition to Plaintiffs’ application for a temporary restraining order; (2) portions of Exhibit B to Dadgostari’s TRO opposition; and (3) the portions of Dadgostari’s TRO opposition brief that are based on (1) and (2).

Exhibit A is a page from plaintiff Stanford Education Foundation LLC’s (“SEF’s”) tax return for 2022 (Schedule L). As a general rule, tax returns are confidential and privileged (see, e.g., *Aday v. Superior Court of Alameda County* (1961) 55 Cal.2d 789, 796), and Dadgostari’s opposition to the present motion does not provide any basis for making an exception to that general rule here. As a result, Exhibit A and the portion of Dadgostari’s TRO opposition that is derived from it (page 3, lines 21-24) must be redacted. The court finds that this redaction would be narrowly tailored to protect an overriding interest that overcomes the right of public access to this information; the court finds that there is no less restrictive means to achieve this overriding interest.

Exhibit B is a “Notice of Payment of Purchase Price for 30% Membership Interest in Stanford Education Foundation LLC,” which sets forth the amounts that Dadgostari agreed (in 2023) to pay the seller of that 30% interest, Jun Lu (“Jun”), in 2024. As Dadgostari points out, Plaintiffs were not parties to the transaction between Jun and Dadgostari, there was no confidentiality agreement between Jun and Dadgostari regarding the purchase price, and there is no other private financial information of SEF contained in Exhibit B. Although Plaintiffs now argue that this purchase price was the “sensitive financial information” of a “privately held limited liability company,” they fail to show that they (and in particular, SEF) took any steps to keep this information confidential, including any requirement that a sale of any interest in SEF to a third party—e.g., a 30% interest from Jun to Dadgostari—be subject to a confidentiality agreement. There is no claim that Jun or Dadgostari breached any confidentiality agreement. The court therefore agrees with Dadgostari that Exhibit B and the portion of her TRO opposition that is derived from it (page 3, lines 10-12 and page 4, lines 5-8) does not need to be redacted.

The court notes that it previously granted Plaintiffs’ motion to seal portions of the complaint on August 9, 2024, but the court did so before Dadgostari was served with the summons and complaint and before the court was given any information about Dadgostari’s position in this case. The court therefore places zero weight on this prior order. Similarly, Dadgostari argues that the provisional remedies judge in this case (Judge Arand) already denied Plaintiff’s ex parte application to seal similar information here, but the court notes that Judge Arand merely found the application to be “too vague” to be granted and denied it on that basis. (The court takes judicial notice of the October 25, 2024 order.) This order is also entitled to minimal weight, at best.

In short, the motion is GRANTED as to Exhibit A and page 3, lines 21-24 of Dadgostari's TRO opposition. The motion is DENIED as to Exhibit B and page 3, lines 10-12 and page 4, lines 5-8 of Dadgostari's TRO opposition. The court orders Dadgostari to file a redacted version of her TRO opposition and exhibits in accordance with this order by no later than December 2, 2024. The court clerk is directed to maintain the unredacted versions of the TRO opposition and exhibits (filed October 15, 2024) under seal. Public access to the unredacted documents will remain restricted absent a further order from the court.

It is so ordered.

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