

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

**Department 13**

**Honorable Daniel T. Nishigaya**

J. Long, Courtroom Clerk  
191 North First Street, San Jose, CA 95113  
Telephone: 408-882-2240

**DATE: January 22, 2025**

**TIME: 9:00 A.M.**

**TO CONTEST A TENTATIVE RULING, YOU MUST CALL (408) 808-6856  
BEFORE 4:00 P.M. ON THE DAY PRIOR TO THE HEARING.**

**You must also inform all other sides to the issue before 4:00 P.M. the day prior to the hearing that you plan to contest the ruling. The Court will not hear argument, and the tentative ruling will be adopted if these notifications are not made. (Cal. Rule of Court 3.1308(a)(1); Civil Local Rule 8.E.)**

**IN-PERSON APPEARANCES:** Department 13 is a fully open courtroom conducting in-person hearings on the days it has scheduled matters. The Court **strongly** encourages **in-person** appearances for any **contested** law-and-motion matter.

**REMOTE APPEARANCES:** Remote appearance is governed by Civil Local Rule 5 and General Local Rule 9. The Court uses **Microsoft Teams**. Please click on this link if you need to appear remotely, and then scroll down to click the link for Department 13:

[https://www.scscourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.shtml](https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml).

The Court **strongly** encourages in-person appearance, but if appearing remotely, **VIDEO IS REQUIRED**. Audio only appearances are not allowed absent exceptional circumstances. (Civil Local Rule 5.B.)

**TELEPHONIC APPEARANCE IS PROHIBITED**, unless the Court grants an exception. (Civil Local Rule 5.A.) CourtCall is no longer available.

**RECORDING IS PROHIBITED:** State and local court rules prohibit recording court proceedings without a court order. This prohibition applies to both in-person and remote appearances.

**COURT REPORTERS ARE NOT PROVIDED:** If any party wishes to have a court reporter, the appropriate forms and process can be found here:

[https://www.scscourt.org/general\\_info/court\\_reporters.shtml](https://www.scscourt.org/general_info/court_reporters.shtml).

**SCHEDULING MOTION HEARINGS:** 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.

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| <b>LINE #</b>          | <b>CASE #</b> | <b>CASE TITLE</b>                          | <b>RULING</b>  |
|------------------------|---------------|--|--|
| <a href="#">LINE 1</a> | 23CV427259    | NGUYEN LE vs JOHN PHAM, MD et al           | Motion: Quash.<br>Continued to 3/28/25.  |
| <a href="#">LINE 2</a> | 23CV427259    | NGUYEN LE vs JOHN PHAM, MD et al           | Hearing: Demurrer.<br>Continued to 3/28/25.  |
| <a href="#">LINE 3</a> | 21CV390666    | Eric F. Hartman et al vs Koshy P. George   | Motion: Protective Order<br>Ctrl Click (or scroll down) on Line 3 for tentative ruling.  |
| <a href="#">LINE 4</a> | 23CV425715    | Rita Gutierrez vs General Motors LLC et al | Motion: Compel.<br>Off calendar. Per the parties, the case has settled.  |
| <a href="#">LINE 5</a> | 23CV425715    | Rita Gutierrez vs General Motors LLC et al | Motion: Admissions Deemed Admitted.<br>Off calendar. Per the parties, the case has settled.  |
| <a href="#">LINE 6</a> | 19CV353333    | Franco Reggi vs Bryan Shisler et al        | Motion: Set Aside Default<br>Ctrl Click (or scroll down) on Line 6 for tentative ruling.   |
| <a href="#">LINE 7</a> | 22CV408398    | Daniel Padilla vs Jeanette King            | Hearing: Motion Continue Action in Name of Successor in Interest and Leave to Amend Complaint<br>Ctrl Click (or scroll down) on Line 7 for tentative ruling. |

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| <b>LINE #</b>           | <b>CASE #</b>        | <b>CASE TITLE</b>                                   | <b>RULING</b>   |
|-------------------------|----------------------|---|---|
| <a href="#">LINE 8</a>  | 23CV411192           | American Express National Bank vs<br>Ramil Heydarov | Motion: Leave to Amend<br><br>Plaintiff's unopposed motion to amend the judgment nunc pro tuc to reduce costs by \$9.90 is GRANTED. The judgment shall be amended to reduce costs to \$338.19 and to reduce the total amount to \$6,049.02.<br><br>Plaintiff to provide final order and amended judgment. |
| <a href="#">LINE 9</a>  | 1999-1-CV-<br>779409 | M. Bruzzone vs Intel Corporation, et al             | Motion: File Under Seal<br><br>Ctrl Click (or scroll down) on Line 9 for tentative ruling.  |
| <a href="#">LINE 10</a> | 1999-1-CV-<br>779409 | M. Bruzzone vs Intel Corporation, et al             | Motion: Renew Permanent Injunction<br><br>Ctrl Click (or scroll down) on Line 10 for tentative ruling.  |

