Tentative Rulings for October 23, 2025
Department 501

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) ***The above rule also applies to cases listed in this "must appear" section.***

24CECG05078 ***Brooklyn Farms, LLC v. Fromaggio Farms, LLC*** **(Dept. 501)**

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

23CECG04428 ***Susan Davis v. Hyundai Motor America*** **is continued to Thursday, November 13, 2025, at 3:30 p.m. in Department 501.**

25CECG02378 ***Elisa Wheeler v. Sara Spane*** **is continued to Wednesday, November 19, 2025, at 3:30 p.m. in Department 501.**

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Tentative Rulings for Department 501

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(20)

Tentative Ruling

Re: ***Moore v. HSRE Pacifica Fresno OPCO LP, et al.***
Superior Court Case No. 23CECG04737

Hearing Date: October 23, 2025 (Dept. 501)

Motion: by Defendant HSRE Pacifica Fresno OPCO, LP, to Compel Further Responses to Special Interrogatories, Set One, from Plaintiffs Steven Moore and Kevin Moore

Tentative Ruling:

To grant and compel plaintiffs to provide further verified responses without objections to Special Interrogatory Nos. 15-19, 25, 31-32, 37, 40, 42, 45, 48, 51, 54, 57, 60, 63 and 65. Further responses shall be served within 20 days of service of the order by the clerk. (Code Civ. Proc., § 2030.300, subd. (c).)

Explanation:

HSRE Pacifica Fresno OPCO, LP moves to compel further responses to Special Interrogatory Nos. 15-19, 25, 31-32, 37, 40, 42, 45, 48, 51, 54, 57, 60, 63 and 65. A motion to compel lies where the responses to the interrogatories are deemed improper by the propounding party, i.e., objections, evasive or incomplete answers. (Code Civ. Proc., § 2030.300, subd. (a).) The burden is on the responding parties (here, plaintiffs) to justify any objection or failure fully to answer the interrogatories. [*Coy v. Superior Court* (1962) 58 Cal.2d 210, 220-221; *Fairmont Ins. Co. v. Superior Court* (2000) 22 C4th 245, 255.) Plaintiffs filed a non-opposition stating that they would serve amended responses. But there is no indication they have done so yet. Inasmuch as plaintiffs fail to offer any argument justifying their objections, the motions are granted for the reasons stated in the moving papers.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 10/20/2025 .
(Judge's initials) (Date)

(46)

Tentative Ruling

Re: ***Alexander, Winton & Associates, Inc. v. Panther Interstate Carriers, Inc.***
Superior Court Case No. 22CECG03687

Hearing Date: October 23, 2025 (Dept. 501)

Motion: by Plaintiff for Terminating Sanctions

Tentative Ruling:

To grant plaintiff Alexander, Winton & Associates, Inc.'s motion for terminating sanctions against defendant Panther Interstate Carriers, Inc. The court strikes defendant Panther Interstate Carriers, Inc.'s Answer filed February 6, 2023, and enters default against defendant Panther Interstate Carriers, Inc. The case management conference set for December 3, 2025, will stay on calendar.

Explanation:

Plaintiff Alexander, Winton & Associates, Inc. ("plaintiff") moves for terminating sanctions in the form of an order vacating the Answer of defendant Panther Interstate Carriers, Inc. ("defendant") and entering its default. Plaintiff moves pursuant to Code of Civil Procedure sections 2030.290, subdivision (c), and 2023.030, subdivision (d).

"If a party […] fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction[.]" (Code Civ. Proc., § 2030.290 subd. (c).) "The court may impose a terminating sanction by […] An order striking out the pleadings or parts of the pleadings of any party engaging in the misuse of the discovery process." (*Id*., § 2023.030 subd. (d).) It is a misuse of the discovery process to disobey a court order to provide discovery. (*Id*., § 2023.310 subd. (g).) Sanctions for failure to comply with a court order are allowed only where the failure was willful. (*Biles v. Exxon Mobil Corp.* (2004) 124 Cal.App.4th 1315, 1327.)

On October 30, 2024, the court ordered defendant to serve objection-free verified initial responses to plaintiff's propounded form interrogatories and requests for admission within 20 days of the court's order. (Sakamaki Decl., ¶ 2, Exh. A.) Monetary sanctions were also ordered. The court's order was served on defendant on November 4, 2024. (*Id*., Exh. A.) To date, defendant has not served responses to the propounded discovery requests, despite the passage of more than 20 days since the order was served on defendant. (*Id*., ¶ 6.) Neither did defendant pay the monetary sanctions imposed with the discovery order. (*Ibid*.) Therefore, it appears that defendant is willfully refusing to comply with the court's order compelling it to respond to the discovery requests. It does not appear likely that any lesser sanctions would be effective to obtain compliance here, as it appears that defendant has no interest in responding to discovery or otherwise participating and defending itself in the action.

