

**SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**Department 20, Honorable Socrates Peter Manoukian, Presiding**

**Judge Mary E. Arand filling in on 10/21/21**

**Courtroom Clerk: Hienrang Tranthien**

191 North First Street, San Jose, CA 95113

Telephone: 408.882.2320

Department20@scscourt.org

**"The Opposing Counsel on the Second-Biggest Case of Your Life  
Will Be the Trial Judge on the Biggest Case of Your Life." – Common Wisdom.**

**As Shakespeare observed, it is not uncommon for legal adversaries to "strive mightily, but eat and drink as friends." (Shakespeare, The Taming of the Shrew, act I, scene ii.)" (Gregori v. Bank of America (1989) 207 Cal.App.3d 291, 309.)**

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**PLEASE NOTE THAT DEPARTMENT 20 USES A TENTATIVE RULING PROCEDURE AS FOLLOWS:**

Law & Motion matters are heard every Tuesday and Thursday at 9:00 a.m. Tentative rulings will be accessible on after 2:00 p.m. on the court date preceding the scheduled hearing at:

[https://www.scscourt.org/online\\_services/tentatives/tentative\\_rulings\\_Dept20.shtml](https://www.scscourt.org/online_services/tentatives/tentative_rulings_Dept20.shtml)

Tentative rulings will become Orders of the Court unless contested. See California Rules of Court, rules 3.1308(a)(l) and 3.1312.

To arrange an appearance to contest a tentative ruling, notify the Court at Prince 408) 808.6856 before 4:00 PM on the court dates before the hearing. You may make your notification to the Court by leaving a message when prompted to do so at the end of the recorded greeting. When you leave your message, state only the case number, case name, the name of the attorney, telephone number, and a brief statement as to the portion of the tentative ruling to which objection is taken. Messages should be brief and notify the portion of the ruling to which objection is taken. Please try to keep the message under 30 seconds.

You must also notify opposing counsel. You do not need to call or leave a message if you are not contesting the tentative ruling.

**DATE: Thursday, 21 October 2021**

**TIME: 9:00 A.M.**

**This Department prefers that litigants use Zoom for Law and Motion and for Case Management Calendars.  
CourtCall is also acceptable.**

**Join Zoom Meeting**

<https://scu.zoom.us/j/96144427712?pwd=cW1JYmg5dEdsc3NKNFpSjlEam5xUT09>

Meeting ID: 961 4442 7712

Password: 017350

**Join by phone:**

**+1 (669) 900-6833**

Meeting ID: 961 4442 7712

**One tap mobile**

+16699006833,,961 4442 7712#

All Courts of California celebrate the diversity of the attorneys and the litigants who appear in our Courts. Do not hesitate to correct the Court or Court Staff concerning the pronunciation of any name or how anyone prefers to be addressed. As this Court is fond of saying, "with a name like mine, I try to be careful how I pronounce the names of others." If your client is with you, please inform the Court how your client would prefer to be introduced. The Court encourages the use of diacritical marks, multiple surnames and the like for the names of attorneys, litigants and in court papers.

**VIRTUAL ACCESS INTO THE COURTHOUSE WITH THE "ZOOM" VIRTUAL PLATFORM.  
PLEASE READ THIS PAGE IN ITS ENTIRETY AS SOME OF THE PROTOCOLS HAVE CHANGED.**

While the Court will still allow physical appearances, all litigants are encouraged to use the Zoom platform for Law & Motion appearances and Case Management Conferences. Use of other virtual platform devices will make it difficult for all parties fully to participate in the hearings. Please note the requirement of entering a password (highlighted above.)

### **SOCIAL DISTANCING PROTOCOLS**

In light of COVID-19-related health concerns and due to the Order of the Public Health Department, Department 20 has resumed Law & Motion calendars but with safe-distancing protocols. Please check this tentative rulings page before making any appearance. Any uncontested matter or matters to which stipulations have been reached can be processed through the Clerk in the usual manner. Please include a proposed order.

#### **Appearances.**

Please notify this Court immediately if the matter will not be heard on the scheduled date. **California Rules of Court**, rule 3.1304(b). If a party fails to appear at a law and motion hearing without having given notice, this Court may take the matter off calendar, to be reset only upon motion, or may rule on the matter. **California Rules of Court**, rule 3.1304(d).

This Court expects all counsel and litigants to comply with the Tentative Rulings Procedures that are outlined in Local Civil Rule 7(E) and **California Rules of Court**, rule 3.1308. If the Court has not directed argument, oral argument must be permitted only if a party notifies all other parties and the court by 4:00 p.m. on the court day before the hearing of the party's intention to appear. A party must notify all other parties by telephone or in person. A failure to timely notify this Court and/or the opposing parties may result in the tentative ruling being the final order in the matter.