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### Calendar Line 3

Eric F. Hartman et al vs Koshy P. George, et al (21CV390666)

Plaintiff's Motion for Protective Order

Plaintiff's motion is CONTINUED to Wednesday, February 19, 2025 at 9:00 a.m. in Department 13.

Defendant Dresser has filed an Anti-SLAPP motion to the Sixth Cause of Action pursuant to Code of Civil Procedure section 425.16. "All discovery proceedings in the action shall be stayed upon the filing of a notice of motion made pursuant to this section. The stay of discovery shall remain in effect until notice of entry of the order ruling on the motion." (Cal. Code Civ. Proc. § 425.16, subd. (g).)

"[T]he stay on all "discovery proceedings" as provided in the anti-SLAPP statute applies to discovery motions, including those already pending at the time the special motion to strike is filed, even though this term has a more narrow meaning in the Civil Discovery Act." (*Britts v. Superior Court* (2006) 145 Cal. App. 4th 1112, 1128.)

One of Plaintiff's arguments in support of his motion for a protective order is that his deposition should be taken after the pleadings on the Sixth Cause of Action "are settled." Only the Kuehn Defendants (Kuehn and the Carpet Butler) have opposed Plaintiff's motion. The Kuehn Defendants are not named in the Sixth Cause of Action. However, they recognize "Defendant William Dresser filed an anti-SLAPP motion on October 8, 2024, staying discovery. The Kuehn Defendants are not seeking to take plaintiff's deposition while Defendant Dresser's motion is pending and discovery is stayed." (Kuehn Defendant's Opposition, at p. 5, fn. 2.)

Dresser's Anti-SLAPP motion is set to be heard on February 19, 2025. Given the broad interpretation and application of the discovery stay imposed by an Anti-SLAPP motion, the efficiency of having all defendants depose Plaintiff together whenever such deposition shall occur, and the opposing defendants' concession that no deposition will occur while the Anti-SLAPP motion is pending, Plaintiff's motion is CONTINUED for good cause to Wednesday, February 19, 2025 at 9:00 a.m. in Department 13.

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## Calendar Line 6

Franco Reggi vs Bryan Shisler et al (19CV353333)

Defendant Shisler's Motion: Set Aside Default

Defendant Shisler's motion is DENIED.

Generally, relief from default "should be liberally applied and the power freely exercised to carry out the policy in favor of trial on the merits." (*Carrasco v. Craft* (1985) 164 Cal.App.3d 796, 803 [internal quotations omitted].) However, where a defendant "with full knowledge of the proceedings . . . fails to take action to protect his interests until after the default, it is an abuse of discretion to set the default aside. Nor does the trial court have the legal power to set aside the default simply because the defendant did not realize the legal effect of failing to file an answer." (*Yarbrough v. Yarbrough* (1956) 144 Cal.App.2d 610, 615.) "It is the duty of every party desiring to resist an action or to participate in a judicial proceeding to take timely and adequate steps to retain counsel or to act in his own person to avoid an undesirable judgment. Unless in arranging for his defense he shows that he has exercised such reasonable diligence as a man of ordinary prudence usually bestows upon important business his motion for relief under section 473 will be denied. Courts neither act as guardians for incompetent parties nor for those who are grossly careless of their own affairs. The burden of proof on such a motion is on the moving party who must establish his position by a preponderance of the evidence." (*Luz v. Lopes* (1960) 55 Cal.2d 54, 62 [internal quotation marks omitted].)

Shisler's position is based upon his alleged failure of recollection of "receiving the lawsuit" and lack of understanding that he was "named personally." Even if true, his assertions do not amount to the mistake, inadvertence, surprise, or excusable neglect contemplated by Code of Civil Procedure § 473, subd. (b). The Court file shows Shisler was personally served with the Complaint and Amended Complaint, attended at least one hearing before entry of default, and was served with Plaintiff's declaration in support of entry of judgment 18 months ago. Shisler has not shown reasonable diligence as a man of ordinary prudence usually bestows upon important business.

