

| | | |
|--|-----------------|---|
| 1. | 24CV2404 | DEMTECH SERVICES INC. vs. DM SOLUTIONS, INC. ET AL |
| Compel Further Response to Discovery/Issue Sanctions/Monetary Sanctions | | |

Defendant McLaury (Violation of Court Order/Spoliation of Evidence/Monetary Sanctions)

The Plaintiff's first round of discovery requests was sent on January 29, 2025, and the Second Set of Request for Production of Documents was served on Defendant McLaury ("McLaury") on February 26, 2025. The parties exchanged meet and confer correspondence, but McLaury provided no response by the respective deadlines of March 4 and April 2, 2025, and no extension was discussed or agreed upon. Plaintiff's first motion to compel was filed on April 17, 2025. (Declaration of Jacqueline Vu, dated July 14, 2025, ("Vu Declaration"), paras. 3-11.

The second set of discovery served on McLaury on February 26, 2025, expressly requests "a forensic copy of, or the opportunity to inspect" specifically identified several USB devices and any other hardware or physical devices that McLaury has used or interfaced with any laptop used by McLaury in the course of his employment with Plaintiff. Vu Declaration, Exhibit 9, RPDs Nos. 27-35. On June 6, 2025, the Court granted Plaintiff's first motion to compel discovery responses and ordered McLaury to respond.

On October 23, 2025, this Court denied reconsideration of the June 6 Order and once again ordered McLaury to respond to Plaintiff's discovery, without objection, by November 21, 2025. McLaury's unverified responses were served on November 28, 2025, and fully verified responses were served on December 3, 2025, with objections, although he claims to have withheld nothing based on those objections. Opposition, page 3:23-25. To provide responses without objections, as ordered by the Court, "was not reasonable". Huber Declaration, para. 12.

McLaury did not comply with the Court's Order to respond to the Request for Production, Set Two, by producing "a forensic copy of, or provide the opportunity to inspect," various USB devices that McLaury used to download files from his work-issued laptop as part of the discovery response that was due in November 2025. On December 3, 2025, McLaury's counsel first represented that McLaury didn't possess any such devices, but also indicated he would ask the Court to appoint a neutral forensic analyst to analyze hardware devices. Vu Declaration, Exhibit 17. McLaury's counsel did not respond to two meet and confer communications sent by Plaintiff's counsel on December 3, 2025 and December 12, 2025, asking for production of the requested devices. Vu Declaration, Exhibits 18-19. Instead, several months after the Court's deadline and in spite of Plaintiff's repeated requests for their production, in January 2026, McLaury entrusted those devices to his own expert, thereby making them unavailable to Plaintiff. Huber Declaration, para. 17.

McLaury represents that he will amend the discovery responses after their forensic expert completes his work. Huber Declaration, para. 19.

March 13, 2026
Dept. 9
Tentative Rulings

McLaury has opposed the motion, saying that he is awaiting his forensic expert's analysis of his external drives to know whether they have the serial numbers referenced in the discovery requests. Opposition at 5:11-14. McLaury represents that he will supplement his filings with the Court in advance of the hearing, but has not filed anything new with the Court since his Opposition.

In response to this motion, McLaury argues the following points that are not relevant to this motion to compel:

- Plaintiff has not yet responded to Defendant DM Solutions' discovery propounded in January 2026. Declaration of Timothy T. Huber, dated February 2, 2026, in Opposition to Plaintiff's Motions to Compel Compliance and for Terminating Sanctions (Huber Declaration), para. 3.
- The First Amended Complaint is unverified. Id.
- There are no sworn declarations from Plaintiff to support the discovery motions; Id.
- There are no sworn statements filed by Plaintiff to support the allegations of the Complaint. Id.
- The requested issues sanctions are more than Plaintiff could prove at trial.

This Court issued a valid and enforceable Order on October 23, 2025, in which the Court ordered Defendants to provide code-compliant responses, without objections, and produce documents for Plaintiff's Requests for Production of Documents (Set Two) served on David McLaury by November 21, 2025. These Requests required McLaury to produce a forensic copy of, or provide the opportunity to inspect, various USB devices that McLaury used to download files from his work-issued laptop shortly after Plaintiff terminated his employment.

McLaury failed to timely serve his responses or produce the USB devices by November 21, 2025. It has been nearly a year since this Court originally ordered McLaury to produce "a forensic copy of, or the opportunity to inspect" several USB devices that are specifically identified and any other hardware or physical devices that McLaury has used or interfaced with any laptop used by McLaury in the course of his employment with Plaintiff. To date he has not responded to these discovery requests even under Court Order to do so. Instead, he has 1) denied possessing them, 2) withheld them pending selection of a neutral forensic expert, 3) without further consultation he has removed potentially responsive devices from Plaintiff's reach for months by leaving them with his own forensic consultant, and 4) failed to meet his own commitment to provide updated information to the Court.

McLaury therefore willfully and purposefully disobeyed this Court's October 23, 2025 Order.

March 13, 2026
Dept. 9
Tentative Rulings

Plaintiff moves for terminating, issues sanctions and/or monetary sanctions (\$5,759) against Defendant pursuant to Code of Civil Procedure § 128:

(a) Every court shall have the power to do all of the following:

* * *

(4) To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein.

* * *

Plaintiff requests several potential remedies, including requesting the Court to adopt the following issues sanctions:

1. McLaury used USB devices to download Plaintiff's confidential, proprietary, and trade secret information from his work-issued laptop following Plaintiff's termination of his employment;
2. The confidential, proprietary, and trade secret information included, but was not limited to, Plaintiff's customer information, financial records, sales orders, and technical specifications for Plaintiff's products; and
3. McLaury misappropriated the information contained in the USBs for his competing business, DM Solutions, Inc.

