FILED
Superior Court of California
County of Los Angeles
AUG 21 2026
David W. Slayton, Executive Officer/Clerk of Court
By: R. Karapetyan, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES - NORTHWEST DISTRICT

RODNEY THOMAS GOULD and IDAN GOULD,

Plaintiff,

vs.

LOS ANGELES-M, INC.; MERCEDES-BENZ U.S.A., LLC; DOES 1 through 100, Inclusive,

Defendants.

CASE NO.: 25VECV02525

ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

I. BACKGROUND

Plaintiffs Rodney Thomas Gould and Idan Gould (jointly "Plaintiffs") filed this Song-Beverly action against Defendants Los Angeles-M, Inc. ("Keyes European") and Mercedes-Benz U.S.A., Inc. ("MBUSA") (jointly, "Defendants"). Plaintiffs allege the 2023 Mercedes-Benz G550W4 ("Vehicle") they purchased from Dealer was sold with the manufacturer's new-vehicle express warranty. (*See* Compl., ¶¶ 6-7.) Plaintiffs allege the Subject Vehicle has a defect or malfunction which has caused the engine to consume excessive amounts of oil. (*See id.*, ¶ 10.) Defendants move for summary judgment, or alternatively summary adjudication.

II. PROCEDURAL HISTORY

On May 6, 2025, Plaintiffs filed a Complaint alleging Violation of Song-Beverly Consumer Warranty Act.

On July 7, 2025, MBUSA filed an Answer.

On July 8, 2025, Keyes European filed an Answer.

On September 23, 2025, the Court denied Keyes European's Motion to Compel Arbitration.

On March 30, 2026, Defendants filed the instant Motion.

On June 5, 2026, Plaintiffs filed an Opposition.

On June 18, 2026, Defendants filed a Reply.

III. LEGAL STANDARD

The function of a motion for summary judgment or summary adjudication is to allow a determination as to whether an opposing party cannot show evidentiary support for a pleading or claim and to enable an order of summary dismissal without the need for trial. (*See Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843.) In analyzing such motions, courts must apply a three-step analysis: "(1) identify the issues framed by the pleadings; (2) determine whether the moving party has negated the opponent's claims; and (3) determine whether the opposition has demonstrated the existence of a triable, material factual issue." (*Hinesley v. Oakshade Town Center* (2005) 135 Cal.App.4th 289, 294.) Thus, summary judgment is granted when, after the Court's consideration of the evidence set forth in the papers and all reasonable inferences accordingly, no triable issues of fact exist, and the moving party is entitled to judgment as a matter of law. (*See* Code Civ. Proc. § 437c(c);[1] *Villa v. McFarren* (1995) 35 Cal.App.4th 733, 741.)

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[1] All statutory references are to California codes unless stated otherwise.

"On a motion for summary judgment, the initial burden is always on the moving party to make a prima facie showing that there are no triable issues of material fact." (*Scalf v. D.B. Log Homes, Inc.* (2005) 128 Cal.App.4th 1510, 1519.) As to each claim as framed by the complaint, a defendant moving for summary judgment must satisfy the initial burden of proof by presenting facts to negate or establish an essential element. (*See Scalf v. D.B. Log Homes, Inc.* (2005) 128 Cal.App.4th 1510, 1520.) Courts "liberally construe the evidence in support of the party opposing summary judgment and resolve doubts concerning the evidence in favor of that party." (*Dore v. Arnold Worldwide, Inc.* (2006) 39 Cal.4th 384, 389.) A motion for summary judgment must be denied where the moving party's evidence does not prove all material facts, even in the absence of any opposition. (*See Leyva v. Superior Court* (1985) 164 Cal.App.3d 462, 475; *Salesguevara v. Wyeth Labs., Inc.* (1990) 222 Cal.App.3d 379, 384.)

Once the moving party has met its burden, the burden shifts to the opposing party to show via specific facts that a triable issue of material fact exists to a cause of action or a defense thereto. (*See* Code Civ. Proc. § 437c(o)(2).)

IV. ANALYSIS

A. Evidentiary Objections

The Court sustains Defendants' objections to Plaintiffs' Exhibits 2-3.

The Court overrules Defendants' objections to Plaintiffs' Exhibits 4-5 and 8 and to the Declaration of Steve Miller.

