

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO**

Law and Motion Calendar
Honorable David A. Silberman
800 North Humboldt Street, San Mateo, CA 94401
Department 11, Courtroom G
Monday, June 22, 2026 at 2 pm

If you intend to appear on any case on this calendar, you must give notice by 4:00 pm the court day before the hearing to the newly assigned department pursuant to California Rules of Court, Rule 3.1308(a)(1), and San Mateo County L.R. 3.403(b).

Failure to comply with notice as outlined will result in no oral presentation.

Notice of Appearance and Courtesy Copies

1. Email Dept11@SanMateoCourt.org before 4:00 pm the court day before with a copy to all parties or their counsel of record. The email must include the name of the case, the case number, and the name of the party contesting the tentative ruling.
2. Courtesy Copies: You must email a copy of any reply brief, or an Opposition to a Motion for Summary Judgment in an Unlawful Detainer matter to:
LawAndMotionReplyBriefs@SanMateoCourt.org

Day of Hearing

Appearances can be In Person or Remote. If appearing remotely by Zoom, please use your first and last name and mute your audio until your case is called. All parties must use a device with a camera if you are appearing remotely. Please login to the zoom hearing by 1:50 pm.

Remote Appearance Zoom Information

RECORDING OF A COURT PROCEEDING IS STRICTLY PROHIBITED.

<https://sanmateocourt.zoomgov.com/> Meeting ID: 160 964 0802 Password: 734616

TO ASSIST THE COURT REPORTER, the parties are ORDERED to: (1) state their name each time they speak and only speak when directed by the Court; (2) not to interrupt the Court or anyone else; (3) speak slowly and clearly; (4) connect from a computer if at all possible, rather than a cell phone; (5) if a cell phone is absolutely necessary, the parties must be stationary and not driving or moving; (6) no speaker phones under any circumstances; (7) provide the name and citation of any cases referenced; and (8) spell all names, even common names.

Case	Title / Nature of Case
02:00 PM	
22-CLJ-00684 LINE 1	DISCOVER BANK VS. ROXANNE A. EDUARTE
DISCOVER BANK ROXANNE A. EDUARTE	AFSANEH AFZALNIA

PLAINTIFF'S MOTION FOR JUDGMENT

TENTATIVE RULING:

Plaintiff Discover Bank's unopposed motion to enter judgment against Defendant Roxanne A. Eduarte pursuant to parties' signed settlement agreement pursuant to Code of Civil Procedure section 664.6 is GRANTED IN PART.

To the extent that the Court needs to take judicial notice of its own file in the instant case, Plaintiff's request for judicial notice is GRANTED on the Court's own motion. Evid. Code § 452, subd. (d). However, the Court notes that Plaintiff did not comply with California Rules of Court, Rule 3.1113(l).

Initially, the Court observes that Plaintiff's notice of hearing provides the improper address for the hearing because the matter was reassigned to the Honorable David A. Silberman, Department 11, on May 11, 2026. Department 11 is not located in Redwood City as the notice states, but instead at the Central Branch Courthouse, Courtroom G, at 800 North Humboldt Street, San Mateo, CA 94401. See Cal. Rules of Court, rule 3.1110 (the Notice "must specify" the location of the hearing). While it remained Plaintiff's obligation to correct the notice, it is both understandable and harmless and the error is waived.

Under Code of Civil Procedure, section 664.6, the court retains jurisdiction in a case pending full performance of the terms of a written settlement agreement and such agreement may then be enforced upon motion of the aggrieved party. *Id.*

Here, the parties entered into a stipulated settlement agreement, a copy of which is attached to the Declaration of Plaintiff's Counsel Spencer Penuela as Exhibit 1. The Court's review of the agreement demonstrates that Defendant signed the agreement on April 6, 2022 and Plaintiff's agent employee signed the agreement on April 27, 2022. Penuela Decl. Ex. 1 p. 5. The agreement provides that the principal balance on the account is \$1,838.59 and any default will result in the principal amount due, less payments made plus court costs associated with filing and serving the action to obtain judgment. *Id.* at ¶¶ 1 & 5. In the event of default, the parties agreed that the Court was authorized to enter judgment in favor of the plaintiff and against the defendant and that Plaintiff need not make any court appearance to obtain said judgment unless otherwise required by the court. *Id.* ¶ 5. Plaintiff declares Defendant is in default because Defendant only made payments of \$850, not the full amount due. Penuela Decl. ¶ 5.

