

PLACER COUNTY SUPERIOR COURT
THURSDAY, CIVIL LAW AND MOTION
DEPARTMENT 3
THE HONORABLE MICHAEL W. JONES
TENTATIVE RULINGS FOR OCTOBER 15, 2026, AT 8:30 A.M.

These are the tentative rulings for the **THURSDAY, OCTOBER 15, 2026, at 8:30 A.M.**, civil law and motion calendar. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by **4:00 p.m., WEDNESDAY, OCTOBER 14, 2026**. Notice of request for argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date and approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

NOTE: REMOTE APPEARANCES ARE STRONGLY ENCOURAGED FOR CIVIL LAW AND MOTION MATTERS. (PLACER COURT LOCAL RULE 10.24.) More information is available at the court's website: www.placer.courts.ca.gov.

Except as otherwise noted, these tentative rulings are issued by **THE HONORABLE MICHAEL W. JONES**. If oral argument is requested, it shall be heard at **8:30 a.m.** in **DEPARTMENT 3** located at the Historic Auburn Courthouse, 101 Maple Street, Auburn, California.

1. M-CV-0085411 RIEDEL, BRUCE v. COURTESY TOWING

This tentative ruling is issued by the **Honorable Albert A. Erkel**. If oral argument is requested, it shall be heard on November 4, 2026, at 8:30 a.m. in Department 4.

Defendant New Alpha Three, Inc. dba D&M Courtesy Towing's Motion to Enforce May 1, 2026, Order and Request for Additional Monetary Sanctions

Defendant moves for the court to enforce its May 1, 2026, order and compel plaintiff Bruce Riedel to pay the court ordered sanction in the amount of \$920. However, there is insufficient evidence that plaintiff Bruce Riedel did not pay the court ordered sanction. Accordingly, defendant's motion is denied without prejudice.

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2. M-CV-0095330 MARINER FINANCE v. LOPEZ, CHRISTOPHER

If oral argument is requested, it shall be heard on **October 29, 2026, at 8:30 a.m. in Department 3.**

Plaintiff's Motion to Deem Requests for Admissions Admitted and of Nonappearance

Plaintiff moves to have its first set of requests for admissions deemed admitted. However, the time to have discovery motions heard concluded on August 10, 2026, as trial was originally set for August 25, 2026. (Code Civ. Proc., § 2024.020, subd. (a).) The trial continuances do not reopen discovery proceedings. (*Id.* at subd. (b).) Nor has plaintiff moved to reopen the discovery proceedings.

Accordingly, plaintiff's motion is denied.

3. S-CV-0053531 AYALA, CARLOS v. SELECT PORTFOLIO SERVICING

If oral argument is requested, it shall be heard on **October 29, 2026, at 8:30 a.m. in Department 3.**

Defendants' Motion for Summary Judgment or, in the Alternative, Summary Adjudication

Preliminary Matters

Defendants' requests for judicial notice are granted.

Ruling on Motion

Defendants move for summary judgment or, in the alternative, summary adjudication as to plaintiff's second amended complaint. A motion for summary judgment may be granted if "all the papers submitted show that there is no triable issue as to any material fact and the moving party is entitled to a judgment as a matter of law." (Code Civ. Proc. § 437c, subd. (c).) This is compared to summary adjudication that requires a showing that there is no merit to one or more of the causes of action. (*Id.* at § 437c, subd. (f)(1).) A motion for summary adjudication proceeds "in all procedural respects as a motion for summary judgment." (*Id.* at § 437c, subd. (f)(2).) In reviewing either motion, the trial court must view the supporting evidence, and inferences reasonably drawn from such evidence, in the light most favorable to the

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opposing party. (*Aguilar v. Atlantic Richfield Company* (2001) 25 Cal.4th 826, 843.) Defendant, as the moving party, bears the initial burden of establishing that “one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the cause of action.” (Code Civ. Proc. § 473c, subd. (p)(2).) Once that burden is met, the burden shifts to the “plaintiff to show that a triable issue of one or more material facts exists as to the cause of action or a defense.” (*Ibid.*) Pursuant to the “golden rule” of summary judgments, “if it is not set forth in the separate statement, it does not exist.” (*California-American Water Co. v. Marina Coast Water Dist.* (2022) 86 Cal.App.5th 1272, 1296.)