The Court sustains Plaintiffs' objections Nos. 2, 4, and 6 (as to Exhibits B (Repair Order 151775) and I (Repair Order 1214824).)

The Court overrules Plaintiffs' evidentiary objections Nos. 1, 3, 5, 6 (as to Exhibits D (Repair Order 1175307), E (Repair Order 1197069), G (Repair Order 1201873), H (Repair Order 1208399)), and 7-8.

B. Moving Defendants' Undisputed Material Facts

On or about May 17, 2023, Plaintiffs purchased the Subject Vehicle bearing vehicle identification number W1NYC6BJ4PX474045 from Keyes European. The

Contract contains no warranties and explicitly disclaims them on page 4: "[T]he Seller makes no warranties, express or implied…" (Def.'s Sep. Stmt. Undisputed Material Facts ("UMF"), No. 1.)

On or about August 18, 2023, Plaintiffs complained of an issue with a cosmetic trim piece. This issue was resolved on the first repair attempt. (*See* UMF No. 2.) On or about May 7, 2024, Plaintiffs brought the Vehicle in for standard maintenance, and no warrantable repair was reported or performed. (*See id.*, No. 3.) On or about January 28, 2025, Plaintiffs complained the driver's side mirror was misaligned. This issue was resolved. (*See id.*, No. 4.) On or about January 28, 2025, Plaintiffs also complained the engine oil kept getting low despite their having refilled it twice. MBUSA's authorized repair facility confirmed the oil level was low, but was unable to verify Plaintiffs' concern, and no issue was detected after inspection and no warrantable repair was performed. (*See id.*, No. 5.)

On or about January 23, 2025, Plaintiffs demanded MBUSA repurchase the Vehicle. On or about March 6, 2025, MBUSA declined to do so as the vehicle had been down for only 11 days, both the trim issue and the mirror issue were repaired the first time they were presented. (*See id.*, No. 6.) On or about March 24, 2025, Plaintiffs complained the "low oil" light was on. MBUSA's authorized repair facility performed the second step of the oil consumption test. The repair facility found 0.75 liters of oil were consumed over the 841 miles driven since the prior presentation, which was within the allowable amount—per the manufacturer's specification—of 0.80 liters over 621 miles. No warrantable repair was performed. (*See id.*, No. 7.) On or about June 10, 2025, Plaintiffs complained the Vehicle was burning oil. MBUSA's authorized repair facility was unable to verify Plaintiffs' concern, and no issue was detected after inspection and no warrantable repair was performed. (*See id.*, No. 8.)

On or about June 10, 2025, Plaintiffs complained the key fob would not lock the Vehicle. No verifiable issue was found, and no warrantable repair was performed. Plaintiffs never presented the Vehicle with this concern again. (*See id.*, No. 9.) On or

about June 10, 2025, Plaintiffs complained "once in a while" Apple Carplay would not open. No verifiable issue was found, and no warrantable repair was performed. Plaintiffs never presented the Vehicle with this concern again. (*See id.*, No. 10.) On or about August 27, 2025, Plaintiffs brought the Vehicle in for the spare wheel and cover to be painted and replaced. This was not a warrantable repair. (*See id.*, No. 11.) The presumptive period for purposes of implied warranty of merchantability expired 18 months after date of sale—on or about November 17, 2024. (*See id.*, No. 12.) Plaintiffs' Vehicle was out of service for only 1 day during the first 18 months. (*See id.*, No. 13.)

C. Plaintiff's Additional Material Facts

The Vehicle was sold new with the manufacturer's new-vehicle express warranty. (*See* Plfs.' Additional Undisputed Material Facts ("AMF"), No. 14.) Beginning in the fall of 2023 —within months of purchase — the Vehicle displayed a "Check Engine Oil Level (Add 1 quart)" warning. Plaintiff Idan reported the warning by text message to Allen Sarkissian, a service advisor at the selling dealer, Keyes European in Van Nuys, on October 28, 2023 and again on April 16, 2024; on each occasion Mr. Sarkissian advised adding a quart of oil (which he offered to supply at no charge) and described the condition as "not critical." Both warnings occurred within the first year after purchase, and the low-oil warnings continued to recur thereafter. (*See* AMF No. 15.)

