January 9, 2026
Dept. 9
Tentative Rulings

1.	**25CV2051**	**GOLDEN PLAZA PARTNERS v. SUMMITVIEW CHILD & FAMILY SERVICES, INC.**
Compel Arbitration & Stay Action		

The Complaint in this matter includes two causes of action: breach of lease agreement and waste. Plaintiff is a landlord and Defendant is the tenant. The Complaint alleges that Defendant failed to maintain insurance coverage and failed to maintain the premises in good repair, in violation of the terms of the lease. There is no allegation in the Complaint that Defendant has failed to make lease payments.

Defendant's unopposed motion seeks an Order dismissing or staying this action and compelling arbitration of the dispute based upon paragraph 25(p) of a lease agreement signed by the parties, which is set forth in full below:

> **Arbitration**. In the event of any dispute between Landlord and Tenant **other than with respect to any alleged monetary default by Tenant in the payment of Base Rent**, such dispute **shall be resolved through binding arbitration** pursuant to a commercial arbitration panel of the American Arbitration Association with commercial real estate leasing and accounting expertise. Any such arbitration shall be held and conducted, within thirty (30) days after the selection of an arbitrator under the provisions of the Commercial Arbitration Rules of the American Arbitration Association which shall apply and govern such arbitration. Any demand for arbitration shall: (i) be in writing and must be made and served within a reasonable time after the claim, dispute or other matter in questions has arisen; (ii) in no event shall the demand for arbitration be made after the date that institution of legal or equitable proceedings based on such claim, dispute, or other matter would be barred by the applicable statute of limitations; (iii) all proceedings involving the parties shall be reported by a certified shorthand court reporter and written transcripts of the proceedings shall be prepared and made available to the parties. The final decision by the arbitrator must be provided to the parties within thirty (30) days from the date on which the matter is submitted to the arbitrator. The prevailing party (as defined below) shall be awarded reasonable attorneys' fees, expert and nonexpert witness costs and expenses (including without limitation the fees and costs of the court reporter described in Subparagraph (b) above), and other costs and expenses incurred in connection with the arbitration, unless the arbitrator for good cause determines otherwise. As used herein, the term "prevailing party" shall mean the party, if any, that the arbitrator determines is "clearly the prevailing party." Costs and fees of the arbitrator shall be borne by the nonprevailing party, unless the arbitrator for good cause determines otherwise. If there is no prevailing party, the parties shall bear their own fees and costs and split the fees and costs of the arbitrator and court reporter.

> Code of Civil Procedure section 1281.2 requires the trial court to order arbitration of a controversy "[o]n petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party to the agreement refuses to arbitrate that controversy ... if it determines that an agreement to arbitrate the controversy exists." Accordingly, the threshold question is whether there is an agreement to arbitrate. (*American Express Co. v. Italian Colors Restaurant* (2013) 570 U.S. 228, 233 [186 L.Ed.2d 417, 133 S.Ct. 2304] ["arbitration is a matter of contract"]; *Pinnacle Museum Tower Assn. v. Pinnacle Market Development (U.S.), LLC* (2012) 55 Cal.4th 223, 236 [145 Cal.Rptr.3d 514, 282 P.3d 1217] [" ' "[A] party cannot be required to submit to arbitration any dispute which he has not agreed so to submit." ' "]; *Trinity v. Life Ins. Co. of North America* (2022) 78 Cal.App.5th 1111, 1120 [293 Cal.Rptr.3d 899] ["As the language of this section makes plain, the threshold question presented by every petition to compel arbitration is whether an agreement to arbitrate exists."].)
>
> Under state and federal state law, there is a public policy in favor of arbitration. (*Morgan v. Sundance, Inc.* (2022) 596 U.S.411, 418 [212 L.Ed.2d 753, 142 S.Ct.1708, 1713]; *OTO, L.L.C. v. Kho* (2019) 8 Cal.5th 111, 125 [251 Cal.Rptr.3d 714, 447 P.3d 680] [acknowledging strong public policy favoring arbitration under state law]; *DMS Services, LLC v. Superior Court* (2012) 205 Cal.App.4th 1346, 1352 [140 Cal.Rptr.3d 896] (*DMS Services*) [recognizing strong state and federal policy favoring arbitration].)

