

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 11/21/25 TIME: 1:30 P.M. DEPT: E CASE NO: CV0001138

PRESIDING: HON. ANDREW E. SWEET

REPORTER:

CLERK: G. STRATFORD

PLAINTIFF: COUNTY OF MARIN	
vs.	
DEFENDANT: JAMES TACHERRA, ET AL	

NATURE OF PROCEEDINGS: MOTION – ENTRY OF JUDGMENT

RULING

County of Marin’s (“Plaintiff”) Motion to Enforce Settlement is GRANTED. The court will sign the proposed order that Plaintiff submitted on September 30, 2025.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

The Zoom appearance information for November, 2025 is as follows:

<https://marin-courts-ca-gov.zoomgov.com/j/1615162449?pwd=e5SqeATq2HOsxxD7Fhrl3Q7qPFgFZa.1>

Meeting ID: 161 516 2449

Passcode: 073961

If you are unable to join by video, you may join by telephone by calling 1-669-254-5252 and using the above-provided passcode. Zoom appearance information may also be found on the Court’s website: marin.courts.ca.gov

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 11/21/25 TIME: 1:30 P.M. DEPT: E CASE NO: CV0002500

PRESIDING: HON. ANDREW E. SWEET

REPORTER:

CLERK: G. STRATFORD

PLAINTIFF: MATTHEW R. POTTS

vs.

DEFENDANT: DAVID B. MOURNING

NATURE OF PROCEEDINGS: MOTION – GOOD FAITH SETTLEMENT

RULING

Butch Haze and Donna Goldman's ("Defendants") unopposed Motion for Good Faith Settlement is GRANTED.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 11/21/25 TIME: 1:30 P.M. DEPT: E CASE NO: CV0002987

PRESIDING: HON. ANDREW E. SWEET

REPORTER:

CLERK: G. STRATFORD

PLAINTIFF: B.B.

vs.

DEFENDANT: COUNTY OF MARIN

NATURE OF PROCEEDINGS: WRIT OF MANDATE HEARING

RULING

This matter is continued to December 12, 2025, at 1:30.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 11/21/25 TIME: 1:30 P.M. DEPT: E CASE NO: CV0003461

PRESIDING: HON. ANDREW E. SWEET

REPORTER:

CLERK: G. STRATFORD

PLAINTIFF: TINA LUBAS, ET AL

vs.

DEFENDANT: MARINHEALTH MEDICAL
CENTER, ET AL

NATURE OF PROCEEDINGS: MOTION – COMPEL – DISCOVERY FACILITATOR
PROGRAM

RULING

Plaintiffs Tina Lubas and Kara Burks' ("Plaintiffs") Motion to Compel Responses to Plaintiffs' First Set of Written Discovery was first set to be heard on October 31, 2025. At that time, the hearing was continued to November 21, 2025 "to give the parties time to participate in the discovery facilitator process." Pursuant to Marin County Rule, Civil 2.13B, on November 7, 2025, attorney Matthew Mani was appointed to preside as Discovery Facilitator for the Motion.

The Court has not received a Declaration of Non-Resolution from either party, in particular *the moving party*, five court days prior to the hearing on the motion set for November 21, 2025, as required by MCR Civ 2.13H.

The Court reminds the parties that compliance with MCR Civ 2.13H not only includes the timely filing of the Declaration of Non-Resolution by each party five court days prior to the hearing, but also requires that "[t]he Declaration shall not exceed three pages and ***shall briefly summarize the remaining disputed issues and each party's contentions.***" (MCR Civ 2.13H(1), emphasis added.)

The Court concludes and expects that this discovery matter is being resolved by the Facilitator. The Motion is therefore ordered **OFF CALENDAR**. (MCR Civ 2.13H(2).) Should the parties fail to reach resolution through the facilitator, either party may request (by ex parte application) that the Court re-set the Motion for an expedited hearing.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in

accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 11/21/25 TIME: 1:30 P.M. DEPT: E CASE NO: CV0004421

PRESIDING: HON. ANDREW E. SWEET

REPORTER:

CLERK: G. STRATFORD

PLAINTIFF: GINA VITALE

vs.

