

**Superior Court of the State of California
County of Orange**

DEPT C25 TENTATIVE RULINGS

The Honorable Nico A. Dourbetas

Civil Court Reporters: The Court does not provide court reporters for law and motion hearings. Please see the Court's website for rules and procedures for court reporters obtained by the Parties.

Tentative Rulings: The Court will endeavor to post tentative rulings on the Court's website by 4 p.m. on the day before the motion is set to be heard. Do NOT call the Department for a tentative ruling if none is posted. **The Court will NOT entertain a request for continuance or the filing of further documents once a tentative ruling has been posted.**

Submitting on the Tentative Ruling: If ALL counsel intend to submit on the tentative ruling and do not wish oral argument, please advise the Court's clerk or courtroom attendant by calling (657) 622-5225. If all sides submit on the tentative ruling and so advise the Court, the tentative ruling shall become the Court's final ruling and the prevailing party shall give Notice of Ruling and prepare an Order for the Court's signature if appropriate under CRC 3.1312. **Please do not call the Department unless ALL parties submit on the tentative ruling.**

Non-Appearances: If no one appears for the hearing and the Court has not been notified that all parties submit on the tentative ruling, the Court shall determine whether the matter is taken off calendar or whether the tentative ruling shall become the final ruling.

Appearances: Counsel may appear by video on Zoom.

1. Visit <https://www.occourts.org/media-relations/aci.html>

Date: May 10, 2024

1	Lopez vs. Gyutan Tsukasa USA, Inc. 2021-01193736	Demurrer to Complaint Defendant MITSUWA CORPORATION dba MITSUWA 2 MARKETPLACE, INC., erroneously sued and served as DOE 2, MITSUWA CORPORATION 3 (hereinafter "Defendant MITSUW A")'s demurrer to the complaint of Felicia Lopez is OVERRULED in its entirety. The burden to show a plaintiff knew of the identity and the facts which give rise to a cause of action against a Doe defendant, for purposes of a demurrer, lies with the party who is challenging the validity of the Doe

		<p>amendment, usually the Doe defendant themselves. This can be shown by demonstrating that the plaintiff knew both the defendant's identity and the facts giving rise to liability when the complaint was filed but did not name them. Taito v. Owens Corning (1992) 7 Cal.App.4th 698; Oakes v. McCarthy Co. (1968) 267 Cal.Ap.2d 231. Moving Party did not meet this burden.</p> <p>Arguably, plaintiff did know where the fall occurred. What she didn't know was who was responsible for mopping the floor in front of defendant Gyutan Tsukasa's restaurant. Moving Party doesn't explain how the sign on the front of the store or the liquor license in the window, would put plaintiff on notice as to what entity mopped the floor that day and caused the alleged dangerous condition.</p> <p>Moving Party shall file and serve an answer to the complaint within 10 days.</p> <p>Plaintiff's objections are sustained.</p> <p>Moving Party shall give notice.</p>
2	Ramirez vs. Trinity Packaging Supply LLC 2022-01246304	Motion for Protective Order * Motion vacated per Notice of Withdrawal filed 04/26/2024 (ROA 72). *
3	Pena vs. Asia Buffet Of Buena Park, Inc 2022-01292082	Motion to Quash Subpoena * Motion vacated per Notice (of Withdrawal) filed 05/09/2024 (ROA 40). *
4	Bixby vs. Estanislau 2023-01366664	Demurrer to Complaint * Motion vacated. See minute order dated 05/01/2024 (ROA 142). *
5	Carr-Susor vs. Kuo 2023-01334049	Motion to Consolidate * Motion ruled on via minute order. See minute order dated 05/09/2024 (ROA 12). *