The motion is unopposed therefore the Court finds defendant's default is uncontroverted. However, the Court finds that Plaintiff does not establish entitlement to the full judgment amount requested because the principal balance owed appears to be misstated in the moving papers and counsel's declaration. The principal amount owed and agreed to in the parties' stipulated agreement as well as the amount stated in the complaint and requested in the prayer for relief is \$1,839.59, not \$2,089.59 (the amount indicated by

this motion). See Complaint ¶¶ 5, 10, 14 and Prayer ¶ 1; Penuela Decl. Ex. 1. Thus, Plaintiff is entitled to a judgment of \$1,364.71 as follows: \$1,839.59, the agreed account balance from the settlement, plus court costs requested in the amount of \$375.12 less \$850 in payments made. Accordingly, Plaintiff's motion to enter judgment pursuant to stipulation is GRANTED.

Judgment in the amount of \$1,364.71 shall be entered against defendant, payable to plaintiff upon entry of this order.

Any party who contests a tentative ruling must email Dept.11@sanmateocourt.org with a copy to all other parties by 4:00 p.m. stating, without argument, the portion(s) of the tentative ruling that the party contests.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, Counsel for the plaintiff shall prepare for the Court's signature a written order consistent with the Court's ruling pursuant to California Rules of Court, rule 3.1312 and provide written notice of the ruling to all parties who have appeared in the action, as required by law and by the California Rules of Court. Please note that Local Rule 3.403(b)(iv) states in part "prevailing party on a tentative ruling is required to prepare a proposed order REPEATING VERBATIM the tentative ruling" (emphasis added). The order should be e-filed only, do not email or mail a hard copy to the Court.

02:00 PM

23-CIV-01407 ROSARIO CUSTODIO, ET AL. VS. BRIUS, LLC, ET AL.
LINE 2

ROSARIO CUSTODIO
BRIUS, LLC

JAY P. RENNEISEN
LINDSEY ROMANO

PLAINTIFFS' MOTION FOR APPOINTMENT OF DISCOVERY REFEREE

TENTATIVE RULING:

Department 11 is recused in this matter.

02:00 PM

24-CLJ-00899
LINE 3

WELLS FARGO BANK, N.A. VS. LEMAN P. PATTON

WELLS FARGO BANK, N.A.
LEMAN P. PATTON

HARLAN M. REESE
JENNIFER TUNDER

PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS

TENTATIVE RULING:

Plaintiff Wells Fargo Bank, N.A.'s unopposed Motion for Judgment on the Pleadings is DENIED.

To the extent that it is even necessary for the Court to judicially notice the file in the instant case, Plaintiff's unopposed Request for Judicial Notice ("RJN") is GRANTED pursuant to Evidence Code Section 452 (d).

"A motion for judgment on the pleadings has the same function as a general demurrer but is made after the time for demurrer has expired. Except as provided by CCP § 438, the rules governing demurrers apply—motion for judgment on the pleadings is equivalent to a demurrer." Motion for Judgment on the Pleadings, Cal. Prac. Guide Civ. Pro. Before Trial Ch. 7(I)-D (quotations and citations omitted). "A motion by plaintiff (or cross-complainant) can be made on the ground that the complaint states facts sufficient to constitute a cause of action against the defendant (or cross-defendant) and the answer does not state facts sufficient to constitute a defense to the complaint." *Id.* (citing Code of Civil Procedure Section 438(c)(1)(A)).

A general demurrer under Section 430.10(e) of the Code of Civil Procedure for failure to state a cause of action challenges defects that appear on the face of the pleading under attack; or from matters outside the pleading that are judicially noticeable. *Blank v. Kirwan* (1985) 39 C3d 311, 318.

"It is not necessary that the cause of action be the one intended by plaintiff. The test is whether the complaint states any valid claim entitling plaintiff to relief. Thus, plaintiff may be mistaken as to the nature of the case, or the legal theory on which plaintiff can prevail. But if the essential facts of some valid cause of action are alleged, the complaint is good against a general demurrer." Cal. Prac. Guide Civ. Pro. Before Trial Ch. 7(I)-A (citations omitted)

"For the purpose of testing the sufficiency of the cause of action, the demurrer admits the truth of all material facts properly pleaded (i.e., all ultimate facts alleged, but not contentions, deductions or conclusions of fact or law)." Cal. Prac. Guide Civ. Pro. Before Trial Ch. 7(I)-A (citations omitted).