Montemayor v. Ford Motor Co., 92 Cal. App. 5th 958, 967 (2023).

In this case it is undisputed that there is an arbitration provision in place that has been executed by both parties and that the scope of that provision covers the facts of this case.

This matter was continued from the original December 12, 2025, hearing date in order to allow Defendant, a corporation, an opportunity to obtain counsel to represent it before the Court. Merco Constr. Eng'rs, Inc. v. Mun. Ct., 21 Cal. 3d 724 (1978).

TENTATIVE RULING #1: DEFENDANT'S MOTION TO COMPEL ARBITRATION IS GRANTED; THE MATTER PENDING BEFORE THE COURT IS STAYED PENDING THE OUTCOME OF ARBITRATION.

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2.	25CV2063	UNIFIRST CORPORATION v. NIGHT DROP MOTORSPORTS
Confirm Arbitration Award		

A Petition was filed on August 7, 2025, requesting the Court to enter judgment confirming an arbitration award based on a breach of contract claim, as well as interest at the statutory rate, $500 of costs and attorney's fees according to proof. The arbitration was held on April 26, 2024, and the award was made on the same date, requiring Respondent to pay Petitioner the amount of $13,123.82. This amount includes actual damages ($1,747.19), pre-award interest ($315.24) and liquidated damages ($9,411.39) in accordance with the parties' contract. Respondent was additionally required to pay the arbitration fees in the amount of $1,650.

The Arbitration Award is attached to the Petition as Attachment 8(c). Among other things, it notes that the parties' arbitration agreement specifies that all costs and expenses, including attorneys' fees are to be included in the Arbitration Award.

The Arbitration Award denies the Petitioner's claim for attorney's fees for lack of proof, and states that "This award is in full settlement of all claims submitted to this Arbitration. All claims not expressly granted herein are hereby DENIED."

Analysis

The confirmation of an arbitration award is governed by Code of Civil Procedure § 1285 *et seq*. The Petition meets the content requirements of Code of Civil Procedure § 1285.4.

Respondent has filed an Answer requesting the Court to set a payment plan for the award, which might be considered under Code of Civil Procedure § 1285.2, which allows the Court to "confirm, correct or vacate" the award.

Code of Civil Procedure § 1288.2 prevents the Court from "correcting" an award unless the request for correction is filed not later than 100 days following the service of the award on the parties. The date of the Arbitration Award is April 26, 2024, and the Petition specifies that the Award was served on Respondent on the same date. Accordingly, the Respondent's request is untimely.

As the Arbitration Award considered and denied the award of attorneys' fees and costs, which were included in the scope of the arbitration based on the terms of the parties' agreement, the Court is not empowered to consider Petitioner's request for an additional award from the Court.

TENTATIVE RULING #2: THE PETITION IS GRANTED; THE ARBITRATION AWARD IS CONFIRMED AND JUDGMENT IS ENTERED AGAINST RESPONDENT IN THE AMOUNT OF $13,123.82.

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3.	**23CV1828**	**DISCOVER BANK v. BAILEY**
Set Aside Default Judgment		

On August 8, 2025, Defendant moved to quash service of Summons on the grounds that she was served in a jurisdiction here she no longer lived. The Court denied the motion as untimely, as a default judgment had already been entered on August 4, 2025.

Defendant now moves to set aside the default judgment based on the argument that too much time passed between the time that the Complaint was filed and the time that she was served with the Summons and Complaint.

Code of Civil Procedure § 583.210(a) requires the Summons and Complaint to be served upon a defendant within three years after the complaint is filed. In this case, personal service was made on April 27, 2025, approximately 18 months after the Complaint was filed on October 17, 2023.