McLaury objects to these issues sanctions, because, he argues, these propositions are more than Plaintiff could prove at trial. McLaury's arguments are primarily focused on the issue of whether or not Plaintiff could prove the existence of a trade secret.

Code of Civil Procedure § 2023.030(b) provides: "The court may impose an issue sanction ordering that designated facts shall be taken as established in the action in accordance with the claim of the party adversely affected by the misuse of the discovery process. The court may also impose an issue sanction by an order prohibiting any party engaging in the misuse of the discovery process from supporting or opposing designated claims or defenses."

The discovery statutes evince an incremental approach to discovery sanctions, starting with monetary sanctions and ending with the ultimate sanction of termination. "Discovery sanctions 'should be appropriate to the dereliction, and should not exceed that which is required to protect the interests of the party entitled to but denied discovery.'" (*Laguna Auto Body v. Farmers Ins. Exchange, supra*, 231 Cal.App.3d at p. 487, 282 Cal.Rptr. 530.) If a lesser sanction fails to curb misuse, a greater sanction is warranted: continuing misuses of the discovery process warrant incrementally harsher sanctions until the sanction is reached that will curb the abuse.

Doppes v. Bentley Motors, Inc., 174 Cal. App. 4th 967, 992 (2009).

Given that repeated Court Orders and monetary sanctions have not resulted in the production of the requested discovery, the Court finds that issues sanctions would be an appropriate response to the particular failure to produce McLaury's computer hardware for inspection. However, the Court declines to include trade secret designation in that sanction. Accordingly, the Court orders that the following facts will be taken as established in this action as a discovery sanction against Defendant McLaury:

1. McLaury used USB devices to download Plaintiff's confidential and proprietary information from his work-issued laptop following Plaintiff's termination of his employment;
2. The confidential and proprietary information included, but was not limited to, Plaintiff's customer information, financial records, sales orders, and technical specifications for Plaintiff's products; and
3. McLaury misappropriated the information contained in the USBs for his competing business, DM Solutions, Inc.

Motion to Compel (Issue Sanctions/Monetary Sanctions)

With respect to Defendants Mackendrick and DM Solutions, discovery was served on January 29, 2025, and responses were due on March 4, 2025. After responses were not received, Defendants did not respond to meet and confer correspondence sent on March 14, 2025. Vu Declaration, para. 6, Exhibit 11. This exchange led to Plaintiff's first motion to compel responses to its discovery requests, resulting in the June 2, 2025, Order of the Court instructing Defendants to respond to Plaintiff's discovery requests. McLaury's responses are discussed above. Mackendrick responded three days after the Court's deadline but submitted verified responses. Defendant DM Solutions responded by December 3, 2025, but Plaintiff took exception to various deficiencies in DM Solutions' response:

1. DM Solutions responded with objections in spite of the Court's Order to submit responses without objections;
2. DM Solutions did not respond to the Request for Production of Documents (Set One);
3. DM Solutions incorporated documents by reference to Special Interrogatory responses without producing the documents.

Plaintiff responded with meet and confer correspondence on December 3 and December 12, 2025, but Defendants did not respond. Vu Declaration, Exhibits 18-19.

On December 30, 2025, Plaintiff filed a second motion to compel discovery responses and for compliance with the Court's October 23, 2025 Order.

The Court finds that monetary sanctions are appropriate under the authority of Code of Civil Procedure §§ 2031.300(c), 2023.010(d), (g) and (h), and 2023.030(a). Plaintiff requests \$5759 in monetary sanctions, representing \$5,699 in attorneys' fees for 13 hours of drafting the motions and reply briefs and attending hearings, and \$60 in costs for filing fees.

TENTATIVE RULING #1:

- 1. PLAINTIFF'S MOTION TO COMPEL FURTHER DISCOVERY RESPONSES IN COMPLIANCE WITH THE COURT'S OCTOBER 23, 2025, ORDER IS GRANTED AS TO ALL DEFENDANTS.**
- 2. PLAINTIFF'S MOTION FOR ISSUES SANCTIONS AGAINST DEFENDANT MCLAURY IS GRANTED.**
- 3. PLAINTIFF'S MOTION FOR MONETARY SANCTIONS AGAINST ALL DEFENDANTS IN THE AMOUNT OF \$5,759 IS GRANTED AND SHALL BE PAID TO PLAINTIFF NO LATER THAN MARCH 27, 2026.**
- 4. CODE COMPLIANT DISCOVERY RESPONSES SHALL BE SUBMITTED WITHOUT OBJECTION BY MARCH 27, 2026.**

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.

| | | |
|---|----------|---|
| 2. | 25CV2308 | DOWNS ET AL vs. CEDAR EYE CENTER MEDICAL GROUP, INC. ET AL |
| Compel Further Response to Discovery | | |

The parties have reached an impasse in discovery and require judicial intervention to move forward.

Request for Production

The Separate Statement lists nine Requests for Production (“RFPs”) at issue. To each of these the responding Defendants list obviously specious, identical and unsupported objections: vague, ambiguous, overbroad, burdensome, harassing, oppressive, none of which appear to have substantive application to the RFPs against which they are asserted. Further, the responses all assert that Defendant need not produce the requested information because it is “equally available” to the Plaintiff, citing Code of Civil Procedure § 2030.230. This statute does not apply to Requests for Production, and so adds as much value to Defendants’ responses as the previously listed generic objections.

In some cases Defendant respond by asserting that the requested information might be found with another person or organization. Code of Civil Procedure § 2031.230 requires that such a response include the name *and address* of the person or organization that might have access to the requested records. Defendants consistently failed to meet the requirements of this statute.

Having consumed a large amount of ink and paper asserting inapplicable “cut-and-paste” objections and complaining that having to respond to discovery is unreasonable harassment, Defendants do, in each case, either represent that they will produce such documents as are responsive, or that they do not possess any responsive documents. Plaintiff asserts that in the case of RFP No. 3 there are missing pages.