On January 28, 2025 (RO 1197069), the dealer confirmed the oil level was low, drained and weighed the oil, and began a manufacturer oil-consumption test. (*See id.*, No. 16.) On March 24, 2025 (RO 1201873), with the low-oil light on, the dealer performed the second step of the oil-consumption test and recorded measured oil loss over the miles driven since the prior visit. (*See id.*, No. 17.) On June 10, 2025 (RO 1208399), Plaintiffs presented the Vehicle a third time for oil-related concerns, reporting that the Vehicle was burning oil. (*See id.*, No. 17.) On June 10, 2025 (RO

1208399), Plaintiffs presented the Vehicle a third time for oil-related concerns, reporting that the Vehicle was burning oil. (*See id.*, No. 18.)

In the opinion of Plaintiffs' expert, a premium, low-mileage engine that repeatedly loses oil and repeatedly triggers a low-oil warning exhibits an abnormal condition inconsistent with an engine fit for its ordinary use. (*See id.*, No. 19.) In the opinion of Plaintiffs' expert, the recurring oil-consumption condition and repeated low-oil warnings substantially impair the use, value, and safety of the Vehicle. (*See id.*, No. 20.) Whether the Vehicle's measured oil consumption falls within an applicable manufacturer specification, and whether the asserted specification applies to this engine and test, are disputed. (*See id.*, No. 22.) On January 23, 2025, Plaintiffs demanded MBUSA repurchase the Vehicle, and on March 6, 2025, MBUSA declined; MBUSA has not repurchased, replaced, or reimbursed Plaintiffs for the Vehicle. (*See id.*, No. 22.)

Plaintiffs did not substantially modify the Vehicle in any manner that caused or contributed to the engine oil-consumption condition; the condition appeared during normal use. (*See id.*, No. 23.) Plaintiff Idan photographed the Vehicle's odometer and instrument cluster on March 24, 2026 (showing 18,396 miles and the message "Engine Oil Level — Add 1.0 qts."), documenting the recurring low-oil condition. (*See id.*, No. 24.) On April 10, 2026 (RO 1649), Plaintiffs presented the Vehicle a fourth time for a low engine-oil malfunction. The service advisor verified the low-oil malfunction in the service drive; the dealer added approximately 0.8 quart of engine oil so Plaintiffs could continue using the Vehicle; and the dealer recorded oil consumption of as much as 0.8 liter per 1,000 kilometers, which it again characterized as "normal." (*See id.*, No. 25.) At the parties' joint inspection of the Vehicle in May 2026, spark plug No. 5 exhibited excessive carbon buildup, which in the opinion of Plaintiffs' expert is consistent with and indicative of engine oil entering and being burned in that cylinder. (*See id.*, No. 26.)

In the opinion of Plaintiffs' expert, the Vehicle is consuming an abnormal and unusually high amount of engine oil at extremely low mileage and the oil consumption will increase as the engine ages. (*See id.*, No. 27.) In the opinion of Plaintiffs' expert, the Vehicle is not fit for the ordinary purposes for which such a vehicle is used and does not meet the minimum level of quality a reasonable buyer would expect of a new luxury vehicle of this kind. (*See id.*, No. 28.)

The recurring low-oil condition was reported to and known by Keyes European within the first year after the sale, yet the selling dealer neither diagnosed nor repaired the condition and instead treated it as routine by adding oil. (*See id.*, No. 29.) In the opinion of Plaintiffs' expert, operating an engine that is internally consuming and burning excessive engine oil creates a significant risk of contaminating sensitive and expensive-to repair components downstream of the oil burning, such as the oxygen sensors and catalytic converters. (*See id.*, No. 30.) In the opinion of Plaintiffs' expert, the oil consumption condition requires the owner to monitor and repeatedly add engine oil between service intervals — contrary to most customers' expectations for a new luxury vehicle — and to return the Vehicle to the dealership repeatedly for the same problem between service intervals. (*See id.*, No. 31.)

D. Defendants' Motion for Summary Judgment is Granted.

The Complaint's single cause of action for Violation of Song-Beverly Consumer Warranty Act alleges the "Vehicle suffered from significant defects and non-conformities which were not repaired under warranty despite repeated presentations or a refusal to repair, and further which rendered the Vehicle unmerchantable." (Compl., ¶ 13.) Plaintiff seeks "civil penalties, attorney's fees and other litigation costs, pursuant to Civil Code Sections 1793.2(d) and Section 1794 for express-warranty violations." (*Id.*, ¶ 15.)