First Cause of Action—Violation of Civ. Code, § 2923.6(e)

Plaintiff contends defendants violated Civil Code section 2923.6, subdivision (e) because defendants allegedly improperly recorded a notice of default, notice of sale, and conducted a trustee’s sale.

Code of Civil Procedure section 2923.6, subdivision (c) states provides

If a borrower submits a complete application for a first lien loan modification offered by, or through, the borrower's mortgage servicer at least five business days before a scheduled foreclosure sale, a mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent shall not record a notice of default or notice of sale, or conduct a trustee's sale, while the complete first lien loan modification application is pending. A mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent shall not record a notice of default or notice of sale or conduct a trustee's sale until any of the following occurs:

...

(3) The borrower accepts a written first lien loan modification, but defaults on, or otherwise breaches the borrower's obligations under, the first lien loan modification. . . .

(Civ. Code, § 2923.6, subd. (c)(3).)

A “first lien” “means the most senior mortgage or deed of trust on the property that is the subject of the notice of default or notice of sale.” (Civ. Code, § 2920.5, subd. (d).)

Here, defendants meet their burden to establish plaintiff accepted a first lien loan modification and thereafter defaulted on the first lien such that their subsequent recording of a notice of default, notice of sale, and conducting a trustee’s sale did not

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violate Code of Civil Procedure section 2923.6. (UMF Nos. 5–6.) Accordingly, the burden shifts to plaintiff to raise a triable issue of material fact.

Plaintiff does not thereafter meet his burden to establish a triable issue of material fact because he did not submit evidence, including any declarations, to support his opposition and separate statement.

Second Cause of Action—Violation of Civ. Code, § 2923.7

Plaintiff contends defendants violated Civil Code section 2923.7 because defendants allegedly failed to assign a single point of contact.

Civil Code section 2923.7 requires “the mortgage servicer [to] promptly establish a single point of contact and provide to the borrower one or more direct means of communication with the single point of contact.” (Civ. Code, § 2923.7, subd. (a).)

Here, defendants meet their burden to establish the promptly established a single point of contact and provided to plaintiff one or more direct means of communication with the single point of contact. (UMF No. 61.) Accordingly, the burden shifts to plaintiff to raise a triable issue of material fact.

Plaintiff does not thereafter meet his burden to establish a triable issue of material fact because he did not submit evidence, including any declarations, to support his opposition and separate statement.

Third Cause of Action—Violation of Civ. Code, § 2924.9

Plaintiff contends defendants violated Civil Code section 2924.9 because defendants failed to provide plaintiff with foreclosure alternatives.

Civil Code section 2924.9 provides “Unless a borrower has previously exhausted the first lien loan modification process offered by, or through, his or her mortgage servicer described in Section 2923.6, within five business days after recording a notice of default pursuant to Section 2924, a mortgage servicer that offers one or more foreclosure prevention alternatives shall send a written communication to the borrower that includes all of the following information” (Civ. Code, § 2924.9, subd. (a).)

Here, defendants meet their burden to establish plaintiff previously exhausted his first lien loan modification process offered by his mortgage servicer when he

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received a first lien loan modification and thereafter defaulted on the first lien such that defendants were not required to offer foreclosure prevention alternatives. (UMF Nos. 67–68.) Accordingly, the burden shifts to plaintiff to raise a triable issue of material fact.

Plaintiff does not thereafter meet his burden to establish a triable issue of material fact because he did not submit evidence, including any declarations, to support his opposition and separate statement.

Fifth Cause of Action—Unfair Business Practices, Violation of Bus.
& Prof. Code, § 17200, et seq.

Plaintiffs finally contend defendants violated Business and Professions Code section 17200, et seq. through their violations of Civil Code sections 2923.6, 2923.7, 2924.9, and 2923.55.