RFP No. 9 is the single exception to Defendants’ non-compliance with statutory requirements. In addition to stating that the requested documents do not exist, Defendants make colorable arguments by means of objections related to the admissibility of peer review and quality assurance materials.

With respect to Requests for Production Nos. 1-8:

- Defendants’ objections (vague, ambiguous, overbroad, burdensome, harassing, oppressive, equally available to Plaintiff) are overruled;
- Defendants are ordered to produce any responsive records that have not already been produced; and

- Defendants are ordered to produce the names and addresses of any person or entity who might be in possession of the requested documents or additional documents that might be responsive to the request.

Interrogatories

As a general proposition, Defendants' response to all Special Interrogatories ("SI") was that the information was equally available to Plaintiff from another medical provider, citing Code of Civil Procedure § 2030.230. Additionally, Defendants objected to all Special Interrogatories as "compound". Code of Civil Procedure § 2030.060.

Also featured in the SI responses were the familiar objections: vague, ambiguous, overbroad, seeks a narrative, attorney-client privilege, work product, non-discoverable medical research and/or peer review, irrelevant, calls for speculation, seeks expert opinion. These objections are overruled. The only SI that could arguably come within any of these objections was SI No. 2's use of the word "Rep" which appeared to be a typographical error. Defendant actually answered SI No. 2, so its vagueness objection to that interrogatory is not at issue.

Responses were provided to SI Nos. 1 and 2. No responses were provided to SI Nos. 11-15 because these were not included in the discovery request sent to Defendants by Plaintiff. Declaration of Alaina Dickens, dated January 12, 2026, Exhibits H and M.

The Court agrees that SI Nos. 8 and 9 can be said to be compound questions.

Defendants are ordered to provide additional responses to SI Nos. 3, 4, 5, 6, and 7. It strains credulity that a medical facility and a treating physician between them have no responsive information to these interrogatories, even if additional or different records are kept by other organizations that were involved in the Plaintiff's treatment.

As to the Form Interrogatories ("FI"), the only issue raised is the response to FI No. 17.1, which mirrors the RFA responses. The FIs were only directed to Dr. Norton, and not to Cedar.

RFA Nos. 1 and 7: The response was "unable to admit or deny." This may or may not change if Dr. Norton conducts a reasonable inquiry as required by the discovery statutes. If the RFA response changes then the Court expects Dr. Norton to update his FI responses accordingly. If Dr. Norton has no knowledge of his patients' platelet counts before surgery then there would be no documents or witnesses to produce.

As to RFAs Nos. 2 and 3, Dr. Norton expressed that he did not order a hematology consultation or platelet transfusion. Plaintiff requests the Court to order production of documents or witnesses but it is not clear how Dr. Norton could comply with the order to produce documents or witnesses to prove a negative.

The Court sustains the Defendants' objections to RFA Nos. 4, 6, 14 and 15.

RFA Nos. 5, 8, 9: Dr. Norton admitted or partially admitted RFA Nos. 5, 8, and 9. If there are documents or witnesses corroborating these responses Dr. Norton is ordered to produce them.

RFA Nos. 10, 11, 12, 13: Dr. Norton denied RFA Nos. 10, 11, 12 and 13. If there are documents or witnesses corroborating these responses Dr. Norton is ordered to produce them.

Requests for Admission

To take Request for Admission ("RFA") No. 1 as an example, it asks whether Plaintiff's preoperative platelet counts on a specific day were within a specific range. Both Dr. Norton and Cedar Eye Center Medical Group ("Cedar") responded with the following objections: vague, ambiguous, overbroad, calls for speculation, requests material protected by attorney-client privilege and attorney work product; not discoverable because it constitutes medical research or peer reviews; seeks expert testimony. Cedar added that as a corporation it was not qualified to practice medicine. It strains the imagination as to how a party could assert such scattershot boilerplate objections to a numerical, factual, and specific question relating to a single medical patient on a single day. Notwithstanding the long-winded bluster, both Defendants did respond "unable to admit or deny" to RFA No. 1.

Although both Defendants argue against the motion to compel by citing Code of Civil Procedure § 2033.220(c) and declaring their responses to be Code-compliant, missing from every single RFA response (other than admissions) was a statement that the Defendant had made a reasonable inquiry in order to answer the question, as required by Code of Civil Procedure § 2033.220(c).

Dr. Norton did fully respond to RFAs Nos. 2 (didn't order hematology consultation), 3 (didn't order platelet transfusion), 5 (admit), 8 (admit in part, deny in part), 9 (admit), 10 (deny), 11 (deny), 12 (deny), and 13 (deny). He responded "unable to admit or deny" to RFAs Nos. 1, 7 but without stating that his response was based on a reasonable inquiry as required by Code of Civil Procedure § 2033.220(c). Defendants asserted rational objections to RFAs Nos. 4 (calls for expert opinion), 6 (calls for expert opinion), 14 (calls for expert opinion), and 15 (calls for speculation).

It is not clear why RFAs Nos. 9 (admitted), 10 (denied), 11 (denied), and 12 (denied) were included in this motion to compel, as both Defendants provided a response to each of them. If the denials contradict other discovery responses, it is a contradiction available for Plaintiff to use at trial. It is not the Court's role to ensure that all discovery responses are consistent with all other discovery responses. In the case of RFA No. 11 Plaintiff asserts that the denial is not

supported by witnesses or documents, but the query is a negative (“admit that no alternative surgical strategy was offered to Plaintiff prior to November 26, 2024”) and it is not clear how Defendants are expected to procure documents and witnesses to prove a negative. In the case of RFA No. 12 (admit that your internal policies required platelet counts of at least 100 K/uL for intraocular surgery) the Defendants assert that no such internal policies exist; nevertheless Plaintiff asks the Court to require their production.