1. Violation of Song-Beverly Act – Express Warranty theory

The elements for a breach of express warranty claim are: (1) plaintiff bought or leased a new motor vehicle from defendant; (2) defendant gave plaintiff a written

warranty; (3) the vehicle had a nonconformity that was covered by the warranty that substantially impaired its use, value, or safety; (4) the vehicle was presented to an authorized representative of the manufacturer of the vehicle for repair; (5) the manufacturer or his representative did not repair the nonconformity after a reasonable number of repair attempts; and (6) defendant did not replace or buy back the vehicle. (*See* Civ. Code § 1790 *et seq.*; *see also Oregel v. American Isuzu Motors, Inc.* (2001) 90 Cal.App.4th 1094, 1101; *Donlen v. Ford Motor Co.* (2013) 217 Cal.App.4th 138, 152; *Rodriguez v. FCA US LLC* (2024) 17 Cal.5th 189, 206.)

"The statute requires the manufacturer to afford the specified remedies of restitution or replacement if that manufacturer is unable to repair the vehicle 'after a reasonable number of *attempts*.' 'Attempts' is plural. The statute does not require the manufacturer to make restitution or replace a vehicle if it has had only one opportunity to repair that vehicle." (*Silvio v. Ford Motor Co.* (2003) 109 Cal.App.4th 1205, 1208.)

Defendants argue Plaintiffs' first cause of action for breach of express warranty fails because all of Plaintiffs' concerns were repaired the first time they were verified and Plaintiffs' complaint about the oil could not be verified after inspecting for oil leaks and performing an oil consumption test. (*See* Mot. at 8:3-7.) Defendants submit the Vehicle's Vehicle Master Inquiry, Repair Order 1197069, Repair Order 1201873, and Repair Order 1208399. (*See* UMF Nos. 2, 4-5, 7-8.) The latter three repair orders document Plaintiffs' presentation for oil level concerns on January 28, 2025, Plaintiffs' presentation for the second step of the oil consumption test on March 24, 2025, and Plaintiffs' presentation for oil level concerns on June 10, 2025, respectively.

The Court finds Defendants meet their burden as their evidence shows Plaintiffs' oil level complaint was a nonissue. Thus, the burden shifts to Plaintiffs to raise a triable issue of material fact as to whether the Vehicle had a nonconformity that substantially impaired its use, value, or safety.

Plaintiffs have failed to do so. Plaintiffs present the declaration of Steve Miller, former Master Automotive Service Excellence Technician and consumer-fraud investigator for the State of California, Bureau of Automotive Repair. (*See* AMF No. 19-20, 26-28.) Miller opines, based on the repair orders, that "the Vehicle is consuming and combusting an abnormal amount of engine oil given its low mileage. Oil consumption of this nature at such low mileage is not characteristic of a properly functioning engine… It is therefore a reasonable deduction, which I hold, that the Vehicle's oil consumption will increase over time rather than resolve on its own." (*Id.*) Miller further opines the oil-consumption condition substantially impairs the Vehicle's value and safety. (*See id.*) Miller also opines Defendants state "no verifiable issue was found" does not establish that the Vehicle is free of an oil consumption defect as the "recurring low-oil warnings across multiple visits are themselves objective evidence of an ongoing and unusual condition." (*Id.*)

"The opinion of any expert is only as good as the facts and reasons on which it is based." (*Zaragoza v. Adam* (2025) 109 Cal.App.5th 113, 119 (cleaned up).) Unfortunately for Plaintiffs, as Defendants' counsel argued at the hearing, Mr. Miller's declaration fails to confront the oil consumption data with enough specificity to meet their burden. As a result, it is too conclusory. For instance, it is not enough for him to simply state his opinion is the vehicle is burning an abnormal amount of engine oil without stating what the *normal* burn rate is. Alternatively, he could explain why the manufacturer's acceptable range is, in his opinion, not acceptable. He does neither. Instead, he simply points to circumstantial evidence of carbon build up on spark plugs to support his conclusion without explaining *why or how* that corroborates to an unacceptable level of engine oil being burned.