DEFENDANT: HOME BY DESIGN INC.
ET AL

NATURE OF PROCEEDINGS: MOTION – COMPEL – DISCOVERY FACILITATOR
PROGRAM

RULING

Appearances required.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 11/21/25 TIME: 1:30 P.M. DEPT: E CASE NO: CV0005855

PRESIDING: HON. ANDREW E. SWEET

REPORTER:

CLERK: G. STRATFORD

PLAINTIFF: AMERICAN EXPRESS
NATIONAL BANK

vs.

DEFENDANT: PAUL GOLDMAN

NATURE OF PROCEEDINGS: MOTION – SET ASIDE/VACATE

RULING

Defendant's motion to set aside the default and default judgment is granted. Defendant shall file his responsive pleading within 10 days of the hearing on this matter.

Procedural Background

On April 1, 2025, Plaintiff American Express National Bank filed a Complaint against Defendant Paul Goldman, alleging that Defendant owes \$58,168.76 in credit card debt.

On May 23, 2025, Plaintiff filed a Proof of Service which reflected that Defendant was served with the Summons and Complaint by substituted service on April 15, 2025. The Proof of Service states that documents were left at 3020 Bridgeway #182 in Sausalito with Operations Manager Lisabeth Browne on April 15, 2025 and that copies were also mailed to that address. The Proof of Service was accompanied by a Declaration re Diligence from the process server who stated that he went to the address on more than one occasion, the address is Travellers Mailbag, a private mailbox facility, and the owner told him that Defendant lives in Mexico and does use Box #182.

Defendant's default was entered on July 7, 2025 and a default judgment in the amount of \$58,683.76 was entered on July 10, 2025.

On July 10, 2025, Defendant attempted to file a motion to quash the service of summons. On July 11, 2025, the Clerk sent Defendant a notice that his motion was not processed due to insufficient payment of the filing fee.

On September 4, 2025, Defendant filed the instant motion to set aside the default and default judgment pursuant to Code of Civil Procedure Section 473(b) and (d).

Standard

“The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken . . . “ (Code Civ. Proc. § 473(b).) “The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed, and may, on motion of either party after notice to the other party, set aside any void judgment or order.” (Code Civ. Proc. § 473(d).)

“[T]he policy of the law is to have every litigated case tried upon its merits, and it looks with disfavor upon a party, who, regardless of the merits of the case, attempts to take advantage of the mistake, surprise, inadvertence, or neglect of his adversary. Because the law favors disposing of cases on their merits, any doubts in applying section 473 must be resolved in favor of the party seeking relief from default . . . if a defendant promptly seeks relief . . . and there is no showing of prejudice to [the other party], very slight evidence will be required to justify a court in setting aside the default . . . [u]nless inexcusable neglect is clear, the policy favoring trial on the merits prevails.” (*Fasuyi v. Permatex, Inc.* (2008) 167 Cal.App.4th 681, 696 [citations and internal quotations omitted].)

Discussion

Defendant states in his declaration that on July 8, 2025, he prepared a motion to quash service of the Summons and Complaint and tried to file it twice but it was rejected both times. (Declaration of Paul Goldman (“Goldman Decl.”), ¶¶2, 3.) He states that he served Plaintiff’s counsel with his motion so Plaintiff was on notice of his defense, but weeks later he learned from the clerk that his default had been entered. (*Id.*, ¶5.) Defendant further states that he does not recognize the accounts alleged by Plaintiff and he has never been provided with signed agreements, monthly billing statements, or receipts of charges. He intends to demand strict proof of Plaintiff’s claims as he does not believe Plaintiff can substantiate its allegations. (*Id.*, ¶¶6, 7.)

Defendant argues that the Court should set aside the default judgment under Section 473(d) because the judgment is void. “Under section 473, subdivision (d), the court may set aside a default judgment which is valid on its face, but void, as a matter of law, due to improper service.” (*Ellard v. Conway* (2001) 94 Cal.App.4th 540, 544.) Defendant contends service was improper because it was directed to a private mailbox rather than Plaintiff’s dwelling house, usual abode, or usual place of business.