<p>6</p>	<p>Echeveste vs. American Honda Motor Co., Inc.</p> <p>2022-01276846</p>	<p>1. Motion for Discovery 2. Case Management Conference</p> <p>Plaintiffs Maria Echeveste and Jesus Rodriguez’s motion to compel defendant American Honda Motor Co., Inc. to provide further responses to Request for Production of Documents, Set Two, is GRANTED in part, DENIED in part, and MOOT in part. (Code Civ. Proc., § 2031.310 [authorizing motion]; Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants (2007) 148 Cal.App.4th 390, 409 [court’s discretion where responses served prior to hearing].)</p> <p>Request 67-68, 70-71, 74-78, and 80: Moot, pursuant to the parties’ Joint Statement filed on 4-19-24. (Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants, supra at 409.)</p> <p>Requests Nos. 96, 100-101, 110, 112 and 114: Grant in part. Defendant American Honda Motor Co., Inc shall provide full, complete, and verified further responses to these requests, without objections, and shall produce all responsive documents in its possession, custody, and/or control, within 20 days, limited as follows: (1) limited to the time period of 1-1-21 to present; (2) limited to documents, complaints, and/or policies in California only; and (3) limited to documents, complaints, and/or policies applicable to, and/or regarding, to vehicles of the same year, make, and model of plaintiffs’ vehicle.</p> <p>Moving parties’ sanctions request is DENIED. (Mattco Valley Forge v. Arthur Young & Co. (1990) 223 Cal.App.3d 1429, 1437 [court’s discretion to deny sanctions upon mixed results].)</p> <p>*** <u>CMC is continued to April 28, 2025 at 9 AM</u> ***</p> <p>Moving parties shall give notice of all the above.</p>
<p>7</p>	<p>Hudson Insurance Company vs. Daniss-Unger</p> <p>2023-01337891</p>	<p>Motion - Other (for Discharge)</p> <p>Plaintiff Hudson Insurance Company’s Motion to Approve Deposit, Order Discharge, and Restraining Order is granted in part and denied in part. (See Code Civ. Proc. § 386).</p> <p>The Request for Approval of a Net Deposit of \$49,565.00 with the court is granted, and the funds are ordered deposited with the court forthwith.</p>

	<p>The court awards plaintiff the sum of \$435.00 in costs, to be deducted from the \$50,000.00 total bond amount per Code Civ. Proc. §386.6.</p> <p>The existing claims of all defendants named in plaintiff's complaint for interpleader, are ordered discharged.</p> <p>Defendants cite three authorities arguing against discharge, on the grounds that plaintiff may have exposure above and beyond the face value of the bond, e.g., (Pierce v. Western Surety Co. (2012) 207 Cal.App.4th 83; Harris v. Northwestern National Ins. Co. (1992) 6 Cal.App.4th 1061 and Karton v. Ari Design & Construction, Inc. (2021) 61 Cal.App.5th 734.) Only Pierce involved a vehicle sales bond as the bind at issue here.</p> <p>Having carefully analyzed the three holdings, the Court determines that the appellate cases cited by defendants hold that if a surety litigates a case, rather than settle or file an interpleader action, it runs the risk of having litigation costs imposed upon it in excess of the amount of the bond, as such costs are not "...breaches of the condition of the bond." Here, the plaintiff surety took the action of interpleading the bond amount before trial in the other actions, rather than continuing to defend the defendants' civil actions against it.</p> <p>This position is also bolstered by the statute that says that payment of the bond amount discharges the surety from further liability. CCP § 996.490. In an interpleader, upon approval of the deposit, the surety makes payment of the bond (minus costs and fees) to the court, who determines the parties entitled the bond proceeds.</p> <p>As plaintiff sought to interplead the bond funds and not litigate defendant's other actions against it to trial, plaintiff's liability to defendants is limited to the net amount of the funds to be deposited with the court. (See Code Civ. Proc. § 996.470, subd (a).)</p> <p>The request for an injunction dismissing other pending actions is denied, as the Court does not have the power to rule on other judges' actions.</p>
--	---

		<p>The request for an injunction precluding defendants from pursuing any future actions based upon Plaintiff's bond for Laguna Motors, Inc. is granted.</p> <p>The Court sets a <u>status conference for April 28, 2025 at 9 AM.</u></p> <p><i>The CMC scheduled for June 10, 2024 is vacated.</i></p> <p>Plaintiff is ordered to give notice of all the above.</p>
8	DDCM Incorporated vs. Greenleaf Engineering 2023-01346169	Demurrer to Cross-Complaint * Motion vacated per Notice of Withdrawal filed 05/07/2024 (ROA 54). *
9	Huerta vs. General Motors LLC 2023-01359997	1. Demurrer to Complaint 2. Motion to Strike Portions Of Complaint * Motions vacated per Notice of Withdrawal filed 05/01/2024 (ROA 75). *
10	Cervantes vs. Halim 2023-01346876	Motion for Leave to File Amended Complaint The Motion by Plaintiffs for Leave to File a First Amended Complaint ("FAC") is GRANTED. (See Code Civ. Proc. § 473: Calif. Rule Court, rule 3.1324). Plaintiff to separately file a First Amended Complaint in the form attached to the motion to ensure it is properly indexed in the court's electronic filing system. Plaintiffs are ordered to give notice.
11	Akopyan vs. Nissan North America, Inc. 2022-01273898	Motion to Compel Production * Motion continued to 10/04/2024 per stipulation and order signed and filed 05/02/2024. *