#### **Entry into the Courthouse.**

As for matters which require personal appearances, protocols concerning social distancing and facial coverings in compliance with the directives of the Public Health Officer will be enforced.

Individuals who wish to access the Courthouse are advised to bring a plastic bag within which to place any personal items that are to go through the metal detector located at the doorway to the courthouse.

Sign-ins will begin at about 8:30 AM. Court staff will assist you when you sign in. It will help if you "rename" yourself as follows: in the upper right corner of the screen with your name you will see a blue box with three horizontal dots. Click on that and then click on the "rename" feature. You may type your name as: **Line #/name/party**

If you are a member of the public who wishes to view the Zoom session and remain anonymous, you may simply sign in as "Public."

The Santa Clara County Superior Court has established listen-only telephone Lines to allow remote access to public court proceedings. To listen to a public court proceeding in Department 20, you may dial 888-251-2909. When prompted, enter the access code number 4362730 when prompted, followed by the pound or hashtag (#) sign.

#### **Court Reporters.**

This session will not be recorded. No electronic recordings, video, still photography or audio capture of this live stream is allowed without the expressed, written permission of the Superior Court of California, County of Santa Clara. State and Local Court rules prohibit photographing or recording of court proceedings whether in the courtroom or while listening on the Public Access Line or other virtual platform, without a Court Order. See Local General Rule 2(A) and 2(B); **California Rules of Court**, rule 1.150.

This Court no longer provides for Court Reporters in civil actions except in limited circumstances. If you wish to arrange for a court reporter, please use Local Form #CV-5100. All reporters are encouraged to work from a remote location. Please inform this Court if any reporter wishes to work in the courtroom.

Counsel should meet and confer on the use of a court reporter. Occasionally each side will retain a court reporter which leaves this Court in a conundrum as to which reporter will be the official reporter for the purposes of the hearing.

#### **Protocols during the Hearings.**

During the calling of any hearing, this Court has found that the Zoom video platform works very well. But whether using Zoom or any telephone, it is preferable to use a landline if possible. IT IS ABSOLUTELY NECESSARY FOR ALL INDIVIDUALS TO SPEAK SLOWLY. Plaintiff should speak first, followed by any other person. All persons should spell their names for the benefit of Court Staff. Please do not use any hands-free mode if at all possible. Headsets or earbuds will be of great assistance to minimize feedback.

If you appear in person, it will be helpful if you wear a disposable paper mask while using the courtroom microphones so that your voice will not be muffled.

A party may give notice that he or she will not appear at a law and motion hearing and submit the matter without an appearance unless this Court orders otherwise. This Court will rule on the motion as if the party had appeared. **California Rules of Court**, rule 3.1304(c).

The Court will prepare the Final Order unless stated otherwise below or at the hearing. Counsel are to comply with **California Rules of Court**, rule 3.1312.

#### **Troubleshooting Tentative Rulings.**

If you see last week's tentative rulings, you have checked prior to the posting of the current week's tentative rulings. You will need to either "REFRESH" or "QUIT" your browser and reopen it. Another suggestion is to "clean the cache" of your browser. If you fail to do any of these, your browser may pull up old information from old cookies even after the tentative rulings have been posted.

**Tentative Rulings Are Continued Below. Full Orders Are On The Following Pages.**

LINE #	CASE #	CASE TITLE	RULING
LINE 1	20CV373485	Hunter Bouchard vs Doe Defendants 1-10	Counsel to appear. The pending motion to compel does not appear to have been served on the non-party in question. A written notice and all moving papers supporting a motion to compel... production of a document or tangible thing from a nonparty deponent must be personally served on the nonparty deponent..." (Cal. Rules of Court, Rule 3.1346.) The proof of service related to the motion only lists service on the consumer, not the witness. If the moving party has an appropriate proof of service, it must be brought to the hearing.
LINE 2	20CV373547	Scott Goodsell vs DealerCMO	Counsel to appear.
LINE 3	20CV372716	PNC EQUIPMENT FINANCE, LLC vs CONVRGD DATA TECH, INC.	The Court finding good cause and sufficient excusable neglect and also that the dismissal was improvidently issued, GRANTS the motion of Plaintiff to set aside the dismissal issued by the Court for failure to serve, when it appears at the time that the Complaint had in fact been served. The Court sets this matter on the case status review hearing calendar on May 19, 2022 at 10:00 a.m. regarding status of entry of default and default judgment. Moving party shall prepare the order.
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LINE 5			
LINE 6			
LINE 7			
LINE 8			
LINE 9			
LINE 10			
LINE 11			
LINE 12			

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**Calendar Line 1**

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