With respect to RFAs Nos. 1-15:

- Dr. Norton is ordered to respond to RFAs Nos. 1 and 7 in a manner that complies with Code of Civil Procedure § 2033.220(c).
- Cedar is ordered to respond to RFAs Nos. 1, 2, 3, 5, 7, 8, and 13 in a manner that complies with Code of Civil Procedure § 2033.220(c).
- Defendants’ objections to RFAs 1-15 on the basis that they are vague, ambiguous, overbroad, request material protected by attorney-client privilege and attorney work product; or are not discoverable as medical research or peer reviews are overruled.
- The Court sustains Defendants’ objections to RFAs Nos. 4, 6, 14 and 15.
- The motion to compel is denied as to RFAs Nos. 9, 10, 11 and 12.

Sanctions

The Court is required to impose sanctions against a party who unsuccessfully opposes a motion to compel. Code of Civil Procedure §§ 2031.310(h), 2031.300(c) (request for production), 2030.290(c), 2030.300(d) (interrogatories).

Defendants initially claimed that the motion to compel was untimely and didn’t meet statutory formatting requirements. The Court rejected these arguments but required the Plaintiff to submit a Separate Statement consistent with California Rules of Court, Rule 3.1345 and continued the matter.

The parties have submitted nearly the entirety of the first round of discovery to the Court for review without measurably reducing the issues through their meet and confer communications. Defendants argue that this is evidence that Plaintiff failed to meet and confer in good faith, but that argument cuts both ways.

While a few of Defendant’s objections have been upheld, the Court has found the vast majority of Defendants’ objections to be not merely unfounded, but wholly inapplicable to the particular discovery requests against which they were asserted.

Many of Defendants responses disregarded the clear language of discovery statutes by failing to state that their responses followed a reasonable inquiry, and by asserting the “equally available” response to forms of discovery that are not subject to such a response.

While Defendants asserted in several responses that requested records do not exist, the Court felt compelled to order further production of records that do exist, if any, as it is noteworthy that a treating medical facility and a treating physician have such a paucity of records regarding a patient’s treatment, as well as an apparent lack of internal policies.

On balance, the Court finds that the Defendants’ opposition to this motion have been unsuccessful.

Defendants further argue that the motion requesting sanctions is not sufficiently specific because it fails to identify “every person, party and attorney” against whom a sanction is sought.” Code of Civil Procedure §2023.040. However, the motion filed on December 26, 2025, specifies that sanctions are requested against “Defendants and their counsel”. The only Defendants who participated in the discovery at issue are Cedar and Dr. Norton, and they are both represented by the same counsel. The Court finds that this is sufficiently specific to meet the requirements of the statute. Plaintiff request sanctions representing 9.5 hours to prepare the motion at the rate of \$595 per hour, and \$90 in costs. This does not include preparing Plaintiff’s corrected Declaration. The Court awards sanctions in the amount of \$5,742.50 to Plaintiff.

TENTATIVE RULING #2:

1. WITH RESPECT TO REQUESTS FOR ADMISSIONS (“RFAS”) NOS. 1-15:

- **DR. NORTON IS ORDERED TO RESPOND TO RFAS NOS. 1 AND 7 IN A MANNER THAT COMPLIES WITH CODE OF CIVIL PROCEDURE § 2033.220(C).**
- **CEDAR IS ORDERED TO RESPOND TO RFAS NOS. 1, 2, 3, 5, 7, 8, AND 13 IN A MANNER THAT COMPLIES WITH CODE OF CIVIL PROCEDURE § 2033.220(C).**
- **DEFENDANTS’ OBJECTIONS TO RFAS 1-15 ON THE BASIS THAT THEY ARE VAGUE, AMBIGUOUS, OVERBROAD, REQUEST MATERIAL PROTECTED BY ATTORNEY-CLIENT PRIVILEGE AND ATTORNEY WORK PRODUCT; OR ARE NOT DISCOVERABLE AS MEDICAL RESEARCH OR PEER REVIEWS, ARE OVERRULED.**
- **THE COURT SUSTAINS DEFENDANTS’ OBJECTIONS TO RFAS NOS. 4, 6, 14 AND 15.**
- **THE MOTION TO COMPEL IS DENIED AS TO RFAS NOS. 9, 10, 11 AND 12.**

2. WITH RESPECT TO REQUESTS FOR PRODUCTION NOS. 1-8:

- **DEFENDANTS' OBJECTIONS (VAGUE, AMBIGUOUS, OVERBROAD, BURDENSOME, HARASSING, OPPRESSIVE, EQUALLY AVAILABLE TO PLAINTIFF) ARE OVERRULED;**
- **DEFENDANTS ARE ORDERED TO PRODUCE ANY RESPONSIVE RECORDS THAT HAVE NOT ALREADY BEEN PRODUCED; AND**
- **DEFENDANTS ARE ORDERED TO PRODUCE THE NAMES AND ADDRESSES OF ANY PERSON OR ENTITY WHO MIGHT BE IN POSSESSION OF THE REQUESTED DOCUMENTS OR ADDITIONAL DOCUMENTS THAT MIGHT BE RESPONSIVE TO THE REQUEST.**

3. WITH RESPECT TO SPECIAL INTERROGATORIES:

- **DEFENDANTS ARE ORDERED TO PROVIDE ADDITIONAL RESPONSES TO SPECIAL INTERROGATORIES NOS. 3, 4, 5, 6, AND 7.**

4. WITH RESPECT TO FORM INTERROGATORIES:

- **FORM INTERROGATORY 17.1 RE: RFA NOS. 1, 2, 3, 5, 7, 8, 9, 10, 11, 12, 13: DR. NORTON IS ORDERED TO PRODUCE DOCUMENTS AND LIST WITNESSES CORROBORATING THESE RESPONSES, IF ANY.**
- **THE COURT SUSTAINS THE DEFENDANTS' OBJECTIONS TO FORM INTERROGATORY 17.1 RE: RFAS NOS. 4, 6, 14 AND 15.**

5. WITH RESPECT TO SANCTIONS:

- **DEFENDANTS CEDAR EYE MEDICAL CENTER, DR. NORTON AND THEIR COUNSEL SHALL PAY SANCTIONS IN THE AMOUNT OF \$5,742.50 TO PLAINTIFF WITHIN TEN DAYS OF SERVICE 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).

