

**DEPARTMENT EIGHT  
JUDGE WENDY G. GETTY  
707-207-7308  
TENTATIVE RULINGS SCHEDULED FOR  
FRIDAY, NOVEMBER 20, 2020**

*The parties may appear via Zoom, the Zoom telephone conference call line, CourtCall, or in person. The information for the Zoom meeting is set forth below and included in your emailed invitation, which will be sent by Department 8 approximately 1-2 days before the scheduled hearing. Information about CourtCall can be found on the Court's website. Thank you.*

**LUDLOW V. VALLI CONSTRUCTION, INC.  
Case No.: FCS051335**

Motion by Defendant CHAD LANZA to Set Aside Default and Default Judgment.

TENTATIVE RULING

Defendant CHAD LANZA's motion to set aside the default and default judgment is denied.

Defendant LANZA's motion to set aside the default is denied as untimely. Defendant LANZA's motion to set aside the default judgment is denied. No mandatory basis for relief is stated. The facts do not support setting aside the default judgment against Defendant LANZA on statutory or equitable grounds. (See e.g. *Pulte Homes Corp. v. Williams Mechanical, Inc.* (2016) 2 Cal.App.5<sup>th</sup> 267, 276.)

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**GERALD BROWN v. SUZANNE R. BROWN and GRANT BROWN  
Case No. FCS054673**

Motion to Compel Further Responses to Discovery

TENTATIVE RULING

Plaintiff and Cross-Defendant GERALD BROWN ("GERALD") moves to compel further responses from Defendant and Cross-Complainant SUZANNE R. BROWN

("SUZANNE") to twelve requests for production of documents and fourteen special interrogatories.

**SUZANNE's October 2, 2020 Communication.** SUZANNE argues this motion is unwarranted because she provided further responses in her counsel's October 2, 2020 communication with Plaintiff. This is unavailing because the October 2, 2020 communication was simply a letter, not a set of verified responses to discovery, and was not timely provided. A meet and confer letter arriving after the filing of a motion to compel cannot moot the motion to compel. The court notes that the failure of SUZANNE's counsel to timely respond to GERALD's requests for stipulations to extend time for filing of the motion to compel forced the filing of this motion. While the court appreciates that SUZANNE's counsel and law firm had challenges with moves and vacations and internet access, GERALD's counsel did not act unreasonably. Further, the fact that a motion was filed cannot be surprising to SUZANNE given the content or absence of content of her discovery responses. SUZANNE knew or should have known of the deadline by which a motion to compel had to be filed on behalf of GERALD.

### **Special Interrogatories.**

SUZANNE's objections to interrogatories nos. 4, 5, 6, 7, 9, 10, 13, 14, 18, 19, 35 are without merit. The interrogatories are straightforward and directly related to the relief requested in this suit. SUZANNE's responses to these same interrogatories are largely unintelligible and lack meaningful substance.

GERALD's motion as to special interrogatories 31 through 33 is denied. While the responses are essentially a formula, they are responsive.

### **Requests for Production.**

SUZANNE's objections to requests for production nos. 7, 8, 9, 10, 15, 17, 18, 19 are without merit.

Plaintiff argues that SUZANNE has reversed her position, first stating she has responsive documents to produce and now stating she has no responsive documents. SUZANNE responded to each request for production with objections, but stated that without waiving those objections "Responding Party will produce all documents in its possession, custody and control responsive of this request." (Declaration of Stephen C. Seto at ¶ 3, Exhibit 3.) If SUZANNE did not have responsive documents, she had a duty to confirm her diligent search and reasonable inquiry and/or provide the appropriate explanation. (Code Civ. Proc., § 2031.010.) And, if SUZANNE claimed that the documents were in the possession of a third-party, she was statutorily bound to so indicate. (Ibid.) Given that SUZANNE produced only a single 8 page document and did not explain the absence of production of any other responsive documents, her responses were inadequate.

GERALD's requests for production no. 11, 12, 13, 14 are conceivably overbroad in that each request fails to limit the scope to a relevant time limit. The balance of SUZANNE's objections to each request are without merit. However, counsel for SUZANNE should have initiated the meet and confer process as these requests could have been easily limited in scope by agreement of the parties.

**Sanctions.** The court finds that this motion might have been avoided had SUZANNE's counsel meaningfully participated in efforts to meet and confer, accepted the multiple offers to extend the motion to compel deadline, and reviewed SUZANNE's discovery responses more closely to ensure that the objections were meritorious and that the responses themselves were intelligible and meaningful and complied with statute.

**Conclusion.** GERALD's motion is granted as to Special Interrogatories 4, 5, 6, 7, 9, 10, 13, 14, 18, 19 and 35. GERALD's motion is granted as to requests for production nos. 7, 8, 9, 10, 15, 17, 18, 19. The motions are otherwise denied. SUZANNE shall provide complete amended responses to the interrogatories and requests for production of documents in 20 calendar days. As the court is unable to discern where responsibility for the failure to adequately respond to the discovery lies, sanctions are imposed against SUZANNE and her counsel jointly and severally in the amount of \$3,000, due and payable within 60 days of this order.

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**CITY OF VALLEJO v. McBRIDE, ET AL.**  
**Case No. FCS054747**

Motion for Approval of Receiver's Plan

TENTATIVE RULING

The unopposed motion is granted. The proposed order lodged with the court will be adopted.

Receiver is to provide brief monthly written reports to the court and any non-party lien holders. (Cal. Rules of Court, rule 3.1182). A status conference and hearing for receipt of a Receiver's detailed report is set for March 4, 2021 at 10:00 a.m. in Department 8.

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**CRABTREE v. COOKIE CUTTER POOLS INC.**  
**Case No. FCM173075**

Petition to Release Mechanics Lien

TENTATIVE RULING

Parties to appear.

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**MEDIA DDS, LLC v. HOMESTREET BANK, ET AL.**  
**Case No. FCS055596**

Application for Preliminary Injunction

TENTATIVE RULING

Plaintiff has confirmed his willingness to immediately perform the contract by executing a deed of trust in favor of Defendant securing \$2,024,851.00.

Plaintiff's application for a preliminary injunction is granted. Plaintiff is likely to succeed on the merits of its claim that the notice of default inaccurately stated the amount of default. The notice of default must be strictly construed and must correctly set forth the amounts required to cure the default. (*Angell v. Superior Court* (1999) 73 Cal.App.4th 691, 699; *Sweatt v. Foreclosure Co.* (1985) 166 Cal.App.3d 273, 278.) A trustee's sale based on a deficient notice of default would be invalid. (*Miller v. Cote* (1982) 127 Cal.App.3d 888, 894.) Plaintiff would suffer irreparable harm absent the injunction and the balance of harms favors Plaintiff.

Parties to appear to discuss the amount of the undertaking that should be imposed. Parties should additionally be prepared to address the amounts at issue for a statutory request for redemption and whether the deed of trust should be deposited with the court. Parties should also be prepared to address whether they wish to stipulate to transfer and consolidate this action with the pending action in Contra Costa county concerning the underlying contract.

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**THE PARTIES MAY JOIN THIS COURT CALENDAR REMOTELY UTILIZING THE  
FOLLOWING INFORMATION:**

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