As a result, the court will grant the motion for terminating sanctions. The court strikes defendant's Answer filed February 6, 2023, and enters default against defendant. The case management conference set for December 3, 2025, will stay on calendar.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: DTT on 10/21/2025.
(Judge's initials) (Date)

(35)

<u>Tentative Ruling</u>

Re: ***Onishi v. American Honda Motor Co., Inc.***
Superior Court Case No. 22CECG00883

Hearing Date: October 23, 2025 (Dept. 501)

Motion: by Plaintiff Noriko Onishi for an Award of Attorney Fees

Tentative Ruling:

To grant and award $193,565.90 in fees in favor of plaintiff Noriko Onishi. To confirm costs in the amount of $44,287.40 as noticed by the June 30, 2025, Memorandum of Costs.

Explanation:

Plaintiff Noriko Onishi ("plaintiff") seeks an award of attorney fees pursuant to Civil Code section 1794, subdivision (d), following judgment entered against defendant American Honda Motor Co., Inc. ("defendant").[1] The verdict returned by the jury found in favor of plaintiffs and awarded damages and a statutory civil penalty.

The amount of attorney's fees awarded is a matter within the court's discretion. (*Clayton Development Co. v. Falvey* (1988) 206 Cal.App.3d 438, 447.) In determining the reasonable amount to award, "the court should consider ... 'the nature of the litigation, its difficulty, the amount involved, the skill required and the skill employed in handling the litigation, the attention given, the success of the attorney's efforts, his learning, his age, and his experience in the particular type of work demanded [citation]; the intricacies and importance of the litigation, the labor and necessity for skilled legal training and ability in trying the cause, and the time consumed.'" (*Ibid*.) An award of costs must be "reasonably necessary to the conduct of the litigation" and per (c)(3), shall be "reasonable" in amount. (Code Civ. Proc. § 1033.5(c)(2).) Plaintiffs as the moving party bear the burden to prove the reasonableness of the number of hours devoted to this action. (*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1325.) A trial court may not rubberstamp a request for attorney fees, and must determine the number of hours <u>reasonably</u> expended. (*Donahue v. Donahue* (2010) 182 Cal.App.4th 259, 271.) A court assessing attorney's fees begins with a touchstone or lodestar figure, based on the 'careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case." (*Serrano v. Priest* (*Serrano III*) (1977) 20 Cal.3d 25, 48.) Lodestar refers to the "number of hours reasonably expended multiplied by the reasonable hourly rate" of an attorney. (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1096.)

Counsel for plaintiffs seek to set the lodestar at $216,441.00. Counsel submits for consideration a total of 540.5 hours billed across two law firms: Quill & Arrow, and the Castruita Law Firm. Rates for the timekeepers vary as to attorneys from $350 for associate

[1] The moving papers seek confirmation of costs. As Plaintiff correctly notes, a memorandum of costs was filed for which there was no timely challenge. (Cal. Rules of Ct., rule 3.1700(b).)

attorneys up to $595 for trial counsel. Castruita Law Firm further submits a paralegal timekeeper, Amber Rastian, at a rate of $150 per hour, and two administrative assistants at rates of $125 per hour. While some of the rates are high when compared to the amount of experience, or for administrative tasks, the court proceeds on the rates submitted.[2]

The court notes, as does defendant, that there are a significant amount of timekeepers for a standard Song-Beverly Act claim. However, most of the excess of timekeepers come from Quill & Arrow, whose did not participate in trial. Moreover, it does not appear from the entries that any given associate had much overlap with another. The court does note entries where the matter was reviewed due to turnover, and discounts those entries. (*E.g.*, Jacobson Decl., Ex. 7, p. 6 [review of file].) Some entries are purely clerical. (*E.g.*, *id.*, Ex. 7, pp. 14 [scheduling deposition and vehicle inspection], 17 [scheduling deposition].) Time spent for a discovery motion filed without leave of court is discounted. (*Id.*, Ex. 7, pp. 19, 20.) Some entries overlap with tasks performed principally by Castruita Law Firm. (*E.g.*, *id.*, Ex. 7, pp 25, 26 [drafting objections to expert depositions]; *compare* Castruita Decl., Ex. F, p. 3.) Some entries have no discernable purpose. (*E.g.*, Jacobson Decl., Ex. 7, pp. 29-33 [review of trial documents with no discernable task].) From the entries submitted by Quill & Arrow, the court does not credit $7,024.50 of the $31,397.50 submitted for consideration.