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

March 13, 2026
Dept. 9
Tentative Rulings

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.

| | | |
|--|----------|--|
| 3. | 25CV3274 | NICHOLS ET AL vs. HARVEST SMALL BUSINESS FINANCIAL LLC ET AL |
| Motion to Grant Relief Sought/Preliminary Injunction | | |

Plaintiffs are the borrowers and Defendants represent the lenders in a loan to acquire a commercial property that was secured with notes both on the commercial property as well as on Plaintiffs' residential property as collateral for the loan.

Plaintiffs made substantial payments on the commercial loan before requesting a hardship accommodation or modification from the lender in May, 2024, which they did not receive. Complaint, paras. 17-18, Exhibit E. Ultimately Plaintiffs put the commercial building up for sale in July, 2024. Complaint, para. 19.

In January, 2025, Defendant recorded a Notice of Default on both Plaintiffs' personal residence and on the commercial property.

In December, 2025, Plaintiff filed two actions in this Court with respect to the the commercial loan, one of which addressed the lien on the commercial property (25CV3370), and the other which addressed the lien on the residential property (25CV3274), both of which sought to prevent foreclosure of each of the two properties pending the resolution of litigation. Identical motions for preliminary injunctions in both cases argued that the Notice of Default recorded on the properties was evidence of imminent harm and that the Defendant intended to proceed to foreclose on the properties.

Before these two cases were consolidated, in the December 12, 2025, hearing in Case No. 25CV3274 (residential property), the Court denied Plaintiff's *ex parte* request for a temporary restraining order to prevent foreclosure, finding that, notwithstanding Defendant's recordation of the Notice of Default, "no foreclosure sale is currently pending, and the court therefore cannot find a risk of irreparable harm at this point necessitating the issuance of a temporary restraining order." The Court set a hearing on the preliminary injunction *with respect to the residential property* on January 26, 2026.

In the *commercial property* case, the Court declined to issue a temporary restraining order at a hearing held on December 17, 2025, stating: "A notice of default was filed in January 2025, 11 months ago, but there is nothing in the record indicating that a trustee's sale is imminent or has even been scheduled. The irreparable harm or immediate danger to which the court rule applies requires a showing of something more than a speculative financial or property loss; . . ." The Court then set a hearing on the motion for a preliminary injunction on January 16, 2026, but at that hearing the only issue that was discussed was the consolidation of the two cases, with a hearing on consolidation set on January 23, 2026.

At that hearing on January 23, 2026, the two cases were consolidated, and the Court also considered and denied Plaintiff's request for a preliminary injunction as to the commercial property.

In a filing made on January 13, 2026, before either hearing on the preliminary injunction requests, Plaintiffs noted the non-opposition of Defendants to a preliminary injunction and made a new motion requesting the Court to grant the relief sought. This filing was calendared on March 13, 2026. In this filing, Plaintiffs reference their December 8, 2025, motion for preliminary injunction, which was scheduled to be heard on January 26, 2026.

After that January 13, 2026, filing, Defendants did in fact file an Opposition, and the matter was heard on January 26, 2026, with both parties appearing. The application for a preliminary injunction as to the residential property was denied by the Court at that hearing.

The motion on today's calendar appears to have been directed at the motion already decided by the Court at the January, 26, 2026, hearing. Accordingly, the relief requested, a preliminary injunction, has already been considered and denied, and this motion is moot.

TENTATIVE RULING #3: THE MOTION IS MOOT AND IS TAKEN OFF CALENDAR.

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.

| | | |
|----------------------------|----------|--|
| 4. | 26CV0327 | IN THE MATTER OF PEACHTREE SETTLEMENT FUNDING, LLC |
| Transfer of Payment Rights | | |

Prior to approving a petition for the transfer of payment rights, this court is required to make a number of express written findings pursuant to Cal. Insurance Code § 10139.5, including the following:

1. That the transfer is in the best interests of the Payee, taking into account the welfare and support of Payee's dependents.
2. That the Payee has been advised in writing by the Petitioner to seek independent professional advice) and has either received that advice or knowingly waived in writing the opportunity to receive that advice. This finding is supported by Exhibits B and E to the Petition. *See also*, Petition at p. 6:5-21.
3. That the transferee has complied with the notification requirements and does not contravene any applicable statute or the order of any court or government authority. In this case, the required disclosure statement was provided at least ten days prior to the execution of the transfer agreement, as required by Insurance Code § 10136. See Exhibits A and B.
4. That the transfer does not contravene any applicable statute or the order of any court or government authority. The payee's Declaration states that the payee has no court-ordered child or spousal support obligations. Declaration of Payee, para. 8.

In addition to the express written findings required by the applicable statutes, Cal. Ins. Code § 10139.5(b) requires the court to determine whether, based on the totality of the circumstances and considering the payee's age, mental capacity, legal knowledge, and apparent maturity level, the proposed transfer is fair and reasonable, and in the payee's best interests. The court may deny or defer ruling on the petition if the court believes that the payee does not fully understand the proposed transaction, and/or that the payee should obtain independent legal or financial advice regarding the transaction.