The Court finds that the service of process was timely under the statute. Defendant has provided no other factual basis for setting aside the judgment, and therefore the motion is denied.

TENTATIVE RULING #3: THE MOTION TO VACATE THE DEFAULT JUDGMENT IS DENIED.

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4.	**24CV1621**	**WATERMARK ON THE LAKE HOA v. BRADLEY**
Set Aside Order – CCP 473		

On September 3, 2025, Defendant Bradley filed this Motion for the Court to grant relief from its Order of August 29, 2025, which granted Plaintiff's July 25, 2025, Motion to compel Defendant's responses to Plaintiffs' Form Interrogatories, Special Interrogatories and Request for Production of Documents, as well as to deem the truth of matters admitted in Plaintiff's Request for Admissions. The Court's August 29, 2025, order additionally awarded Plaintiff $500 in sanctions.

Defendant seeks to set aside that Order based on Code of Civil Procedure § 473(b) for "mistake, inadvertence, surprise, or excusable neglect." That section provides: "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, . . ."[1]

Defendant additionally cites Civil Code § 1788.61 and Code of Civil Procedure § 473.5, which do not apply because they relate to default judgments, whereas the Order at issue compels Defendant's response to discovery.

Defendant's Motion requests the Court to quash service of Summons per Code of Civil Procedure § 418.10, which likewise is outside the scope of the issues before the Court because Defendant has already made a general appearance in the action by filing an Answer on January 21, 2025.

Similarly, Code of Civil Procedure § 473(d) is not applicable, as it governs the correction of clerical mistakes in an Order.

Pursuant to Code of Civil Procedure § 473(b), the Motion asserts that the Defendant "did not have enough time to do the paperwork" related to discovery responses. In fact, the Court's Tentative Ruling for the August 29, 2025, hearing indicates that Defendant did file discovery responses prior to the hearing on the Motion to Compel, and that these responses corrected some but not all of the defects that were raised in the Motion. In particular, the responses were not verified as required by the applicable statutes. Defendant did not file any Opposition to the Motions to Compel. Following Defendant's appearance to present arguments at the hearing the Court granted the Plaintiff's Motion.

The Court finds no factual basis to grant the relief requested. Additionally, upon review of the file, the court finds that there is no proof of service indicating service of the motion on

[1] Section 473 was the subject of recent amendment; the language quoted herein is from the version of the statute that took effect on January 1, 2026, and which is currently effective, but which will be repealed and replaced as of January 1, 2027. CA LEGIS 563 (2025), 2025 Cal. Legis. Serv. Ch. 563 (A.B. 747) (WEST).

Plaintiff. For both reasons, the motion is denied without prejudice to a properly-framed motion which is served on Plaintiff.

TENTATIVE RULING #4: THE MOTION TO SET ASIDE THE COURT'S AUGUST 29, 2025, ORDER IS DENIED.

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5.	**22CV0224**	**ABEL v. CURTIS**
Satisfaction of Judgment		

TENTATIVE RULING #5: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, JANUARY 9, 2026, IN DEPARTMENT NINE.

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6.	**PSC20190177**	**KING v. CURTIS**
Satisfaction of Judgment		

TENTATIVE RULING #6: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, JANUARY 9, 2026, IN DEPARTMENT NINE.

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7.	**25CV0881**	**ROBERTS, ET AL v. DELHONTE, ET AL**
Demurrer		

The Complaint in this matter relates to the purchase by Plaintiff of real property. The Complaint names multiple Defendants, including real estate agents involved in the transaction, the Homeowners Association to which the real property pertains and its maintenance contractors, and the individual sellers of the property. The Complaint alleges that Defendant Jesse Shue is the owner of the agency with which the sellers' real estate agent was affiliated, and that Shue is a real estate broker associated with the agency that represented the sellers. Complaint, paras. 4, 18. While the Complaint goes on to detail the factual background of the dispute and lists four causes of action associated with the real property transaction, there are no further factual allegations made that relate to Jesse Schue. Nor is she identified with respect to any of the four causes of action. Accordingly, Defendant Jesse Schue demurs to the Complaint.

