

DEPARTMENT C20
Judge Erick Larsh

Law and Motion Calendar

Court Reporters: Official court reporters (i.e., court reporters employed by the Court) are **NOT** typically provided for law and motion matters in this department. If a party desires a record of a law and motion proceeding, it will be the party's responsibility to provide a court reporter. Parties must comply with the Court's policy on the use of privately retained court reporters which can be found at:

- [Civil Court Reporter Pooling](#); and
- For additional information, please see the court's website at [Court Reporter Interpreter Services](#) for additional information regarding the availability of court reporters.

Tentative rulings: The court endeavors to post tentative rulings on the court's website in the morning, prior to the afternoon hearing. However, ongoing proceedings such as jury trials may prevent posting by that time. Tentative rulings may not be posted in every case. Please do not call the department for tentative rulings if tentative rulings have not been posted. The court will not entertain a request to continue a hearing or the filing of further documents once a tentative ruling has been posted.

Submitting on tentative rulings: If all counsel intend to submit on the tentative ruling and do not desire oral argument, please advise the Courtroom Clerk or Courtroom Attendant by calling (657) 622-5220. Please do not call the department unless all parties submit on the tentative ruling. 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 the ruling and prepare an order for the court's signature if appropriate under Cal. R. Ct. 3.1312.

Non-appearances: If nobody 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 the tentative ruling becomes the final ruling. The Court also might make a different order at the hearing. (*Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442, fn. 1.)

APPEARANCES: Department C20 conducts non-evidentiary proceedings, such as law and motion, remotely, by Zoom videoconference pursuant to CCP §367.75 and Orange County Local Rule (OCLR) 375. All counsel and self-represented parties appearing for such hearings must check-in online through the Court's civil video appearance website at <https://www.occourts.org/media-relations/civil.html> prior to the commencement of their hearing. Once the online check-in is completed, participants will be prompted to join the courtroom's Zoom hearing session. Participants will initially be directed to a virtual waiting

room pending the start of their specific video hearing. Check-in instructions and instructional video are available at <https://www.occourts.org/media-relations/aci.html>. The Court’s “Appearance Procedures and Information--Civil Unlimited and Complex” (“Appearance Procedures”) and “Guidelines for Remote Appearances” (“Guidelines”) also available at <https://www.occourts.org/media-relations/aci.html> will be strictly enforced. Parties preferring to appear in-person for law and motion hearings may do so pursuant to CCP §367.75 and OCLR 375.

PUBLIC ACCESS: The courtroom remains open for all evidentiary and non-evidentiary proceedings.

No filming, broadcasting, photography, or electronic recording is permitted of the video session pursuant to California Rules of Court, rule 1.150 and Orange County Superior Court rule 180.

TENTATIVE RULINGS

Date: April 18, 2024, 1:30 p.m.

Case Name	Tentative Ruling
<p>Herrera vs. Grace Retirement Village, Inc.</p> <p>2023-01317375</p>	<p>Plaintiffs Leslie Plascencia, individually and as successor in interest to David Ulises Castro Herrera, Vilma Guadalupe Castro, Bryan Castro, and Paola Castro’s motion for leave to file first amended complaint is GRANTED. (See Code Civ. Proc., § 473, subd. (a)(1); Atkinson v. Elk Corp. (2003) 109 Cal.App.4th 739, 761.)</p> <p>Plaintiffs shall serve and file the proposed first amended complaint attached to their counsel’s declaration (Garcia Decl. at Ex. 1) within 14 days of the date of this hearing.</p> <p>The first amended complaint must be filed as a separate document to ensure it is properly indexed in the record.</p> <p>Plaintiffs shall give notice.</p>
<p>Sims vs. Jacobson</p> <p>2021-01204599</p>	<p>Cross-defendant Mastroianni Family Enterprises Ltd.’s (MFE) motions to compel responses to its first sets of general and employment form interrogatories are GRANTED. (See Code Civ. Proc., § 2030.290.)</p> <p>Cross-complainant Samantha Jacobson is ORDERED to provide verified responses without objections to MFE’s first set of general form interrogatories and first set of employment form interrogatories, within 14 days of notice.</p> <p>Sanctions in the total amount of \$1,395 are GRANTED in favor of MFE and against Samantha Jacobson, payable within 30 days of notice.</p>