The Petition submitted generally contains the information required by the Insurance Code for court approval of this transaction.

TENTATIVE RULING #4: THE PETITION IS GRANTED.

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).

March 13, 2026
Dept. 9
Tentative Rulings

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.

| | | |
|------------------------|----------|------------------------------|
| 5. | 23CV1387 | DEITZ TRUST vs. CURTIS ET AL |
| Preliminary Injunction | | |

Plaintiff seeks a preliminary injunction that would prevent Defendant from altering the flow of water from Plaintiff's dam and across Defendant's land while this lawsuit is pending.

Request for Judicial Notice

Plaintiff requests the Court to take judicial notice of two official documents of El Dorado County: 1) the August 7, 2024, County Code Enforcement Division administrative enforcement for unpermitted grading, unauthorized containers and unpermitted fencing on Defendant's property, and 2) an Administrative Order regarding a Code Enforcement action against Defendant for unpermitted grading, among other Code violations.

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. While Section 451 provides a comprehensive list of matters that must be judicially noticed, Section 452 sets forth matters which *may* be judicially noticed. 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.

Evidence Code § 452(c) allows the court to take judicial notice of "official acts of the legislative, executive and judicial departments of the United States and of any state of the United States." Accordingly, the request for judicial notice is granted.

Standard of Review

The determination whether to issue a preliminary injunction pending trial on the merits requires the trial court to exercise its discretion by considering and weighing:

'two interrelated factors,' specifically, the likelihood that plaintiffs will prevail on the merits at trial, and the comparative harm to be suffered by plaintiffs if the injunction does not issue against the harm to be suffered by defendants ... if it does." (*King v. Meese* (1987) 43 Cal.3d 1217, 1226, 240 Cal.Rptr. 829, 743 P.2d 889.) The more likely it is that plaintiffs will ultimately prevail, the less severe must be the harm that they allege will occur if the injunction does not issue. (*Id* at p. 1227, 240 Cal.Rptr. 829, 743 P.2d 889.) Further, "if the party seeking the injunction can make a sufficiently strong showing of likelihood of success on the merits, the trial court has discretion to issue the injunction notwithstanding that party's inability to show that the balance of harms tips in his favor. [Citation.]" (*Common Cause v. Board of Supervisors* (1989) 49 Cal.3d 432, 447, 261 Cal.Rptr. 574, 777 P.2d 610.)

Right Site Coal. v. Los Angeles Unified Sch. Dist., 160 Cal. App. 4th 336, 338–39 (2008).

The court “examines all of the material before it in order to consider ‘whether a greater injury will result to defendant from granting the injunction than to the plaintiff from refusing it.’” Bennett v. Lew, 151 Cal. App. 3d 1177, 1183, (1984). “In making that determination the court will consider the probability of the plaintiff’s ultimately prevailing in the case and, it has been said, will deny a preliminary injunction unless there is a reasonable probability that plaintiff will be successful in the assertion of his rights.” Id.

It is a rule so universally followed and so often stated as to need only to be referred to that the granting, denying, dissolving, or refusing to dissolve a preliminary or temporary injunction rests in the sound discretion of the trial court upon a consideration of all the particular circumstances of each individual case.” It is further the rule that “The discretion, however should be exercised in favor of the party most likely to be injured.”

McCoy v. Match, 128 Cal. App. 2d 50, 52, (1954) (citations omitted).

In this case, the Court finds that the Plaintiff is most likely to prevail. The First Amended Complaint includes causes of action for trespass, nuisance, quiet title to easement and declaratory relief. It seeks to prevent Defendant from engaging in activities on Defendant’s property that will change the flow of water from Plaintiff’s dam through an existing spillway.

One of the two documents of which the Court takes judicial notice is a June 13, 2024, Administrative Order (“June 13, 2024, Order”) regarding a Code Enforcement action against Defendant for unpermitted grading, among other Code violations. The June 13, 2024, Order describes a long history of grading activities by Defendant on his property between 2022 and 2024 that were found to be in violation of County ordinances. That document includes the following Findings of Fact describing activities by Defendant on his property during the same time period as the events listed in Plaintiff’s First Amended Complaint:

- A County investigation confirmed grading without permits had taken place on Defendant’s property.
- Defendant repeatedly took out applications for grading permits between 2021 and 2023 but those applications expired without permits being issued.
- The County issued Administrative Citations to Defendant in 2022 but the violations were not abated as of 2024.
- Defendant requested an administrative hearing but failed to attend the hearing.
- The grading activities of Defendant negatively impacted state water quality concerns, resulting in a Notice of Non-Compliance from the Central Valley Regional Water Quality Control Board dated April 8, 2022, and a Notice of Violation from the State of California Department of Fish and Game dated January 8, 2024.
- Defendant’s conduct was “particularly egregious, intentional and without justification, . . .”

In addition, in 2024 the California Department of Fish and Wildlife issued Defendant a Notice of Violation related to his attempt to construct a dam and a concrete channel to divert water flow without a Streambed Alteration Agreement with that agency.

These official events indicate that Defendant has a high propensity to act to construct water diversion facilities without regard to legal authorization or resulting negative consequences to existing waterways. Defendant's actions that Plaintiff addresses in the First Amended Complaint are the same actions that have resulted in regulatory citations and abatement orders from multiple public agencies, including a finding that Defendant's "egregious and intentional" activities negatively impacted state water quality concerns.

Defendant relies on the "common enemy" doctrine, which provides landowners the right to defend their property against flood waters:

[T]he California rule, contrary to that of other jurisdictions, recognizes extraordinary *flood waters* as 'common enemy' against the invasion of which a landowner may defend his property by the construction of *necessary defensive obstructions* even though they may damage other riparian owners, *provided the obstructions do not interfere with the current of the water in its natural channel.*" Costello v. Bowen, 80 Cal. App. 2d 621, 629 (1947).