Although the exhibits to Plaintiff's Opposition render the credibility of Shisler's assertions questionable, and indeed would establish that Shisler was urged to respond and warned by Plaintiff of default, the Court has not considered those exhibits as they are not accompanied by or attached to a sworn declaration. Shisler fails to meet his burden of proof on his own evidence and the facts shown by the Court's file.

Motion denied. Plaintiff to prepare a formal order.

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## Calendar Line 7

Daniel Padilla vs Jeanette King (22CV408398)

Motion to Continue Action in Name of Successor in Interest and Leave to Amend Complaint

Proposed Plaintiff Brian Padilla's motion is GRANTED.

“On motion after the death of a person who commenced an action or proceeding, the court shall allow a pending action or proceeding that does not abate to be continued by the decedent's personal representative or, if none, by the decedent's successor in interest.” (Cal. Code Civ. Proc. § 377.31.)

A person who seeks to commence an action as the decedent's successor in interest is required to execute and file an affidavit or declaration under penalty of perjury, stating: "(1) the decedent's name. (2) The date and place of decedent's death. (3) 'No proceeding is now pending in California for the administration of the decedent's estate.' (4) If the decedent's estate was administered, a copy of the final order showing the distribution of the decedent's cause of action to the successor in interest. (5) Either of the following, as appropriate, with facts in support thereof: (A) 'The affiant or declarant is the decedent's successor in interest ... and succeeds to the decedent's interest in the action or proceeding.' (B) 'The affiant or declarant is authorized to act on behalf of the decedent's successor in interest ... with respect to the decedent's interest in the action or proceeding.' (6) 'No other person has a superior right to commence the action or proceeding or to be substituted for the decedent in the pending action or proceeding.' (7) 'The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.'" (Cal. Code Civ. Proc. § 377.32(a).)

"Successor in interest" is defined as "the beneficiary of the decedent's estate or other successor in interest who succeeds to a cause of action or to a particular item of the property that is the subject of a cause of action." (Cal. Code Civ. Proc. § 377.11.)

"Beneficiary of the decedent's estate" means "[i]f the decedent died leaving a will, the sole beneficiary or all of the beneficiaries who succeed to a cause of action, or to a particular item of property that is the subject of a cause of action, under the decedent's will," or "[i]f the decedent died without leaving a will, the sole person or all of the persons who succeed to a cause of action, or to a particular item of property that is the subject of a cause of action..." (Cal. Code Civ. Proc. § 377.10(a), (b).)

Brian Padilla has submitted the required declaration providing the necessary information required by Code Civ. Proc. § 377.32. In that declaration, he states: Original Plaintiff Daniel Alfred Padilla died on June 23, 2024, in Campbell, California. No proceeding is now pending in California for administration of Daniel Padilla's estate. He is the Original Plaintiff's successor in interest (as defined in Section 377.11 of the California Code of Civil Procedure) and succeeds to the Original Plaintiff's interest in this action. Brian Padilla has also provided in the declaration and sworn to *facts in support thereof*, namely: “In particular, I am the sole beneficiary of Original Plaintiffs (decedent's) estate, specifically the sole beneficiary of the 2022 Daniel A. Padilla Living Trust, which itself the sole beneficiary under Original Plaintiff's pour-over will. Any assets not titled in the name of the trust at the time of the

Original Plaintiff's death will transfer to the trust by way of the Original Plaintiff's will, and I am the sole beneficiary to receive them." The declaration concludes by stating that no person has a superior right to commence the action or proceeding or to be substituted for Daniel Padilla and attaches a certified copy of the death certificate indicating the date and place of death and that Brian Padilla is the decedent's son.

Defendant attacks the credibility of the declaration or seeks to focus on facts omitted from the declaration that may be relevant to the merits of an ultimate claim of Brian Padilla as successor in interest, particularly proceedings allegedly pending *outside* California relevant to Daniel Padilla's estate. However, the statute merely requires a declaration providing certain information as a pre-condition to continuing a pending proceeding as the decedent's successor in interest. It does not provide for a contest on the issue, and Defendant has cited no authority that the Court is to resolve such factual disputes at this stage.

The Court grants Brian Padilla's motion to continue this action as decedent's successor in interest and grants leave to file a First Amended Complaint.