	MFE shall give notice.
<p>Heidary vs. County of Riverside</p> <p>2022-01294129</p>	<p>Defendant Travelers Casualty Insurance Company of America’s motion to set aside default is GRANTED. (Code Civ. Proc., § 473, subd. (b) [relief from default based on attorney affidavit of fault]; (Balady Decl., ¶¶ 3, 4.) The court orders that the default entered on 11-6-23 as to this defendant is vacated.</p> <p>Moving party shall separately file and serve the proposed responsive pleading (Ashley Decl., Ex. 2) within five days, after obtaining a hearing date through the court’s reservation system. Separate e-filing of the proposed responsive pleading is required, in order to ensure the pleading is properly indexed in the court’s electronic filing system. However, the proposed responsive pleading should be served to the unrepresented plaintiff by means other than electronic service. (Cal. Rules of Court, Rule 2.251, subd. (c)(3)(B), and Rule 2.253, subds. (b)(2), (b)(3).)</p> <p>Moving party shall give notice.</p>
<p>Chao vs. Air Combat USA, Inc.</p> <p>2022-01258475</p>	<p>Defendant Michael J. Blackstone’s motion for relief from default is GRANTED. (Code Civ. Proc., § 473, subd. (b);</p> <p>Moving party attached a copy of the proposed Answer as an exhibit to the supplemental declaration filed on 3-27-24, which cannot be detached for filing. Moving party is ordered to separately electronically file this proposed Answer within five days, which shall be deemed served upon filing. Separate e-filing is required to ensure the pleading is properly indexed in the court’s electronic filing system.</p> <p>Moving party shall give notice.</p>
<p>Pure Dermatology v. Shreeve</p> <p>2023-0136233</p>	<p>As an initial matter, neither party has objected to the evidence and declarations submitted by the other. If there is no objection, the Court may consider a declaration even if it contains inadmissible matter. (Waller v. Waller (1970) 2 Cal.App.3d 456, 464.) The Court has considered each of the declarations and exhibits attached thereto and assessed the weight and credibility of each of these matters, along with the Parties’ respective arguments concerning the weight and credibility of these matters, and rules as follows:</p> <p>Plaintiff Pure Dermatology’s motion for preliminary injunction is denied.</p> <p>“A trial court may grant a preliminary injunction upon a showing that (1) the party seeking the injunction is likely to prevail on the merits at trial, and (2) the ‘interim harm’ to that party if an injunction is denied is greater than ‘the [interim] harm the [opposing party] is likely to suffer if the ... injunction is issued.’ [Citations.] These two showings operate on a sliding scale: ‘[T]he more likely it is that [the party seeking the injunction] will ultimately prevail, the less severe must be the harm that they allege will occur if the injunction does not issue.’ [Citation.]” (Integrated Dynamic Solutions, Inc. v. VitaVet Labs, Inc. (2016) 6 Cal.App.5th 1178, 1183.)</p>

The burden is on the party seeking the preliminary injunction to produce evidence demonstrating his entitlement to the injunction. (O'Connell v. Superior Court (2006) 141 Cal.App.4th 1452, 1481.)

Plaintiff fails to meet its burden to show a balancing of its likelihood of prevailing and the relative interim harms to the parties warrant an injunction. (See O'Connell v. Superior Court (2006) 141 Cal.App.4th 1452, 1481; Whyte v. Schlage Lock Co. (2002) 101 Cal.App.4th 1443, 1449.)

To prevail on a motion for preliminary injunction, Plaintiff must at least show "some possibility" that it could prevail on the merits at trial. (See Costa Mesa City Employees' Ass'n v. City of Costa Mesa (2012) 209 Cal.App.4th 298, 309.)