Costello v. Bowen, 80 Cal. App. 2d 621 (1947)

The Costello v. Bowen Court continued:

[A] lower landowner may not completely dam the natural course of a stream so as to divert the waters thereof to the damage of upper landowners, even though the flow is excessively high, for the reason that while the high waters still flow in the natural channel they have not escaped therefrom and are not deemed to be flood or vagrant waters in the strict sense. This limitation of the application of the California rule with respect to vagrant flood waters, is in accordance with our decisions. *Hellman Commercial Trust & Savings Bank v. Southern Pacific Company, supra; Weinberg Company v. Bixby, supra*. In the Hellman case it is said at page 634 of 190 Cal., at page 49 of 214 P. that, in interfering with the established natural flow of the water course: '* * * It would follow as a matter of logical consequence that neither the defendants nor anyone else would have the right to divert either the usual or the torrential, or even the exceptional and unprecedented flow of these waters from their natural and accustomed channels to another of the courses or channels of said river, if such diversion would result in precipitating upon the lands of the plaintiff an outflow of said stream which, but for such diversion, would in the main have pursued its way down the east wash or channel thereof at a distance from and without injury to plaintiff's land.'

* * *

In 26 California Jurisprudence 284, section 496, the text which is supported by numerous California authorities, declares that: 'The owner of lower land may not obstruct a natural channel followed by surface waters, or otherwise change the natural discharge of such waters to the injury of his neighbors. Nor may he dam up a natural channel, swale or other low place, so as to prevent drainage water from reaching its natural outlet. But he has a right to protect himself against surface waters which have been turned on him by artificial means, though, as just seen, he may not turn such waters on the lands of third persons. The question as to what constitutes the natural flow to which a lower owner must submit is to be determined by natural conditions, unaffected by artificial changes and without considering the effect of floods or cloudbursts.'

Costello v. Bowen, 80 Cal. App. 2d 621, 630–32 (1947).

These facts and legal principles lead the Court to find that Plaintiff has at least a reasonable chance of success in this case, for the purpose of balancing the factors in determining the need for a preliminary injunction.

Given that the status quo pre-litigation has been restored by the removal of the barriers Defendant had erected and the water channel is currently in its historical state, the Court finds that temporarily enjoining Defendant from altering the water channels pending the outcome of the litigation will protect against potential future harms not only to Plaintiff but to the public interest in protecting waterways and their surrounding areas from erosion, siltation and other potential harms from Defendant's construction activities. On the other hand, the rainy season is ending, and to the extent there is overflow from Plaintiff's dam there is also a natural spillway in place to disperse that water. Accordingly, the Court finds that Defendant is under no threat of imminent harm if the Court grants a preliminary injunction to preserve the status quo during the pendency of the litigation.

TENTATIVE RULING #5: PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION IS GRANTED.

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

March 13, 2026
Dept. 9
Tentative Rulings

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.

| | | |
|---|-----------------|--------------------------------|
| 6. | 23CV1187 | MOORE vs. HANSEN, ET AL |
| Judgment on the Pleadings/Deem Requests for Admission Admitted/Sanctions | | |

In July, 2023, Plaintiff filed a Complaint that requested partition of a property in which Plaintiff and Defendant each held a 50 percent interest as tenants in common according to the title. The Complaint is self-contradicting, because in addition to requesting partition of the property based on shared ownership, it also claimed that Plaintiff held 100 percent of the interest in the property and sought quiet title. The fact that Defendant held an ownership interest was attributed to elder abuse in the Complaint.

In April, 2024, this Court overruled Defendants' demurrer to the elder abuse and quiet title causes of action in the Complaint.

In January, 2026, Defendant/Cross-Complainant filed this motion for judgment on the pleadings as to the first cause of action in the Complaint.

Defendant/Cross-Complainant makes this motion as a "non-statutory" motion for judgment on the pleadings, "without the limitations in Code of Civil Procedure § 438." Whether or not "non-statutory" judgment on the pleadings is a viable motion is "unclear." Tung v. Chicago Title Co., 63 Cal. App. 5th 734, 756 (2021). With the trial set in September, 2026, neither the deadlines set forth in § 438(e), nor the limitations on raising issues previously determined through demurrer contained in § 438(g) would operate to bar the instant motion. However, Defendant has not complied with the meet and confer requirement of Code of Civil Procedure § 439.

Standard of Review

When a motion for judgment on the pleadings is made by a defendant, the court must find that the complaint on its face does not state facts sufficient to constitute a cause of action against the defendant. Code of Civil Procedure § 438(c)(1)(B)(ii). The court may consider the allegations of the complaint and any matter of which the court is required to take judicial notice. "Where the motion is based on a matter of which the court may take judicial notice pursuant to Section 452 or 453 of the Evidence Code, the matter shall be specified in the notice of motion, or in the supporting points and authorities, except as the court may otherwise permit." Code of Civil Procedure § 438(d).

A motion for judgment on the pleadings performs the same function as a general demurrer...." (*Cloud v. Northrop Grumman Corp.* (1998) 67 Cal.App.4th 995, 999, 79 Cal.Rptr.2d 544.) "It is axiomatic that a demurrer lies only for defects appearing on the face of the pleadings." (*Harboring Villas Homeowners Assn. v. Superior Court* (1998) 63 Cal.App.4th 426, 429, 73 Cal.Rptr.2d 646.) Consequently, when considering a motion for judgment on the pleadings, "[a]ll facts alleged in the complaint are deemed admitted...."

(*Lance Camper Manufacturing Corp. v. Republic Indemnity Co.* (1996) 44 Cal.App.4th 194, 198, 51 Cal.Rptr.2d 622.) “Presentation of extrinsic evidence is therefore not proper on a motion for judgment on the pleadings.” (*Cloud*, at p. 999, 79 Cal.Rptr.2d 544.)