The demurrer is unopposed.

Request for Judicial Notice

Defendant has filed a Request for the court to take judicial notice of the records of the California Department of Real Estate, showing Jesse Shue is the designated officer of the Tahoe Realty Today, Inc. dba Re/Max Gold real estate agency, as well as the records of the Secretary of State showing her to be the Chief Executive Officer of the Corporation. Request for Judicial Notice, Exhibits C and D.

Judicial notice is a mechanism which allows the court to take into consideration matters which are presumed to be indisputably true. California Evidence Code Sections 451, 452, and 453 collectively govern the circumstances in which judicial notice of a matter may be taken. Evidence Code Section 452 lists matters of which the court may take judicial notice, including "official acts of the legislative, executive and judicial departments of the United States and of any state of the United States." Evidence Code § 452(c). A trial court is required to take judicial notice of any matter listed in section 452 if a party requests it and gives the other party sufficient notice to prepare to meet the request. Evidence Code § 453. Accordingly, Defendant's request for judicial notice is granted.

Standard of Review for Demurrer

> A demurrer tests the sufficiency of a complaint by raising questions of law. (*Rader Co. v. Stone* (1986) 178 Cal.App.3d 10, 20, 223 Cal.Rptr. 806.) In determining the merits of a demurrer, all material facts pleaded in the complaint and those that arise by reasonable implication, but not conclusions of fact or law, are deemed admitted by the demurring

> party. (*Moore v. Conliffe, supra,* 7 Cal.4th at p. 638, 29 Cal.Rptr.2d 152, 871 P.2d 204; *Interinsurance Exchange v. Narula, supra,* 33 Cal.App.4th at p. 1143, 39 Cal.Rptr.2d 752.) The complaint must be construed liberally by drawing reasonable inferences from the facts pleaded. (*Flynn v. Higham* (1983) 149 Cal.App.3d 677, 679, 197 Cal.Rptr. 145.)

Rodas v. Spiegel, 87 Cal. App. 4th 513, 517 (2001).

In addition to the facts actually pleaded, the court considers facts of which it may or must take judicial notice. Cantu v. Resolution Trust Corp., 4 Cal.App.4th 857, 877 (1992).

There are simply no factual allegations or assignments of legal responsibility in the Complaint that the Court could construe in the Plaintiff's favor that would justify overruling Defendant Shue's demurrer.

Although Defendant Shue requests to be dismissed from the action with prejudice, it is possible that Plaintiff could amend the Complaint to specify factual allegations specific to Shue if any such factual basis exists. Accordingly, the demurrer is sustained with leave to amend.

TENTATIVE RULING #7: DEFENDANT SHUE'S REQUEST FOR JUDICIAL NOTICE IS GRANTED. DEFENDANT SHUE'S DEMURRER IS SUSTAINED WITH LEAVE TO AMEND WITHIN TEN DAYS OF THIS ORDER.

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8.	**24CV2415**	**BAZAN v. SUGAR INC., ET AL**
Demurrer		

Plaintiff's First Amended Complaint ("FAC") lists causes of action for Account Stated, Breach of Contract, Intentional and/or Negligent Misrepresentation, and Fraudulent Conveyance.

Specifically, the FAC alleges that Defendant Sugar, Inc. ("Sugar"), a corporation, executed a promissory note in the amount of $50,000 in March, 2022, and an additional promissory note for $10,000 in October, 2022. FAC, paras. 7-8, Exhibits A and B (collectively, the "Notes").

These amounts were secured by a real property, and were to be repaid to the Plaintiff, an individual. The FAC alleges that the funds were intended to be used to renovate the real property that secured the Notes, FAC, paras. 9-11. It appears that the corporation Sugar held the title to the property. The Notes reference the "Borrower's" property and define "Borrower" as "Sugar, Inc. of 3776 Many Oaks Ln., Shingle Springs CA 95682 with Stan Caylor acting as president". FAC, Exhibits A and B. *See also* FAC, para. 3: "Defendant Mr. Caylor is, and was at all times relevant herein the President of Sugar . . . ."