Plaintiff brings the instant motion pursuant to Code of Civil Procedure section 438 for the amount set forth in the complaint, \$27,153.06. Defendant has not filed a brief in opposition.

Defendant generally denies the allegations in the Complaint. RJN, Ex. A, Answer, section 3. The law allows a defendant to make general denials to a verified complaint in civil limited actions. Code Civ. Proc. § 431.30 (d).

It is of note, in passing, that Plaintiff's Motion to Deem Facts Admitted was granted, and the genuineness of any documents and truth of any facts in Plaintiff's RFA's, Set One were deemed admitted. Those admissions include that as of February 8, 2024, there was a balance owing of at least \$27,153.06 on Defendant's account and that the affirmative defenses asserted by Defendant in this matter lack merit and evidentiary support. RJN, Ex. B, Plaintiff's Motion to Deem Requests for Admission Defendant's Deemed Admissions Admitted, Ex. A.

Plaintiff argues that the deemed admissions are sufficient to grant this motion. That is mostly wrong. *Columbia Cas. Co. v. Nw. Nat. Ins. Co.* (1991) 231 Cal. App. 3d 457, 468 ("In contrast, in order for judicial notice to support a motion for judgment on the pleadings by negating an express allegation of the pleading, the notice must be of something that cannot reasonably be controverted."). The matters deemed admitted here relate to matters that can, at least in theory, be controverted and are via Defendant's answer. It is also of note, while the Court is not suggesting it would be sufficient if he had, that Defendant has not admitted breaching any agreement—only that an account with a balance belongs to him. The main case cited by Plaintiff, *Barsegian v. Kessler & Kessler* (2013) 215 Cal. App. 4th 446, 452 is not a judgment on the pleadings case and does not support granting this motion. Plaintiff also cites *Pang v. Beverly Hosp., Inc.* (2000) 79 Cal. App. 4th 986. *Pang* is a procedurally unusual case where the Plaintiff moved for summary adjudication and the trial court denied that motion but, on its own motion, converted it to a motion for judgment on the pleadings for defendant and granted it based on admissions Plaintiff made in her motion. It does not help Defendant here in this posture.

Any party who contests a tentative ruling must email Dept.11@sanmateocourt.org with a copy to all other parties by 4:00 p.m. stating, without argument, the portion(s) of the tentative ruling that the party contests.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, Counsel for the plaintiff shall prepare for the Court's signature a written order consistent with the Court's ruling pursuant to California Rules of Court, rule 3.1312 and provide written notice of the ruling to all parties who have appeared in the action, as required by law and by the California Rules of Court. Please note that Local Rule 3.403(b)(iv) states in part "prevailing party on a tentative ruling is required to prepare a proposed order REPEATING VERBATIM the tentative ruling" (emphasis added). The order should be e-filed only, do not email or mail a hard copy to the Court.

02:00 PM

24-CLJ-06336

WELLS FARGO BANK, N.A. VS. MARC G. CABANGAL

LINE 4

WELLS FARGO BANK, N.A.
MARC G. CABANGAL

HARLAN M. REESE
PRO SE

PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS

TENTATIVE RULING:

Plaintiff Wells Fargo Bank, N.A.'s unopposed Motion for Judgment on the Pleadings is GRANTED pursuant to Code of Civil Procedure Section 438 (c)(1)(A).

To the extent that it is even necessary for the Court to judicially notice the file in the instant case, Plaintiff's unopposed Request for Judicial Notice ("RJN") is GRANTED pursuant to Evidence Code Section 452 (d).

"A motion for judgment on the pleadings has the same function as a general demurrer but is made after the time for demurrer has expired. Except as provided by CCP § 438, the rules governing demurrers apply—motion for judgment on the pleadings is equivalent to a demurrer." Motion for Judgment on the Pleadings, Cal. Prac. Guide Civ. Pro. Before Trial Ch. 7(I)-D (quotations and citations omitted). "A motion by plaintiff (or cross-complainant) can be made on the ground that the complaint states facts sufficient to constitute a cause of action against the defendant (or cross-defendant) and the answer does not state facts sufficient to constitute a defense to the complaint." *Id.* (citing Code of Civil Procedure Section 438(c)(1)(A)).

A general demurrer under Section 430.10(e) of the Code of Civil Procedure for failure to state a cause of action challenges defects that appear on the face of the pleading under attack; or from matters outside the pleading that are judicially noticeable. *Blank v. Kirwan* (1985) 39 C3d 311, 318.