As analyzed above, defendants met their burden that they did not violate Civil Code sections 2923.6, 2923.7, and 2924.9. (UMF Nos. 5–6, 61, 67–68.) Plaintiff did not thereafter meet his burden to raise triable issues of material facts as to these alleged violations.

Civil Code section 2923.55 requires the mortgage servicer, mortgagee, trustee, beneficiary, or authorized agent to satisfy various requirements before recording a notice of default. (*See generally* Civ. Code, § 2923.55.) However, the statute “does not provide for damages, or for setting aside a foreclosure sale As a result, the sole available remedy is more time before a foreclosure sale occurs. [Citation.] After the sale, the statute provides no relief.” (*Stebley v. Litton Loan Servicing, LLP* (2011) 202 Cal.App.4th 522, 526.)

Here, defendants meet their burden to establish the sale of the property at issue already occurred and thus the statute cannot provide relief to plaintiff. (UMF Nos. 121.) Accordingly, the burden shifts to plaintiff to raise a triable issue of material fact.

Plaintiff does not thereafter meet his burden to establish a triable issue of material fact because he did not submit evidence, including any declarations, to support his opposition and separate statement.

In sum, defendants’ motion for summary adjudication is granted as to the first, second, third, and fifth causes of action. Moreover, the court previously sustained defendants’

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demurrer to the fourth cause of action in plaintiff's operative second amended without leave to amend. Therefore, defendants' motion for summary judgment is granted.

4. S-CV-0053861 MELTZER, BONNIE v. ROSEVILLE THEATRE ARTS

The motion for protective order is continued to **December 17, 2026, at 8:30 a.m. in Department 3.**

5. S-CV-0054301 LUZZI, JOHN v. LANE, KIMBERLY

If oral argument is requested, it shall be heard on **October 29, 2026, at 8:30 a.m. in Department 3.**

Defendant Kimberly Ann Lane's Petition for Instructions to Referee to Authorize Credit Bid

On May 22, 2026, the court entered an Order Issuing Instructions to Partition Referee Pursuant to C.C.P. § 873.070. The order provided the procedure for the referee to market, sell, and account for the subject property.

Notably, the order provided "Upon receipt of an offer the Referee intends to present for Court approval, the Referee shall provide the Defendant with notice thereof, and an opportunity to petition the Court for instructions to allow a credit bid pursuant to Code Civ. Proc. § 873.630. The Referee shall provide Defendant with reasonable opportunity to purchase the Subject Property via a credit bid."

The referee provided the parties his report and recommendation for a credit bid buyout accounting for a credit bid in the amount of \$185,452.48.

Defendant now petitions the court to authorize the credit bid in the amount of \$185,452.48. The court grants defendant's petition.

The court authorizes a credit bid by defendant in the sum of \$185,452.48. Defendant shall deposit the funds with the court on or before **November 13, 2026**. Defendant shall inform plaintiff when she deposits the funds with the court.

Within 15 days after defendant informs plaintiff that she deposited the funds with the court, plaintiff shall execute a quitclaim deed transferring all of his rights, title, and interest in the subject property to defendant. If plaintiff does not timely execute the quitclaim deed transferring his interest, the referee shall execute the transfer.

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The referee shall generate a final accounting of expenses incurred in the sale and submit a report simultaneously with a petition to be discharged as Referee with a recommended distribution for Court approval.

The parties may file a noticed motion objecting to the referee's final accounting of expenses and request an evidentiary hearing for the court to make findings of fact and conclusions of law as to applicable credits and offsets due and owing by any party hereto pursuant to Code Civ. Proc. § 874.010, et seq., including due to improvements made to the subject property, disproportionate payments for mortgages, taxes, maintenance, interests, and other incidents of ownership.

Plaintiff's request for defendant to deposit additional funds is denied.

Plaintiff's Motion to Issue Instructions to Referee

Plaintiff's motion is denied in light of the court's above ruling.