Plaintiff alleges that "Defendant Stan Caylor are [sic] and . . . was an officer, director, shareholder, or owner of Sugar" such that Sugar, "a mere shell and sham corporation without adequate capitol [sic] and assets" is the alter-ego of Caylor which he intended to use "as a device to avoid individual liability and for the purpose of substituting a financially insolvent corporation in place of Mr. Caylor." Id. at 12.

In August, 2022, after the Notes were executed, Sugar, Inc., transferred the real property to Defendant Cayco, a corporation that the FAC alleges to also be a corporation "owned and controlled by" Caylor, as well as a "servant, agent, employee, and/or joint venturer" of the other named Defendants, Sugar and Sugar's President, Stan Caylor. FAC, paras. 6, 28. The FAC alleges that this property was worth in excess of $500,000 and was transferred to the corporation Cayco to satisfy a debt in the amount of $45,000 that Sugar owed to the Cayco corporation. Id., para. 29. The FAC alleges that this transfer was for the fraudulent purpose of putting the real property that secured the Notes out of reach of Plaintiff as Sugar's creditor. FAC, para. 31.

The first, second and fourth causes of action, for Account Stated, Breach of Contract and Fraudulent Conveyance, are directed against all Defendants. The Third Cause of Action for Intentional and/or Negligent Misrepresentation is directed solely at the individual Caylor, for representations that the loan proceeds would be used to renovate the property, that the Sugar

corporation has the means to repay the Notes and that Sugar would perform its obligations under the Notes. FAC, para 11.

There are two separate demurrers filed, one on behalf of the individual Stan Caylor, and the other on behalf of Cayco corporation. The only cause of action directed at Cayco is the Fourth Cause of Action for Fraudulent Conveyance. FAC, paras. 27-32. The FAC alleges that Cayco is an alter-ego of the other Defendants because it is owned and controlled by Stan Caylor and its agent for service of process is Caylor's legal counsel. FAC, para. 28.

The demurrer filed on behalf of Cayco corporation argues that it is not named in or signatory to either promissory note. It argues that Cayco is merely a creditor of the Sugar corporation which accepted a deed in lieu of foreclosure on the real property that secured the Notes with no legal relationship with or obligation to the Plaintiff. Cayco argues that the allegations of fraudulent conveyance are speculative, vague, unsupported and conclusory.

The demurrer filed on behalf of Stan Caylor presents the same arguments on the first, second and fourth causes of action as are made by Cayco. The cause of action for Intentional/Fraudulent Misrepresentation is directed against Caylor only. With respect to this cause of action, Caylor argues that he could not have represented the state of Sugar's financial health because had no reason to know whether the Sugar corporation had the financial resources to pay the loan (although he was serving as its President at the time the statements were allegedly made). Additionally, he claims that he owed no duty to the Plaintiff with respect to the allegation of negligent misrepresentation, and that his status as a corporate officer of Sugar cannot be the basis for imposing vicarious liability on him for the actions of the corporation.

<u>Request for Judicial Notice</u>

Defendant has filed a Request for the court to take judicial notice of the First Amended Complaint. Request for Judicial Notice, Exhibit 1.

Judicial notice is a mechanism which allows the court to take into consideration matters which are presumed to be indisputably true. California Evidence Code Sections 451, 452, and 453 collectively govern the circumstances in which judicial notice of a matter may be taken. Evidence Code Section 452 lists matters of which the court may take judicial notice, including Evidence Code § 452(d) permits judicial notice of "records of (1) any court in this state or (2) any court of record of the United States."

A trial court is required to take judicial notice of any matter listed in section 452 if a party requests it and gives the other party sufficient notice to prepare to meet the request. Evidence Code § 453. Accordingly, Defendant's request for judicial notice is granted.