"It is not necessary that the cause of action be the one intended by plaintiff. The test is whether the complaint states any valid claim entitling plaintiff to relief. Thus, plaintiff may be mistaken as to the nature of the case, or the legal theory on which plaintiff can prevail. But if the essential facts of some valid cause of action are alleged, the complaint is good against a general demurrer." Cal. Prac. Guide Civ. Pro. Before Trial Ch. 7(I)-A (citations omitted)

"For the purpose of testing the sufficiency of the cause of action, the demurrer admits the truth of all material facts properly pleaded (i.e., all ultimate facts alleged, but not contentions, deductions or conclusions of fact or law)." Cal. Prac. Guide Civ. Pro. Before Trial Ch. 7(I)-A (citations omitted).

Here, Plaintiff's Judicial Council Form Complaint alleges breach of contract with damages in the amount of \$8,009.82. Defendant filed an Answer on November 14, 2024, but the filing was voided due to nonpayment of fees.

It is of note, in passing, that Plaintiff's Motion to Deem Facts Admitted was granted, and the genuineness of any documents and truth of any facts in Plaintiff's RFA's, Set One were deemed admitted. RJN, Exh.

B. Those fact include, inter alia: that Defendant Marc G Cabangal had an account ending in No.'s 4272 with Plaintiff; that monthly account statements were sent to him; that he never notified Plaintiff of a dispute; that as of October 4, 2024 there was a balance owing of at least \$8,009.82 on the account; that he has not paid any amount on the account since October 4, 2024; that Defendant owes at least \$8,009.82 to Plaintiff; and that the parties' agreement includes a provision providing for attorney's fees. RJN, Exh. A.

Plaintiff argues that the deemed admissions are sufficient to grant this motion. That is mostly wrong. *Columbia Cas. Co. v. Nw. Nat. Ins. Co.* (1991) 231 Cal. App. 3d 457, 468 ("In contrast, in order for judicial notice to support a motion for judgment on the pleadings by negating an express allegation of the pleading, the notice must be of something that cannot reasonably be controverted."). The matters deemed admitted here relate to matters that can, at least in theory, be controverted. The main case cited by Plaintiff, *Barsegian v. Kessler & Kessler* (2013) 215 Cal. App. 4th 446, 452 is not a judgment on the pleadings case and does not support granting this motion.

However, as noted above, Defendant's rejected answer does not provide any defense to the Complaint. Defendant did not deny any of the allegations in the Complaint. Defendant simply noted that he is "[c]urrently unemployed and do not have a consistent source of income" and that he "would like to settle outside of court for a reduced amount if possible." Therefore, Plaintiff is clearly entitled to judgment under Section 438(c)(1)(A)), although it is unclear to the Court why Plaintiff didn't merely proceed by default judgment and avoid unnecessary motion practice.

Judgment will accordingly be entered in favor of Plaintiff Wells Fargo Bank, N.A. and against Defendant Marc G. Cabangal as prayed for in the Complaint, including the principal amount of \$8,009.82 and costs of suit, minus any payments made that have not yet been credited.

Any party who contests a tentative ruling must email Dept.11@sanmateocourt.org with a copy to all other parties by 4:00 p.m. stating, without argument, the portion(s) of the tentative ruling that the party contests.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, Counsel for the prevailing party shall prepare for the Court's signature a written order consistent with the Court's ruling pursuant to California Rules of Court, rule 3.1312 and provide written notice of the ruling to all parties who have appeared in the action, as required by law and by the California Rules of Court. Please note that Local Rule 3.403(b)(iv) states in part "prevailing party on a tentative ruling is required to prepare a proposed order REPEATING VERBATIM the tentative ruling" (emphasis added). The order should be e-filed only, do not email or mail a hard copy to the Court.

02:00 PM

24-CLJ-07743

BARCLAYS BANK DELAWARE VS. ITZHAK BENHARUSH

LINE 5

BARCLAYS BANK DELAWARE
ITZHAK BENHARUSH

ADAM KIDD
PRO SE

PLAINTIFF'S MOTION TO DEEM REQUESTS FOR ADMISSIONS AS ADMITTED AND FOR SANCTIONS

TENTATIVE RULING:

Plaintiff's request for judicial notice is denied, assuming that Judicial Notice is required for the Court to consider the contents of its file in the instant case. Plaintiff has not specified the part of the file sought to be judicially noticed as required by California Rules of Court, rule 3.1306(c)(1). But it is academic as it does not appear that it is relying on anything in the Court file for this motion.

