

**1. MANFREDI, ET AL. v. LAKELAND VILLAGE OWNERS ASSN., ET AL., 25CV1279****Motion for Preliminary Injunction (See Related Item Nos. 2 & 3)**

On May 16, 2025, plaintiffs Alberto Manfredi and Melissa Manfredi filed a motion for preliminary injunction enjoining defendants from conducting HOA disciplinary actions against plaintiffs and Jancy Bull, Paul O'Donnell, Althea Cordoza, Abhi Indap, and Meghana Joglekar – customers of plaintiffs' firm, Manfredi Development Group.

On July 2, 2025, plaintiffs filed a motion to consolidate the instant case with El Dorado Superior Court Case Numbers 25CV1406 and 25CV1407. A hearing on that motion is currently set for August 29, 2025.

A judge may grant a preliminary injunction at any time before judgment on a verified complaint, verified cross-complaint, or declarations showing satisfactorily that sufficient grounds exist for the injunction. (Code Civ. Proc., § 527, subd. (a); *Gillies v. JP Morgan Chase Bank, N.A.* (2017) 7 Cal.App.5th 907, 913.) The allegations of the complaint or declarations must be factual and supported by admissible evidence. (*Finnie v. Town of Tiburon* (1988) 199 Cal.App.3d 1, 14–15.)

In this case, plaintiffs' complaint is unverified. In support of the instant motion, plaintiffs submitted a joint declaration that does not contain any evidentiary facts. There are several exhibits attached to the declaration; however, plaintiffs do not properly authenticate or lay any foundation for these exhibits.

**TENTATIVE RULING # 1: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JULY 18, 2025, IN DEPARTMENT FOUR.**

**2. O'DONNELL v. LAKE LAND VILLAGE OWNERS ASSN., ET AL., 25CV1406****Motion for Preliminary Injunction (See Related Item Nos. 1 & 3)**

On June 3, 2025, plaintiff D. Paul O'Donnell filed a motion for preliminary injunction enjoining defendants from conducting HOA disciplinary actions against plaintiff, members of plaintiff's family, and any persons residing in plaintiff's condominium.

On July 2, 2025, plaintiff filed a motion to consolidate the instant case with El Dorado Superior Court Case Numbers 25CV1279 and 25CV1407. A hearing on that motion is currently set for August 29, 2025.

A judge may grant a preliminary injunction at any time before judgment on a verified complaint, verified cross-complaint, or declarations showing satisfactorily that sufficient grounds exist for the injunction. (Code Civ. Proc., § 527, subd. (a); *Gillies v. JP Morgan Chase Bank, N.A.* (2017) 7 Cal.App.5th 907, 913.) The allegations of the complaint or declarations must be factual and supported by admissible evidence. (*Finnie v. Town of Tiburon* (1988) 199 Cal.App.3d 1, 14–15.)

In this case, plaintiff's complaint is unverified. In support of the instant motion, plaintiff submitted a declaration that does not contain any evidentiary facts. There are several exhibits attached to the declaration; however, plaintiff does not properly authenticate or lay any foundation for these exhibits.

**TENTATIVE RULING # 2: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JULY 18, 2025, IN DEPARTMENT FOUR.**

**3. INDAP v. LAKELAND VILLAGE OWNERS ASSN., ET AL., 25CV1407****Motion for Preliminary Injunction (See Related Item Nos. 1 & 2)**

On June 3, 2025, plaintiff Abhijit Indap submitted the exact same motion filed (and signed) by D. Paul O'Donnell in El Dorado Superior Court Case Number 25CV1406 for a preliminary injunction.

On July 2, 2025, plaintiff filed a motion to consolidate the instant case with El Dorado Superior Court Case Numbers 25CV1279 and 25CV1406. A hearing on that motion is currently set for August 29, 2025.

Presently, D. Paul O'Donnell is not a party to the instant case.

**TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JULY 18, 2025, IN DEPARTMENT FOUR.**

**4. STEPHENS v. LAUB LAW PLLC, 25CV1050****Demurrer**

Defendant Jordan Morgenstern (“defendant”) generally and specially demurs to plaintiff’s complaint.

“Before filing a demurrer... the demurring party shall meet and confer in person, by telephone, or by video conference with the party who filed the pleading that is subject to demurrer for the purpose of determining whether an agreement can be reached that would resolve the objections to be raised in the demurrer.” (Code Civ. Proc., § 430.41, subd. (a).) Defendant claims he has satisfied the meet and confer requirement under Code of Civil Procedure section 430.41, citing to his declaration. (Dem. at 4:13–16.) However, defendant’s declaration does not contain any evidence that he did, in fact, meet and confer with plaintiff prior to filing the instant demurrer. (Code Civ. Proc., § 430.41, subd. (a)(3)(A).)

The parties are ordered to meet and confer in good faith regarding the alleged defects in plaintiff’s complaint. The court continues the hearing date on the demurrer to August 22, 2025, to facilitate that effort. (See *Dumas v. Los Angeles County Bd. of Supervisors* (2020) 45 Cal.App.5th 348, 355–356, fn. 3. [“If, upon review of a declaration under section 430.41, subdivision (a)(3), a court learns no meet and confer has taken place... it retains discretion to order counsel to meaningfully discuss the pleadings with an eye toward reducing the number of issues or eliminating the need for a demurrer, and to continue the hearing date to facilitate that effort. [Citation.]”].)