Plaintiff has shown "some possibility" that it could prevail on the merits of its CTSA claim. In other words, Plaintiff's CTSA cause of action does not fail as a matter of law, as customer lists have commonly been protected as trade secrets under the CTSA. (See, e.g. Morlife, Inc. v. Perry (1997) 56 Cal.App.4th 1514 [finding a customer list was a trade secret]; ABBA Rubber Co. v. Sequist (1991) 235 Cal.App.4d 1 [same]; Courtesty Temporary Service, Inc. v. Camacho (1990) 222 Cal.App.3d 1278 [same].) However, Plaintiff's showing is not particularly convincing. For instance, Plaintiff's evidentiary showing that it undertook reasonable efforts to maintain the secrecy of the contents of the alle.com database is threadbare. There is enough, however, to establish "some possibility" of prevailing on the merits.

Turning to the question of interim harm, Plaintiff has failed to show that a suit for damages does not provide an adequate remedy. (See Cal. Code Civ. Proc. § 527, subds. (a)(4)-(5); see also, Pacific Decision Sciences Corp. v. Superior Court (2004) 121 Cal.App.4th 1100, 1110; Abrahms v. St. Johns Hosp. & Health Ctr. (1994) 25 Cal.App.4th 628, 639, fn. 2.) Since an award of monetary damages can adequately compensate Plaintiff for any injury alleged here, the relative interim harm to Plaintiff that would result from denial of a preliminary injunction is negligible.

On the other hand, if a preliminary injunction were to issue along the lines of what Plaintiff has requested, it could result in a severe impediment to Defendants' conducting their business. Even if Defendants were enjoined from soliciting customers identified on the alle.com list, there is nothing preventing Defendants from receiving business from these customers (see Hilb, Rogal & Hamilton Ins. Services of Orange County, Inc. v. Robb (1995) 33 Cal.App.4th 1812, 1821 ["Equity will not enjoin a former employee from receiving business from the customers of his former employer, even though the circumstances be such that he should be prohibited from soliciting such business."].)

Ultimately, given Plaintiff's barebones showing of merit for its CTSA cause of action combined with the adequacy of a remedy at law and the prospect of unwarranted harm Defendants would suffer, a preliminary injunction is not warranted.

Plaintiff argues in Reply that the merit of its fiduciary duty cause of action also warrants consideration in deciding the motion for preliminary injunction. This argument falls short. First, there is nothing about the strengths of Plaintiff's other causes of action that indicate a remedy at law (money damages) would be insufficient absent an injunction. Second, the breach of fiduciary duty cause of action seeks to impose liability on Defendants for

past wrongs during the course of their employment with Plaintiff. Thus, it is not a cause of action that implicates the need for a preliminary injunction.

Plaintiff is to provide notice of this ruling.

**AMERICOR
FUNDING,
LLC vs.
BEYOND
FINANCE, LLC**

**2024-
01381291**

Plaintiffs Americor Funding, LLC and Grant Eckert's motion for preliminary injunction is **denied**. Plaintiff hasn't made the requisite showing of irreparable harm and a probability of prevailing on the merits. The evidence presented shows litigation regarding the non-compete agreement between plaintiff and defendant Beyond Finance, LLC is currently pending in Texas. Further the agreement has not been revoked by the parties and the agreement is subject to Texas law. Further, the choice of law provision does not conflict with California's fundamental public policy, and California does not have a materially greater interest than Texas. *America Online, Inc. v. Superior Court* (2001) 90 Cal.App.4th 1; *Advanced Bionics Corp. v. Medtronic, Inc.*, (2002) 29 Cal.4th 697.

Defendant's Request for Judicial Notice is granted.

Plaintiff's Request for Judicial Notice is granted as to exhibits A and B, but only as to the existence of the documents, not as to the truth of the matters asserted therein.

Defendant's objections to the declaration of Grant Eckert are overruled.

Defendant's objections to the declaration of Travis J. Anderson are overruled.

Defendant's objections to the declaration of David Norris are overruled.