The Court acknowledges an expert declaration offered in opposition to a motion for summary judgment "need not be as detailed or extensive as that required in expert testimony presented in support of a summary judgment motion or at trial." (*Garrett v. Howmedica Osteonics Corp.* (2013) 214 Cal.App.4th 173, 187-89; *see also Hanson*

v. Goode (1999) 76 Cal.App.4th 601, 606, n.6 (stating the factual bases for an expert's opinion need not be set forth in "excruciating detail").) Nevertheless, "any inferences" the expert makes "must 'reasonably be derived from' the declaration." (*Fernandez v. Alexander* (2019) 31 Cal.App.5th 770, 782 (quoting *Hanson*, 76 Cal.App.4th at 607.) A review of the record here leads the Court to conclude this case is more comparable to those in which the Court of Appeal has concluded experts have failed to provide the necessary facts and reasons underlying their opinions. (*See Zaragoza*, 109 Cal.App.5th at 119-121 (concluding the expert declaration opining the doctor acted within the standard of care was insufficient to create a triable issue of fact on summary judgment because it lacked underlying facts and reasons); *see also Doe v. Good Samaritan Hosp.* (2018) 23 Cal.App.5th 653-664-665 (holding an expert medical opinion inadmissible because it did not "specifically describe the standard of care" or "what conduct was required to meet it").)

Accordingly, the Court grants Defendants' Motion for Summary Adjudication on the first cause of action based on the breach of express warranty theory.

2. Violation of Song-Beverly Act – Implied Warranty Theory

"[E]very sale of consumer goods that are sold at retail in this state shall be accompanied by the *manufacturer's and the retail seller's implied warranty* that the goods are merchantable." (Civ. Code, § 1792 [emphasis added]; *see also* Civ. Code, § 1791.1.) "Consumer goods" means any new product that is used or bought for personal use. (Civ. Code § 1791.)

The elements of a breach of the implied warranty of merchantability are: (1) plaintiff bought a consumer good from or manufactured by defendant; (2) at the time of purchase, defendant was in the business of selling or manufacturing the consumer good; (3) the consumer good was not of the same quality as those generally acceptable in the trade, not fit for the ordinary purposes for which the goods or used, not adequately contained, packed and labeled, or does not conform to the promises or affirmations of fact made on the container or label; (4) plaintiff was harmed; and (5)

defendant's breach of the implied warranty was a substantial factor in causing plaintiff's harm. (*See* Civ. Code § 1791.1; *see Isip v. Mercedes-Benz USA, LLC* (2007) 155 Cal.App.4th 19, 26; *see Gutierrez v. Carmax Auto Superstores Cal.* (2018) 19 Cal.App.5th 1234, 1247.)

Under Civil Code §1791.1(c), implied warranties have an absolute maximum duration of one year from the sale of new consumer goods. (*See Atkinson v. Elk Corp. of Texas* (2006) 142 Cal.App.4th 212, 230, 231 [expiration is absolute regardless of later discovery.])

Defendants argue Plaintiffs' first cause of action for breach of express warranty fails because there is no evidence the Vehicle failed to operate before or after the repairs were made, that Plaintiffs were otherwise precluded from using the Vehicle for its designated purpose, or that the Vehicle suffered from any defects that would breach the implied warranty of merchantability at the time of purchase. (*See* Mot. at 10:12-24; Reply at 7:27-8:9.) Defendants submit the same evidence set forth above in addition to Repair Order 1175307, Repair Order 1208399, and Repair Order 1214824. (*See* UMF Nos. 2-5, 7-11.)

As stated above and equally applicable to this theory, the Court finds Defendants meet their burden as their evidence shows Plaintiffs' oil level complaint was a nonissue and thus the Vehicle did not suffer from any defects. Thus, the burden shifts to Plaintiffs to raise a triable issue.