Standard of Review for Demurrer

> A demurrer tests the sufficiency of a complaint by raising questions of law. (*Rader Co. v. Stone* (1986) 178 Cal.App.3d 10, 20, 223 Cal.Rptr. 806.) In determining the merits of a demurrer, all material facts pleaded in the complaint and those that arise by reasonable implication, but not conclusions of fact or law, are deemed admitted by the demurring party. (*Moore v. Conliffe, supra,* 7 Cal.4th at p. 638, 29 Cal.Rptr.2d 152, 871 P.2d 204; *Interinsurance Exchange v. Narula, supra,* 33 Cal.App.4th at p. 1143, 39 Cal.Rptr.2d 752.) The complaint must be construed liberally by drawing reasonable inferences from the facts pleaded. (*Flynn v. Higham* (1983) 149 Cal.App.3d 677, 679, 197 Cal.Rptr. 145.)

Rodas v. Spiegel, 87 Cal. App. 4th 513, 517 (2001).

In addition to the facts actually pleaded, the court considers facts of which it may or must take judicial notice. Cantu v. Resolution Trust Corp., 4 Cal.App.4th 857, 877 (1992).

Account Stated

> "The essential elements of an account stated are: (1) previous transactions between the parties establishing the relationship of debtor and creditor; (2) an agreement between the parties, express or implied, on the amount due from the debtor to the creditor; (3) a promise by the debtor, express or implied, to pay the amount due. [Citations.]" (Zinn v. Fred R. Bright Co. (1969) 271 Cal.App.2d 597, 600, 76 Cal.Rptr. 663.)

Leighton v. Forster, 8 Cal. App. 5th 467, 491 (2017).

The elements of this cause of action are contained within the FAC. The only issue raised by the demurrer is whether the identity of the "parties" to the transaction implicitly includes Cayco and Caylor as alter egos of Sugar, the signatory on the Notes. The FAC alleges that Cayco and Caylor are so intertwined with Sugar that they are effectively parties to the Notes, and the Court is bound to deem those allegations to be admitted for the purpose of this motion.

Defendant cites Zinn v. Fred R. Bright Co., 271 Cal. App. 2d 597 (1969) for the proposition that Plaintiff cannot maintain an action for "account stated" without first presenting a demand for payment. However, that case found that the second element of the cause of action, agreement on the amount due, was not satisfied where the amount of a check that had never been presented for payment before the recipient passed away was not a sufficient indicator of a meeting of the minds on an amount owing. That is quite distinct from the present situation, where two parties executed a clear written agreement on the amount of a loan, the terms for

repayment and the calculation of interest. The Defendant's argument seems to attempt to focus on an ambiguity over an agreed-upon amount where the central issue is not the amount but the identity of the "parties" to the agreement. If Cayco is an alter-ego of Sugar and Caylor, and Caylor is an alter-ego of Sugar and Cayco, then the execution of two promissory notes that clearly state an amount owing by any one of these entities could also be determined to be binding on the rest.

Breach of Contract

> The elements of a breach of oral contract cause are: "(1) existence of the contract; (2) plaintiff's performance or excuse for nonperformance; (3) defendant's breach; and (4) damages to plaintiff as a result of the breach." (*CDF Firefighters v. Maldonado* (2008) 158 Cal.App.4th 1226, 1239, 70 Cal.Rptr.3d 667 [elements of breach of contract]; *Stockton Mortgage, Inc. v. Tope* (2014) 233 Cal.App.4th 437, 453, 183 Cal.Rptr.3d 186 [elements of breach of oral contract and breach of written contract claims are the same].)

Aton Ctr., Inc. v. United Healthcare Ins. Co., 93 Cal. App. 5th 1214, 1230 (2023).