While service on a private/commercial mailbox may be appropriate in some circumstances (see *Hearn v. Howard* (2009) 177 Cal.App.4th 1193, 1201-1203), where the mailbox is the only address reasonably known for the person to be served, the party serving the documents must comply with Code of Civil Procedure Section 415.20(c) and Business and Professions Code Section 17538.5. (See *Kremerman v. White* (2021) 71 Cal.App.5th 358, 373-374; see also

Liberty v. Sutton, Case No. 22-cv-03990-SK, 2022 WL 22855057, *2 (N.D. Cal. Oct. 4, 2022) [“A party relying on substitute service under section 17538.5 must demonstrate complete compliance with service under this section”]; *Jennings v. United West Recovery*, Case No. 2:20-cv-03556-MCS-MRW, 2020 WL 9422403, *2 (C.D. Cal. Oct. 14, 2020) [plaintiff failed to establish valid service under Section 17538.5 where he did not submit certificate of mailing by the mailbox operator].) Section 17538.5 requires a commercial mail receiving agency to place copies of the documents in the mailbox within 48 hours of receipt and to send all documents to the customer’s last known address within 5 days of receipt. Plaintiff fails to provide a certificate of mailing or other evidence from the mailbox facility that the facility complied with these statutory requirements.¹ Accordingly, Defendant is entitled to relief under Section 473(d).

Defendant has also shown inadvertence and/or excusable neglect sufficient for relief under Section 473(b). Defendant attempted to challenge service by means of a motion to quash within a few months of the Summons and Complaint being left at his mailbox. His motion was rejected the same day the Court entered default judgment (and three days after entry of default) for failure to pay the required filing fee. The fact that Defendant did not include his proposed answer with his motion does not require the Court to deny relief as this requirement is not jurisdictional and substantial compliance may suffice. (Edmond & Karnow, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2025) ¶5:305.10; *Dollase v. Wanu Water, Inc.* (2023) 93 Cal.App.5th 1315, 1326.) A party may substantially comply with this requirement by making his or her proposed answer available at the hearing. (See *Carmel, Ltd. v. Tavoussi* (2009) 175 Cal.App.4th 393, 403.) Defendant’s motion is therefore granted on this additional basis conditional on Defendant presenting his proposed responsive pleading at the hearing.

All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.

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¹ While Defendant states on page 3 of his memorandum that Plaintiff failed to show compliance with Business & Professions Code Section 17538.5, Plaintiff fails to address this section or its applicability in its opposition.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 11/21/25 TIME: 1:30 P.M. DEPT: E CASE NO: CV0006324

PRESIDING: HON. ANDREW E. SWEET

REPORTER:

CLERK: G. STRATFORD

PLAINTIFF: EMILY FRANKS, ET AL

vs.

DEFENDANT: FILIBERTO HERNANDEZ,
ET AL

NATURE OF PROCEEDINGS: MOTION – RELIEVE COUNSEL

RULING

Appearances required by:

- David Champman
- Filberto Hernandez

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 11/21/25 TIME: 1:30 P.M. DEPT: E CASE NO: CV0006401

PRESIDING: HON. ANDREW E. SWEET

REPORTER:

CLERK: G. STRATFORD

PLAINTIFF: KATHERINE BOURCY

vs.

DEFENDANT: JULIE YOUNG

NATURE OF PROCEEDINGS: MOTION – RELIEVE COUNSEL

RULING

Appearances required by:

- Benjamin Graves
- Julie Young

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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 11/21/25 TIME: 1:30 P.M. DEPT: E CASE NO: PRO2200974

PRESIDING: HQN. ANDREW E. SWEET

REPORTER:

CLERK: G. STRATFORD

IN RE TRUST OF:

KIISK 1996 REVOCABLE TRUST
DATED MAY 10, 1996

NATURE OF PROCEEDINGS: MOTION – OTHER: GOOD FAITH SETTLEMENT

RULING

Appearances required.

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