Plaintiffs rely on the same evidence to create a triable issue here, Mr. Miller's expert opinion, as they did above. For the same reasons explained above, the Court concludes Plaintiffs have failed to meet their burden to raise a triable issue of material fact as to whether the Vehicle's recurring oil defect rendered the Vehicle unfit for its ordinary purpose. Similarly, Plaintiffs' inquiries about the Vehicle's oil level as early as October 28, 2023, and April 16, 2024, within one year of the Vehicle's purchase are not enough to create a triable issue of material fact on this theory either. Ultimately, there is not enough evidence to create a reasonable inference the oil consumption

condition may worsen with time; the lack of specific evidentiary support for Mr. Miller's opinions in this regard render them too speculative to carry the day for Plaintiffs.

Accordingly, the Court grants Defendants' Motion for Summary Adjudication on the first cause of action based on the breach of implied warranty theory.

3. Civil Penalties under Civil Code § 1794.

"If the buyer establishes that the failure to comply was willful, the judgment may include, in addition to the amounts recovered under subdivision (a), a civil penalty which shall not exceed two times the amount of actual damages." (Civ. Code § 1794(c).) "[I]f the buyer establishes a violation of paragraph (2) of subdivision (d) of Section 1793.2, the buyer shall recover damages and reasonable attorney's fees and costs, and may recover a civil penalty of up to two times the amount of damages." (Civ. Code, § 1794(e)(1).) "If the manufacturer maintains a qualified third-party dispute resolution process which substantially complies with Section 1793.22, the manufacturer shall not be liable for any civil penalty pursuant to this subdivision." (Civ. Code, § 1794(e)(2).)

"[A] violation is not willful if the defendant's failure to replace or refund was the result of a good faith and reasonable belief the facts imposing the statutory obligation were not present." (*Kwan v. Mercedes-Benz of North America, Inc.* (1994) 23 Cal.App.4th 174, 185.)

Defendants argue Plaintiffs' claim for civil penalties fails because they have not and cannot show that MBUSA willfully failed to repurchase the Vehicle in violation of an obligation to do so. (*See* Mot. at 11:8-10.) Additionally, Defendants argue the Complaint seeks civil penalties for express-warranty violations, which Keyes European cannot be liable for since it did not issue the express warranty. (*See id.*, at 2:5 fn. 2.) Second, Defendants argue civil penalties are not warranted because the Vehicle was not out of service for over 30 days in the first 18 months. (*See id.*, at 11:11-12; UMF No. 13.)

Since the Court concluded Defendants are entitled to summary adjudication as to both of Plaintiffs' theories breach of warranty theories, there is no statutory basis for Plaintiff's claim for civil penalties. Defendants rely in large part on the same evidence to move for summary adjudication on the civil penalties claim as for the first cause of action. As discussed above, the Court finds Defendants' meet their burden as their evidence shows they reasonably believed the Vehicle conformed to warranty and thus MBUSA had no obligation to repurchase the Vehicle. Additionally, as Defendants correctly point out, Plaintiff cannot recover civil penalties from Keyes European for express warranty violations as it is undisputed that Keyes European did not issue the express warranty. (*See* Compl., ¶ 15; UMF No. 1.)

The burden shifts to Plaintiffs to raise a triable issue. The Court once again finds Plaintiffs failed to meet their burden to raise a triable issue on their claim for civil penalties as they failed to meet their burden on the threshold issue of whether MBUSA had an obligation to repurchase or replace the Vehicle under the Song-Beverly Act due to any unrepairable defect. Plaintiffs rely on the same evidence set forth above. As discussed above, the Court finds Plaintiffs' expert fails to carry their burden to raise a triable issue of material fact as to the Vehicle's alleged oil consumption defect which would trigger MBUSA's obligation to repurchase or replace the Vehicle. Thus, Plaintiffs do not raise a triable issue on their claim for civil penalties for express warranty violations and Defendants are entitled to summary adjudication for civil penalties.

Accordingly, the Court grants Defendants' Motion for Summary Adjudication as to the issue of civil penalties.

Given the Court has granted Defendants' Motion as to all of the issues raised, the Court grants Defendants Motion for Summary Judgment in its entirety.

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V. CONCLUSION

Based on the foregoing, the Court GRANTS Defendants' Motion for Summary Judgment. Defendants are ordered to submit a Proposed Judgment consistent with this Order.

The Court vacates all future dates and sets an Order to Show Cause re: Entry of Judgment for September 22, 2026, at 8:30 a.m.

IT IS SO ORDERED.

DATED: August 21, 2026

Hon. Michael R. Amerian
Judge, Superior Court