The FAC adequately pleads the requisite elements of the cause of action. The issue is not, as the demurrers assert, whether there exists a contract document that was signed on behalf of Cayco or by Caylor that created a performance obligation to Plaintiff. The question is whether the contract that was signed by Sugar implicitly includes parties, Caylor and Cayco, that are effectively alter-egos of Sugar, Inc., such that the debt can also be legally attributed to Caylor and Cayco. The FAC alleges that there is such a relationship, and again, the Court is bound to accept those allegations as true for the purposes of this motion.

Fraudulent Conveyance

The same is true of the cause of action for fraudulent conveyance. Defendant Cayco protests that it is a neutral third party, an "ancillary note holder" with independent business reasons for accepting a deed to a real property to satisfy an unrelated debt. But the FAC alleges that Cayco is an alter-ego of Caylor and Sugar, and accepting that relationship as true, Cayco would have had knowledge that accepting title to the property would remove an asset from the named debtor, Sugar, that was intended to secure the loan from Plaintiff, and transfer it to an entity that was not a signatory to the Notes.

> Civil Code § 3439.04 provides:
>
> (a) A transfer made or obligation incurred by a debtor is voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation as follows:
>
> (1) With actual intent to hinder, delay, or defraud any creditor of the debtor.

(2) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor either:
(A) Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction.
(B) Intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.

(b) In determining actual intent under paragraph (1) of subdivision (a), consideration may be given, among other factors, to any or all of the following:
(1) Whether the transfer or obligation was to an insider.
(2) Whether the debtor retained possession or control of the property transferred after the transfer.
(3) Whether the transfer or obligation was disclosed or concealed.
(4) Whether before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit.
(5) Whether the transfer was of substantially all the debtor's assets.
(6) Whether the debtor absconded.
(7) Whether the debtor removed or concealed assets.
(8) Whether the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred.
(9) Whether the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred.
(10) Whether the transfer occurred shortly before or shortly after a substantial debt was incurred.
(11) Whether the debtor transferred the essential assets of the business to a lienor that transferred the assets to an insider of the debtor.

(c) A creditor making a claim for relief under subdivision (a) has the burden of proving the elements of the claim for relief by a preponderance of the evidence.

Both demurrers assume that if there was consideration for the transfer it cannot be fraudulent. This ignores the allegation of the FAC that the purpose of the transfer, whether or not there was consideration, was to remove the secured asset from the debtor Sugar and place it into the hands of a separate entity for the purpose of depriving the Plaintiff of recourse to the security.

Intentional / Negligent Misrepresentation

Defendant Stan Caylor protests that he cannot beheld vicariously liable for the obligations of a corporation based only upon his status as a corporate officer. Frances T. v. Vill. Green Owners Assn., 42 Cal. 3d 490, 503-504 (1986). While this is true, this is not the argument

that is made by the Plaintiff. Rather, the Plaintiff argues that Caylor is effectively the same entity as the Cayco and Sugar corporations and should be held liable as their alter ego. Further, the Court in the Frances T. v. Vill. Green Owners Assn. case recognized that a corporate officer is not immunized by that status, and may still be held liable for their own tortious acts, "even though the wrongful act is performed in the name of the corporation." Id. at 504.

On all causes of action, construing the FAC liberally and drawing reasonable inferences from the facts pleaded the Court concludes that the FAC is sufficient to overcome Defendants' demurrers.

TENTATIVE RULING #8: PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE IS GRANTED. DEFENDANT CAYCO CORPORATION'S DEMURRER IS OVERRULED. DEFENDANT STAN CAYLOR'S DEMURRER IS OVERRULED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

NOTICE TO ALL PARTIES OF A REQUEST FOR ORAL ARGUMENT AND THE GROUNDS UPON WHICH ARGUMENT IS BEING REQUESTED MUST BE MADE BY TELEPHONE OR IN PERSON BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; EL DORADO COUNTY LOCAL RULE 8.05.07. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

LONG CAUSE HEARINGS MUST BE REQUESTED BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED AND THE PARTIES ARE TO PROVIDE THE COURT WITH THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. LONG CAUSE ORAL ARGUMENT REQUESTS WILL BE SET FOR HEARING ON ONE OF THE THREE MUTUALLY AGREEABLE DATES ON FRIDAY AFTERNOONS AT 2:30 P.M. THE COURT WILL ADVISE THE PARTIES OF THE LONG CAUSE HEARING DATE AND TIME BY 5:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. PARTIES MAY PERSONALLY APPEAR AT THE HEARING.