As to Castruita Law Firm, several entries appear to be internal communication. (*E.g.*, Castruita Decl., Ex. F, p. 3 [calls between staff and counsel, other staff, or Quill & Arrow regarding various tasks].) Some entries unreasonably inflate common tasks such as filing documents. (*E.g.*, *id.*, Ex. F, pp. 4, 5 [more than 10 hours to file an application for trial continuance].) Some entries have no purpose. (*E.g.*, *id.*, Ex. F, pp. 5 [review of notices of remote appearance], 8 [monthly checks of docket and updating of calendar where no events occurred], 22 [filing a request for a hearing].) Some entries appear to be misplaced from another action. (*E.g.*, *id.*, Ex. F, p. 22 [entries regarding a motion to tax costs that did not occur in this action].) Significant entries are disproportionately billed, often due to trial continuance. (*E.g.*, *id.*, Ex. F, pp. 6 [0.3 for sending Zoom links], 10 [2 hours to update trial dates on 20 motions in limine], 13, 14 [third revision to previously prepared motions in limine, witness lists, exhibit lists, and statements].) From the entries submitted by Castruita Law Firm, the court does not credit $33,447.50 of the $185,043.50 sought. Accordingly, the lodestar is set at $175,969.00.

Plaintiff seeks the imposition of a multiplier at 1.25. As stated by the California Supreme Court regarding lodestar multipliers, sometimes referred to as fee enhancements:

> …the trial court is *not required* to include a fee enhancement to the basic lodestar figure for contingent risk, exceptional skill, or other factors, although it retains discretion to do so in the appropriate case; moreover, the party seeking a fee enhancement bears the burden of proof. In each case, the trial court should consider whether, and to what extent, the attorney and client have been able to mitigate the risk of nonpayment,

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[2] The majority of administrative tasks do not appear to be billed at attorney rates. While some entries should be absorbed as overhead costs, other entries are more akin to recoverable expenses.

> e.g., because the client has agreed to pay some portion of the lodestar amount regardless of outcome. It should also consider the degree to which the relevant market compensates for contingency risk, extraordinary skill, or other factors under *Serrano III*. We emphasize that when determining the appropriate enhancement, a trial court should not consider these factors to the extent they are already encompassed within the lodestar. The factor of extraordinary skill, in particular, appears susceptible to improper double counting; for the most part, the difficulty of a legal question and the quality of representation are already encompassed in the lodestar. A more difficult legal question typically requires more attorney hours, and a more skillful and experienced attorney will command a higher hourly rate. (*See Margolin v. Regional Planning Com.* (1982) 134 Cal.App.3d 999, 1004, 185 Cal.Rptr. 145.) Indeed, the " 'reasonable hourly rate [used to calculate the lodestar] is the product of a multiplicity of factors ... the level of skill necessary, time limitations, the amount to be obtained in the litigation, the attorney's reputation, and the undesirability of the case.' " (*Ibid*.) Thus, a trial court should award a multiplier for exceptional representation only when the quality of representation far exceeds the quality of representation that would have been provided by an attorney of comparable skill and experience billing at the hourly rate used in the lodestar calculation. Otherwise, the fee award will result in unfair double counting and be unreasonable. Nor should a fee enhancement be imposed for the purpose of punishing the losing party. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138-1139 [emphasis original].)

Once a lodestar is fixed, the lodestar may be adjusted based on certain factors, including: (1) the novelty and difficulty of the questions involved; (2) the skill displayed in presenting them; (3) the extent to which the nature of the litigation precluded other employment by the attorneys; and (4) the contingent nature of the fee award. (*Id.* at p. 1132, *citing Serrano v. Priest (Serrano III)* (1977) 20 Cal.3d 25, 49.)

Here, plaintiff seeks a multiplier based on the contingent risk, as well as the length of the case. No other factors were addressed. (Castruita Decl., ¶ 5; Jacobson Decl., ¶ 29.) The court acknowledges the contingent risk taken by counsel, but finds the length of time compared to the outcome to be ordinary based on the typical statutory relief afforded in these actions. Accordingly, the court applies a multiplier of 1.1. The motion for an award of attorney fees is granted in the amount of $193,565.90.[3]

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
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(Judge's initials) (Date)

[3] Defendant's Objections are not evidentiary objections, and the court issues no rulings as to them. Plaintiff's Objections are overruled in their entirety.