The unopposed motion is GRANTED. The genuineness of any documents and the truth of any matters in plaintiff's Requests for Admission, Set One, are deemed admitted. See Declaration of Eric Marquez Exhibit A. The request for sanctions is also granted. Defendant shall pay Plaintiff \$60 within 30 days.

Any party who contests a tentative ruling must email Dept.11@sanmateocourt.org with a copy to all other parties by 4:00 p.m. stating, without argument, the portion(s) of the tentative ruling that the party contests.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, Counsel for the prevailing party shall prepare for the Court's signature a written order consistent with the Court's ruling pursuant to California Rules of Court, rule 3.1312 and provide written notice of the ruling to all parties who have appeared in the action, as required by law and by the California Rules of Court. Please note that Local Rule 3.403(b)(iv) states in part "prevailing party on a tentative ruling is required to prepare a proposed order REPEATING VERBATIM the tentative ruling" (emphasis added). The order should be e-filed only, do not email or mail a hard copy to the Court.

02:00 PM

25-CIV-07999

BRIAN TAUSSIG, ET AL. VS. GEORGE H. OGATA, ET AL.

LINE 6

BRIAN TAUSSIG
ROBERTA SHONG

JAIME C. UZIEL
PRO SE

DEFENDANT'S MOTION TO EXPUNGE LIS PENDENS

TENTATIVE RULING:

Defendant's motion to expunge *lis pendens* is taken off calendar and the Court sets an Order to Show Cause Hearing for September 21, 2026 at 2:00 p.m. in Department 11 for Defendant to show it has an attorney representing it or to show cause why its answer should not be stricken and default entered in favor of Plaintiffs and against Defendant. Defendant shall either file an appearance by an attorney to represent it no later than seven court days before the hearing or file a response brief within the same deadline showing why its answer should not be stricken and default entered. Plaintiffs may, but is not required, file a brief on or before five court days before the hearing.

On October 10, 2025 Plaintiffs filed a verified complaint with a single cause of action for quiet title naming as Defendants the Ogata Family Trust and its successor trustee. The Trust is the owner of the property in dispute. Complaint Ex. B. There is no evidence that Roberta Shong has an interest in the property beyond that of a Trustee or as a beneficiary of the Trust.

On April 6, 2026 Roberta Shong filed this motion, which appears by implication to be on behalf of the Trust to expunge a *lis pendens* recorded by Plaintiffs.

However, "[n]o person shall practice law in California unless the person is an active licensee of the State Bar." Bus. & Prof. Code, § 6125. A trustee, who is not an attorney, generally may not represent the trust in a civil action because it constitutes the unauthorized practice of law. *Ziegler v. Nickel* (1998) 64 Cal.App.4th 545. As such, it appears Defendant is required to obtain counsel. If Defendant disagrees, Defendant is to present authority (on the time-frame provided above) to support that she may continue to proceed in propria persona in her capacity as trustee.

The Court also notes a concern that Roberta Shong's fee waiver was improvidently granted either because an entity cannot receive a fee waiver or because Roberta Shong failed to offer evidence of the entity's assets rather than her own. The Court will revisit that issue, as necessary, depending on the resolution of the Order to Show Cause.

Finally, the Court notes that it was inclined to deny the Motion because Plaintiffs have met their burden of showing a likelihood of prevailing on their real property claim, but takes the Motion off calendar to give the Defendant an opportunity to obtain counsel that can lawfully file a motion, if appropriate.

Any party who contests a tentative ruling must email Dept.11@sanmateocourt.org with a copy to all other parties by 4:00 p.m. stating, without argument, the portion(s) of the tentative ruling that the party contests.

If the tentative ruling is uncontested, it shall become the order of the Court. Thereafter, Counsel for the Plaintiff shall prepare for the Court's signature a written order consistent with the Court's ruling pursuant to California Rules of Court, rule 3.1312 and provide written notice of the ruling to all parties who have appeared in the action, as required by law and by the California Rules of Court. Please note that Local Rule 3.403(b)(iv) states in part "prevailing party on a tentative ruling is required to prepare a proposed order REPEATING VERBATIM the tentative ruling" (emphasis added). The order should be e-filed only, do not email or mail a hard copy to the Court.

POSTED: 3:00 PM