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

9.	**25CV0242**	**RAMOS RESTAURANTS LLC, ET AL v. RODRIGUEZ, ET AL**
Demurrer		

The Complaint in this matter includes six causes of action for Breach of Contract, Breach of Fiduciary Duty, violation of Corporations Code § 17704.07, Negligence, Intentional Interference with Prospective Business Advantage, and Declaratory Relief. Defendants have demurred to the Complaint.

Standard of Review

> A demurrer tests the sufficiency of a complaint by raising questions of law. (*Rader Co. v. Stone* (1986) 178 Cal.App.3d 10, 20, 223 Cal.Rptr. 806.) In determining the merits of a demurrer, all material facts pleaded in the complaint and those that arise by reasonable implication, but not conclusions of fact or law, are deemed admitted by the demurring party. (*Moore v. Conliffe, supra,* 7 Cal.4th at p. 638, 29 Cal.Rptr.2d 152, 871 P.2d 204; *Interinsurance Exchange v. Narula, supra,* 33 Cal.App.4th at p. 1143, 39 Cal.Rptr.2d 752.) The complaint must be construed liberally by drawing reasonable inferences from the facts pleaded. (*Flynn v. Higham* (1983) 149 Cal.App.3d 677, 679, 197 Cal.Rptr. 145.)

Rodas v. Spiegel, 87 Cal. App. 4th 513, 517 (2001).

As the Court understands the allegations of the Complaint, Plaintiff is a majority partner of Ramos Restaurants, LLC dba Vida Cantina & La Cascada (Company"). Defendants Rodriguez and Breton are alleged to be "partners of a company", who entered into an operating agreement with Plaintiff's Company. Complaint, paras.1-3. The operating agreement, dated July 15, 2019, ("Agreement") is attached to the Complaint. Complaint, para. 15.

The Complaint alleges that Defendants attempted to remove Plaintiff as majority partner and manager of the Company without cause, in breach of the Agreement and in violation of Corporations Code § 17704.07. Complaint, paras. 17, 22, 25.

Apart from the fact that the Complaint as written, or perhaps more accurately, as generated, is largely unintelligible, even interpreting it in the most liberal way possible in favor of Plaintiff it fails in certain fundamental respects. First, it alleges that Defendant Breton has committed a breach of contract, a breach of fiduciary duty, a violation of the Corporations Code and negligence, but the Agreement that is central to all of these allegations is not signed by, nor even mentions Defendant Breton.

Nor does the Complaint allege any specific action by any Defendant on which these causes of action could be predicated. Instead, the allegations are statements of legal conclusions, *e.g.* Defendants . . . actions constitute a material breach of the Agreement" (Complaint, para. 43); Defendants "owe a fiduciary duty to Plaintiff . . . . [and their] actions constitute a breach of this fiduciary duty" (Complaint, paras. 50-51); Defendants' "actions violate

California Corporations Code" (Complaint, para. 55); Defendants "has [sic] a duty . . . [and their] "actions constitute a breach of this duty" (Complaint, paras. 62-63); Defendants "intentionally interfered" (Complaint, para. 67); Defendants "owed a fiduciary duty . . . . and breached that duty", (Complaint, para. 73). Nowhere in the Complaint does there appear any specific allegation of any specific factual action or circumstance to support these conclusions of law.

Being completely devoid of any factual information that the Court could interpret in the Plaintiff's favor, the Complaint does not provide the Court with any basis to overrule Defendants' demurrer.

TENTATIVE RULING #9: DEFENDANTS' DEMURRER IS SUSTAINED WITH LEAVE TO AMEND WITHIN TEN DAYS OF THIS ORDER.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.