Brian Padilla's counsel shall prepare a formal order.

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## Calendar Line 9

M. Bruzzone vs Intel Corporation, et al (1999-1-CV-779409)

Motion to File Under Seal

Intel Corporation's unopposed<sup>1</sup> motion to file certain materials related to its Motion to Renew Permanent Injunction under seal is GRANTED.

The following shall be filed under seal: (1) the Memorandum of Points and Authorities; (2) the declaration of Dr. Harley V. Stock; and (3) Exhibits 4 and 5 to the Appendix in Support of Intel Corporation's Motion to Renew Permanent Injunction; (4) the Order Renewing Permanent Injunction, should the motion to renew be granted; (5) the Objection to Intel Corporation Motion to Renew Injunction; and (6) the Reply in Support of Intel Corporation's Motion to Renew Permanent Injunction.

Rule 2.551(c) of the California Rules of Court provides that "[a] record filed publicly in the court must not disclose material contained in a record that is sealed, conditionally under seal, or subject to a pending motion or an application to seal." In addition, courts may order documents to be filed under seal if the facts establish: (1) There exists an overriding interest that overcomes the right of public access to the record; (2) The overriding interest supports sealing the record; (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; (4) The proposed sealing is narrowly tailored; and (5) No less restrictive means exist to achieve the overriding interest. (Cal. Rules of Court, rule 2.550, subd. (d).)

The Court previously ordered the 2003, 2006, 2009, 2012, 2015, 2018, and 2021 documents in this same matter, addressing the same issues, to be filed under seal because they involved "privacy interests, security interests, and contractual agreements" that justified sealing orders, and because they focused on the parties' confidential settlement agreement, Mr. Bruzzone's mental health issues, and documents previously filed under seal, so much that it was not practical or reasonable to order that only sections of the documents be filed under seal. Therefore, an overriding interest already has been recognized and established by this Court. The Motion to Renew Permanent Injunction once again necessarily requires discussion of previously sealed confidential documents. The overriding interest previously and repeatedly found still exists and for the reasons noted, Intel Corporation's request is as narrowly tailored as can be under the circumstances and there is no less restrictive means to achieve the overriding interest.

Intel Corporation shall prepare a formal order.

<sup>1</sup> Mr. Bruzzone has submitted a proposed order denying "Intel Corporation Motion to seal case matter documents," but he has filed no formal opposition and provided no argument opposing the Motion to File Under Seal.

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## Calendar Line 10

M. Bruzzone vs Intel Corporation, et al (1999-1-CV-779409)

Motion to Renew Permanent Injunction

Intel Corporation's requests for Judicial Notice are GRANTED.

Intel Corporation's Motion to Renew Permanent Injunction is GRANTED.

Mr. Bruzzone became fixated on Intel Corporation starting in the late 1990s, and over the many years since, he has repeated and restated, and the evidence has reinforced, a series of delusional beliefs that supported the issuance of the original permanent injunction and its consistent renewal.

Code of Civil Procedure section 526(a)(3) states that an injunction may be granted when it appears "that a party to the action is doing, or threatens, or is about to do ... some act in violation of the rights of another party to the action respecting the subject of the action, and tending to render the judgment ineffectual." (Code Civ. Proc., § 526, subd. (a)(3); cf. *R.D. v. P.M.* (2011) 202 Cal.App.4th 181, 189-90 [in deciding whether harassment is reasonably likely to reoccur in the future, courts may consider any behavior tending to show intent to continue or resume an already-established course of harassing conduct, including behavior that may not constitute harassment standing alone].)

Intel Corporation has met this standard. Despite the passage of time, Mr. Bruzzone continues to pose a threat to individual Intel executives and employees. Communications from Mr. Bruzzone as recent as September 2024 prove this, and Intel Corporation has provided evidence of current, professional threat assessment establishing as much. Mr. Bruzzone also has a history of violating the order. Instead of rebutting Intel Corporation's assertions, Mr. Bruzzone's Objection, if anything, reinforces them.

There is no evidence that renewing the injunction once again will cause Mr. Bruzzone any undue harm, hardship, or prejudice.

Mr. Bruzzone fails to set forth any factual or legal basis for his request for financial compensation. Such requests are also procedurally improper, and they are denied.

Intel Corporation's Motion to Renew Permanent Injunction is granted. The permanent injunction shall be renewed until January 22, 2028. Intel Corporation shall prepare a formal order to be filed under seal.

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