**TENTATIVE RULING # 4: MATTER IS CONTINUED TO 1:30 P.M., FRIDAY, AUGUST 22, 2025, IN DEPARTMENT FOUR FOR THE PARTIES TO MEET AND CONFER UNDER CODE OF CIVIL PROCEDURE SECTION 430.41, SUBDIVISION (a). DEFENDANT JORDAN MORGENSTERN SHALL FILE A MEET AND CONFER DECLARATION AT LEAST FIVE DAYS PRIOR TO THE CONTINUED HEARING.**

**5. LVNV FUNDING LLC v. DUKE, 22CV0956**

**OSC Re: Dismissal**

This action was filed on July 13, 2022. To date, there is no proof of service of summons in the court's file.

Under Code of Civil Procedure section 583.420, the court may dismiss an action for delay in prosecution where service is not made within two years after the action is commenced against the defendant. (Id., subd. (a)(1).)

Additionally, in a letter to plaintiff's counsel dated November 26, 2024, the court indicated that the case was opened without the payment of the required filing fees.

**TENTATIVE RULING # 5: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JULY 18, 2025, IN DEPARTMENT FOUR.**

**6. URRIOLA v. HEAVENLY VALLEY, LIMITED PARTNERSHIP, ET AL., 25CV1256****Motion to Strike**

Pursuant to Code of Civil Procedure sections 436 and 436, defendants Heavenly Valley, Limited Partnership and The Vail Corporation (collectively, “defendants”) move to strike the request for punitive damages in plaintiff Monica Urriola’s (“plaintiff”) complaint (Compl., ¶¶ 9 & 9(e)). Defense counsel declares she met and conferred with plaintiff’s counsel prior to filing the motion. (Rivera Decl., ¶¶ 3–5 & Ex. B.)

Plaintiff filed a timely opposition to the motion and defendants filed a timely reply.

**1. Background**

The complaint alleges:

On January 25, 2024, plaintiff was snowboarding at defendants’ resort when plaintiff was alerted that the resort was closing and all patrons were directed to leave the ski park immediately. (Compl., ¶ 6.) Plaintiff was exhausted and sought emergency services to get out of the ski park. (Compl., ¶ 6.) Plaintiff encountered defendant Heavenly Valley’s ski patrol employee, defendant Sean Willis, who put plaintiff in a toboggan and took her to the nearest gondola where Willis instructed plaintiff to enter the gondola and take a lift down to the lodge. (Compl., ¶ 6.)

However, Willis failed to radio defendants’ lift operators to inform them that plaintiff had been placed in the gondola despite Willis knowing that the ski park was closing and hearing that the lifts had been cleared for the day. (Compl., ¶ 6.) Plaintiff entered the gondola as instructed by Willis and sat down for a period of time when the gondola suddenly stopped moving. (Compl., ¶ 6.) Plaintiff was suspended in the air several stories above the ground and nowhere near either gondola platform or lift pole. (Compl., ¶ 6.) Plaintiff realized she was stranded and tried screaming for help but none of defendants’ employees heard her or noticed her. (Compl., ¶ 6.) Plaintiff remained stranded overnight in the gondola for approximately 15 hours. (Compl., ¶ 6.)

## 2. Preliminary Issue

Plaintiff argues the motion should be denied because it fails to comply with California Rule of Court 3.1322, which provides in relevant part: “A notice of motion to strike a portion of a pleading must quote in full the portions sought to be stricken except where the motion is to strike an entire paragraph, cause of action, count, or defense. Specifications in a notice must be numbered consecutively.” (Cal. Rules Ct., Rule 3.1322, subd. (a).)

However, the court finds that defendants’ notice of motion does comply with California Rule of Court 3.1322. The notice of motion states: “Specifically, Defendants request this Court strike the following portion of the Complaint: [¶] (1) Page 4, Paragraph 9: ‘...and as a result, PLAINTIFF is entitled to exemplary damages in a sum according to proof.’ [¶] (2) Page 4, Prayer for Relief, Paragraph e: ‘Punitive Damages.’ ” The notice of motion consecutively numbers the two portions of the complaint that defendants seek to strike, and quotes the text in full. Plaintiff’s request to deny the motion on procedural grounds is denied.

## 3. Legal Principles

A motion to strike is generally used to address defects appearing on the face of a pleading that are not subject to demurrer. (*Pierson v. Sharp Memorial Hospital* (1989) 216 Cal.App.3d 340, 342.) Further, “[t]he court may, upon a motion [to strike] ..., or at any time in its discretion ... [¶] ... [s]trike out any irrelevant, false, or improper matter inserted in any pleading.” (Code Civ. Proc., § 436, subd. (a).) Like a demurrer, the grounds for a motion to strike must appear on the face of the pleading or from any matter which the court is required to take judicial notice. (Code Civ. Proc., § 437, subd. (a).) On a motion to strike, the trial court must read the complaint as a whole, considering the parts in their context, and must assume the truth of all well-pleaded allegations. (*Courtesy Ambulance Service v. Superior Court* (1992) 8 Cal.App.4th 1504, 1519.)