6. S-CV-0056750 JOHNSTONE, TAMALIE v. COSTCO WHOLESALE

If oral argument is requested, it shall be heard on **October 29, 2026, at 8:30 a.m. in Department 3.**

Defendant's Motion to Compel Plaintiff's Responses to Form Interrogatories, Set One; Special Interrogatories, and Request for Monetary Sanctions in the Amount of \$1,160

All moving papers must be served at least 16 court days before the hearing. (Code Civ. Proc., § 1005, subd. (b).) This timeline is extended depending upon the method of service. (*See generally id.*) Here, defendant filed and served its motion on September 29, 2026, which is untimely regardless of the service method used. Additionally, the motion is not accompanied by any points and authorities. Accordingly, defendant's motion is denied.

Notwithstanding the above, the court admonishes plaintiff and their counsel of record for their noncompliance with their discovery obligations and especially with their deficient meet and confer efforts. The court notes that any future noncompliance by plaintiff and their counsel of record with their discovery obligations and meet and confer requirements may result in sanctions.

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7. S-CV-0056851 KEVIE, RICHARD v. TIERNAN, WILLIAM

The demurrer and motion to strike are dropped from calendar as moot in light of plaintiff filing a first amended complaint with the court on October 2, 2026.

8. S-CV-0056891 EKIMOV, EVGENY v. WALMART

If oral argument is requested, it shall be heard on **October 29, 2026, at 8:30 a.m. in Department 3.**

Defendant Walmart, Inc.'s Demurrer to Plaintiff's Complaint

Defendant demurs to the second and fourth causes of action in plaintiff's complaint on the grounds the complaint does not allege facts sufficient to state the second cause of action for FEHA retaliation and fourth cause of action for failure to pay wages upon discharge and/or layoff and/or resignation. A demurrer tests the legal sufficiency of the pleading, not the truth of the plaintiff's allegations or accuracy of the described conduct. (*Bader v. Anderson* (2009) 179 Cal.App.4th 775, 787.) The allegations in the pleading are deemed to be true no matter how improbable the allegations may seem. (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) However, "[i]f the allegations in the complaint conflict with the exhibits, we rely on and accept as true the contents of the exhibits." (*SC Manufactured Homes, Inc. v. Liebert* (2008) 162 Cal.App.4th 68, 83.) The court, however, does not accept the truth of contentions, deductions, or conclusions of law. (*Genesis Environment Services v. San Joaquin Valley Unified Air Pollution Control District* (2003) 113 Cal.App.4th 597, 603.)

Second Cause of Action—FEHA Retaliation

To state a cause of action for "(1) he or she engaged in a "protected activity," (2) the employer subjected the employee to an adverse employment action, and (3) a causal link existed between the protected activity and the employer's action." (*Yanowitz v. L'Oreal USA, Inc.* (2005) 36 Cal.4th 1028, 1042.) Notably, an adverse action is one that "materially affect[s] the terms and conditions of employment." (*Id.* at 1052.) An employer's inaction does not constitute an adverse action. (*Bailey v. San Francisco Dist. Attorney's Office* (2024) 16 Cal.5th 611, 640.)

Here, when taking the factual allegations in the complaint as true, plaintiff alleges facts sufficient to state the second cause of action for FEHA retaliation. Accordingly, the demurrer is overruled as to the second cause of action.

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Fourth Cause of Action—Failure to Pay Wages Upon Discharge and/or Layoff and/or Resignation

An employee that resigns, or is discharged or laid off by their employer must be paid their wages within 72 hours. (Lab. Code, §§ 201, 202.) Wages “includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation.” (*Id.* at § 200.) This broad definition encompasses bonuses “when an employee satisfies the condition(s) precedent to receiving [the] incentive compensation.” (*Schachter v. Citigroup, Inc.* (2009) 47 Cal.4th 610, 621.)

Here, when taking the factual allegations in the complaint as true, plaintiff alleges facts sufficient to state the fourth cause of action for failure to pay wages upon discharge and/or layoff and/or resignation. Accordingly, the demurrer is overruled as to the fourth cause of action.

In sum, the demurrer is overruled in its entirety. Defendant shall file and serve an answer on or before **October 26, 2026**.

Defendant Walmart, Inc.’s Motion to Strike Plaintiff’s Exhibits 1 Through 5 Containing Improper Photographs

Defendant moves to strike exhibits 1 through 5 attached to plaintiff’s complaint on the grounds the photographs are irrelevant, false, or improper matter inserted in the complaint. (Code Civ. Proc. §§ 435, 436.)

Here, the five photographs attached as exhibits 1 through 5 in plaintiff’s complaint are irrelevant to the claims alleged therein. Accordingly, defendant’s motion is granted without leave to amend.

Defendant Walmart, Inc.’s Motion to Seal Exhibits 1 Through 5 of Plaintiff’s Complaint

Court records are presumed to be open to the public unless confidentiality is required by law. (Cal. Rules of Court, rule 2.550, subd. (c).) This presumption, however, is not absolute. (*See McNair v. National Collegiate Athletic Assn.* (2015) 234 Cal.App.4th 25, 31.) The court may order a record be filed under seal upon express findings of fact that establish: (1) an overriding interest that overcomes the public’s right to access, (2) an overriding interest supporting sealing the record, (3) a substantial probability that the overriding interest will be prejudiced if the record is

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not sealed, (4) the sealing of the record is narrowly tailored, and (5) there are no less restrictive means to achieve the overriding interest. (Cal. Rules of Court, Rule 2.550, subd. (d).) This rule applies to sealed records or records proposed to be sealed by court order. (*Id.* at subd. (a)(1).)

Here, defendant's motion is not accompanied by a declaration that contains facts sufficient to justify the sealing. Accordingly, defendant's motion is denied.

9. S-CV-0057781 WATSON, TRACY v. TROIA, JENNIFER

Petitioner's Petition for Writ of Mandate

Petitioner's petition for writ of mandate is continued to **December 10, 2026, at 8:30 a.m. in Department 3**. Petitioner shall serve the writ on respondents in the same manner as a summons in a civil action and file proof of service on respondent on or before **November 10, 2026**. (Code Civ. Proc., §§ 1088.5, 1094.5, 1096.)

10. S-CV-0057901 BROWN, JAMIE v. KRANTZ, KATHERINE

If oral argument is requested, it shall be heard on **October 29, 2026, at 8:30 a.m. in Department 3**.

Defendant Katherine Krantz's Motion to Set Aside Entry of Default and for Leave to File Demurrer

Defendant Katherine Krantz's motion to set aside entry of default is granted. (Code Civ. Proc., § 473, subd. (b).) The default entered on July 20, 2026, is set aside. Defendant shall file, serve, and reserve a future hearing date for their proposed demurrer on or before **October 26, 2026**.

The court, on its own motion, strikes the default entered against defendant The Imogene Engle Irrevocable Trust on July 20, 2026. (Code Civ. Proc., §§ 435, 436.)

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11. S-CV-0057970 LE, TAI QUY v. LAM, HUY PHONG NGOC

If oral argument is requested, it shall be heard on **October 29, 2026, at 8:30 a.m. in Department 3.**

Defendant's Demurrer to Plaintiff's First Amended Complaint

Defendant demurs to the first and second causes of action in plaintiff's first amended complaint ("FAC") on the grounds the complaint does not allege facts sufficient to state the first cause of action for breach of contract and second cause of action for promissory estoppel. A demurrer tests the legal sufficiency of the pleading, not the truth of the plaintiff's allegations or accuracy of the described conduct. (*Bader v. Anderson* (2009) 179 Cal.App.4th 775, 787.) The allegations in the pleading are deemed to be true no matter how improbable the allegations may seem. (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) However, "[i]f the allegations in the complaint conflict with the exhibits, we rely on and accept as true the contents of the exhibits." (*SC Manufactured Homes, Inc. v. Liebert* (2008) 162 Cal.App.4th 68, 83.) The court, however, does not accept the truth of contentions, deductions, or conclusions of law. (*Genesis Environment Services v. San Joaquin Valley Unified Air Pollution Control District* (2003) 113 Cal.App.4th 597, 603.)