#### 4. Discussion

Civil Code section 3294 allows a plaintiff to recover exemplary (or “punitive”) damages “[i]n an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.” (Civ. Code, § 3294, subd. (a).) For the purposes of awarding exemplary damages, “ ‘[m]alice’ means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others.” (Civ. Code, § 3294, subd. (c)(1).) “ ‘Oppression’ means despicable conduct that subject a person to cruel and unjust hardship in conscious disregard of that person’s rights.” (Civ. Code, § 3294, subd. (c)(2).) “ ‘Fraud’ means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury.” (Civ. Code, § 3294, subd. (c)(3).)

An employer shall not be liable for punitive damages under Civil Code section 3294, subdivision (a) based upon acts of an employee of the employer, “unless the employer has advance knowledge of the unfitness of the employee and employed him or her with a conscious disregard of the rights or safety of others or authorized or ratified the wrongful conduct for which the damages are awarded or was personally guilty of oppression, fraud or malice. With respect to a corporate employer, the advance knowledge and conscious disregard, authorization, ratification or act of oppression, fraud, or malice must be on the part of an officer, director, or managing agent of the corporation.” (Civ. Code, § 3294, subd. (b).) The statutory term “managing agent” includes “only those corporate employees who exercise substantial independent authority and judgment in their corporate decisionmaking so that their decisions ultimately determine corporate policy.” (*White v. Ultramar, Inc.* (1999) 21 Cal.4th 563, 566–567.) The Legislature’s goals in enacting Civil Code section 3294, subdivision (b)



limiting punitive damages against corporate defendants “were to avoid imposing punitive damages on employers who were merely negligent or reckless and to distinguish ordinary respondeat superior liability from corporate liability for punitive damages.” (*White, supra*, at p. 572.)

As an initial matter, defendants argue that punitive damages are never available in negligence causes of action; however, the quote defendants rely on merely states that “ordinary negligence” does not support a claim for punitive damages. (*Lackner v. North* (2006) 135 Cal.App.4th 1188, 1210–1211 [emphasis added].)

The moving defendants are corporate defendants. The court agrees that plaintiff’s complaint fails to allege these defendants had advanced knowledge of the unfitness of Willis, employed him with a conscious disregard of the rights or safety of others or authorized or ratified the wrongful conduct, or were personally guilty of oppression, fraud or malice.

Plaintiff argues in her opposition that, “[b]y part opponent admission, Defendants admitted that not all prior safety incidents, including the one involving Plaintiff, were documented or reported against their own policies. Dec. of Del Rio ¶ 7. This clearly establishes advance knowledge of a conscious disregard for safety.” (Opp. at 5:8–13.) However, these allegations in plaintiff’s opposition, as well as the declaration from her attorney, fall outside the four corners of plaintiff’s complaint and are not subject to judicial notice. Therefore, the court does not consider these allegations with respect to the instant motion. (Code Civ. Proc., § 437, subd. (a).)

Based on the above, the court grants the motion to strike with leave to amend.

**TENTATIVE RULING # 6: THE MOTION TO STRIKE IS GRANTED WITH LEAVE TO AMEND. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT’S**

WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

**7. NAME CHANGE OF HAWKS, 25CV1368****OSC Re: Name Change**

Petitioner seeks to change her name from “Baby Girl O’Kelly” (the name on her birth certificate) to “Sherry Marie Hawks” (the name she has used her entire life) so that she may obtain a Real ID. However, petitioner submitted copies of her social security card and California driver’s license, which both already reflect the name “Sherry Marie Hawks.” The court needs additional information to clarify petitioner’s request.

**TENTATIVE RULING # 7: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JULY 18, 2025, IN DEPARTMENT FOUR.**

**8. URBAN SUNRISE, LLC, ET AL. v. VOGT, ET AL., 22CV0024****Motion to Compel**

Cross-complainant David Vogt moves to compel cross-defendants Urban Sunrise, LLC's and Susan Kerr's (collectively, "cross-defendants") further response to judgment-debtor interrogatories. The court notes that, on February 20, 2025, Urban Sunrise filed a notice of appeal of judgment issued January 17, 2025, which appeal is currently pending.

On July 7, 2025, cross-defendants submitted an opposition stating the motion "has been largely mooted by Urban Sunrise's decision to post a bond pending the resolution of the current Appeal. Cross-Complainant has agreed to vacate the current motion once the Appellate Bond has been issued. [Citation.]"

On July 11, 2025, Vogt filed a reply stating the motion should be granted while at the same time requesting a continuance for Urban Sunrise to post bond and for Vogt to verify the integrity of the bond.

**TENTATIVE RULING # 8: UPON CROSS-COMPLAINANT DAVID VOGT'S REQUEST, MATTER IS CONTINUED TO 1:30 P.M., FRIDAY, AUGUST 15, 2025, IN DEPARTMENT FOUR.**