First Cause of Action—Breach of Contract

A breach of contract claim has the following essential elements: (1) contract, (2) plaintiff's performance, (3) defendant's breach, (4) damages. (*San Mateo Union High School Dist. v. County of San Mateo* (2013) 213 Cal.App.4th 418, 439.) Notably, "courts may enforce nonsolicitation covenants barring the seller from soliciting the sold business's employees and customers." (*Strategix, Ltd. v. Infocrossing West, Inc.* (2006) 142 Cal.App.4th 1068, 1073.)

Here, when taking the factual allegations in the FAC as true, plaintiff alleges facts sufficient to state a breach of contract cause of action. Accordingly, the demurrer is overruled as to the first cause of action.

Second Cause of Action—Promissory Estoppel

To support this cause of action, plaintiff must allege (1) a promise clear and unambiguous on its terms; (2) reliance by the party to whom the promise is made; (3) the reliance must be reasonable and foreseeable; and (4) the party asserting estoppel

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must be injured by his or her reliance. (*Laks v. Coast Fed. Sav. & Loan Ass'n* (1976) 60 Cal.App.3d 885, 890.) Importantly “an action for promissory estoppel is a claim in equity that substitutes reliance on a promise for consideration in the usual sense of something bargained for and given in exchange. [Citation.] If actual consideration was given by the promisee, promissory estoppel does not apply.” (*Berlanga v. University of San Francisco* (2024) 100 Cal.App.5th 75, 90.) So, a promissory estoppel claim is mutually exclusive with a breach of contract claim. (*Douglas E. Barnhart, Inc. v. CMC Fabricators, Inc.* (2012) 211 Cal.App.4th 230, 243–44.)

Here, when taking the factual allegations in the FAC as true, plaintiff does not allege facts sufficient to state a promissory estoppel cause of action in the because the FAC alleges the existence of a contract and does not alternatively plead for a promissory estoppel cause of action that no contract exists. Accordingly, the demurrer is sustained with leave to amend as to the second cause of action.

In sum, the demurrer is overruled as to the first cause of action and sustained with leave to amend as to the second cause of action. Plaintiff shall file and serve an amended complaint on or before **October 26, 2026**.

Defendant’s Motion to Strike Plaintiff’s First Amended Complaint

Defendants move to strike the following paragraphs in plaintiff’s first amended complaint (“FAC”) on the grounds the complaint does not allege a basis for such relief. (Code Civ. Proc. §§ 435, 436.)

- FAC page 3, lines 4-7, paragraph 8: the demand for “\$350,000 for all seven employees”
- FAC page 4, lines 8-11, paragraph 16: the allegation that the Agreement provided for “liquidated damages and/or [a] penalty” for violation of the employee provision
- FAC page 4, lines 22-24, paragraph 20: the liquidated-damages and contractual penalty allegation in its entirety
- FAC page 4, lines 27-28, paragraph 21: the words “attorneys' fees”
- FAC page 6, line 22, Prayer item 2: “For liquidated damages and/or contractual penalties as provided in the Agreement.”

Here, when taking the allegations in the FAC as true, plaintiff alleges facts sufficient to allege the above. Accordingly, the motion to strike is denied in its entirety.

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12. S-CV-0058560 BORTEY, KARENE v. THE CBM GROUP

If oral argument is requested, it shall be heard on **October 29, 2026, at 8:30 a.m. in Department 3.**

Order to Show Cause re: TRO/Preliminary Injunction

On August 31, 2026, the court granted plaintiff's ex parte application for a temporary restraining order and set an Order to Show Cause re: TRO/Preliminary Injunction for October 8, 2026. Additionally, the court's order required plaintiff to personally serve, among other documents, the court's order on or before September 10, 2026, and file a proof of service on or before September 15, 2026.

On September 4, 2026, plaintiff filed a proof of service that purports to establish service of the court's Order to Show Cause re: Preliminary Injunction and Temporary Restraining Order. However, the proof of service does not indicate who, what, when, or where the documents were served. As such, there is insufficient evidence plaintiff served defendant with the court's order as required.

Accordingly, plaintiff's request for a preliminary injunction is denied without prejudice.