Sykora v. State Department of State Hospitals (2014) 225 Cal.App.4th 1530, 1534.

Request for Judicial Notice

Defendant/Cross-Complainant has requested the Court to take judicial notice of the Complaint and the Answer filed in this case.

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. While Section 451 provides a comprehensive list of matters that must be judicially noticed, Section 452 sets forth matters which *may* be judicially noticed. 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. 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.” Accordingly, the request for judicial notice is granted.

It is undisputed from the pleadings that the parties own equal shares of the property as tenants in common on the face of the title. A co-owner of a concurrent interest in real property is entitled to file an action for partition as a matter of right. Code of Civil Procedure §§ 872.210, 872.710, 872.720. Given the face of the pleadings the Court is bound to grant judgment on the pleadings as to Plaintiff’s request for partition.

This motion was based on the Complaint’s first cause of action and the Answer to the Complaint, it did not reference the Cross-Complaint. Defendant’s January 6, 2026, Notice of Motion; Memorandum in Support of Motion; Request for Judicial Notice. The trial court may grant a motion for judgment on the pleadings with or without leave to amend. Today's IV, Inc. v. Los Angeles Cnty. Metro. Transportation Auth., 83 Cal. App. 5th 1137, 1175 (2022); Dudley v. Dep't of Transp., 90 Cal. App. 4th 255, 260, (2001). Accordingly, in granting judgment on the pleadings the Court also grants leave to amend the Complaint.

Motion to Compel Discovery Responses/Deem Requests for Admissions Admitted

Defendant emailed Form Interrogatories, Special Interrogatories, Requests for Production and Requests for Admission to Plaintiff on October 30, 2025. No responses have been received. Defendant filed this motion on January 20, 2026, and it is unopposed.

If a response is not provided to Requests for Production of Documents the non-responsive party waives any objection to the demand, including one based on privilege or on the protection for work product. Code of Civil Procedure § 2031.300(a).

If a response is not provided to interrogatories the non-responsive party waives any right to exercise the option to produce writings under Section 2030.230, as well as any objection to the interrogatories, including one based on privilege or on the protection for work product. Code of Civil Procedure § 2030.290(a)

Code of Civil Procedure § 2033.280 addresses the failure to respond to requests for admissions:

If a party to whom requests for admission are directed fails to serve a timely response, the following rules apply:

(a) The party to whom the requests for admission are directed waives any objection to the requests, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010).

* * *

(b) The requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction under Chapter 7 (commencing with Section 2023.010).

(c) The court shall make this order, It is mandatory that the court impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion.

Defendant's motion is granted.

Defendant requests sanctions in the amount of \$5,340, including filing fees of \$240, and:

- 2 hours to prepare discovery
- 2.5 hours to prepare the motion to compel and supporting documents;
- 1 hour anticipated to review an opposition brief
- 2 hours anticipated to draft reply brief
- 1 hour anticipated for appearance.

The Court finds that the hours anticipated to review and respond to an opposition and appear at a hearing are not necessary since no opposition was filed. Also, the time spent on preparing discovery is not chargeable to the costs of bringing a motion to compel. Reducing the claim by six hours, the total recoverable attorneys' fees and costs for bringing the motion to compel is \$1,740.

TENTATIVE RULING #6:

- 1. DEFENDANT'S REQUEST FOR JUDICIAL NOTICE IS GRANTED.**
- 2. DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS IS GRANTED, WITH LEAVE TO AMEND THE COMPLAINT WITHIN 30 DAYS OF SERVICE OF THIS ORDER. THE PARTIES ARE ORDERED TO MEET AND CONFER IN GOOD FAITH PURSUANT TO CODE OF CIVIL PROCEDURE § 439(C) PRIOR TO THE FILING OF ANY AMENDED COMPLAINT.**
- 3. DEFENDANT'S MOTION TO COMPEL RESPONSES TO DISCOVERY IS GRANTED; PLAINTIFF SHALL SERVE CODE-COMPLIANT RESPONSES WITHIN TEN DAYS OF THE SERVICE OF THIS ORDER.**
- 4. DEFENDANT'S MOTION TO DEEM REQUESTS FOR ADMISSIONS ADMITTED IS GRANTED.**
- 5. SANCTIONS ARE AWARDED TO DEFENDANT IN THE AMOUNT OF \$1,740, TO BE PAID TO DEFENDANT WITHIN TEN DAYS OF THE SERVICE 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).

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.

| | | |
|---------------------|------------|--|
| 7. | PC20210281 | U.S. BANK EQUIPMENT vs. VON HILL DO PA |
| Attorney Withdrawal | | |

Counsel for the Defendants has filed a motion to be relieved as counsel pursuant to Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362.

A declaration on Judicial Council Form MC-052 accompanies the motion, as required by California Rules of Court, Rule 3.1362, stating that there has been a breakdown in the working relationship with the client.

Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362 allow an attorney to withdraw after notice to the client. Proof of service of the motion on the Defendants at their last known address and on counsel for Plaintiff was filed on February 9, 2026.

There are several hearings in this matter scheduled between July and September, 2026. Upcoming hearing dates are required to be listed in the proposed Order by California Rules of Court, Rule 3.1362(e). However, no proposed Order was filed with this motion. The matter is continued to allow counsel to submit a revised Order that includes the upcoming hearing dates as required by California Rules of Court, Rule 3.1362(e).

TENTATIVE RULING #7: THE MATTER IS CONTINUED TO 8:30 A.M. ON FRIDAY, APRIL 3, 2026, IN DEPARTMENT NINE TO ALLOW COUNSEL AN OPPORTUNITY TO FILE A PROPOSED ORDER THAT COMPLIES WITH CALIFORNIA RULES OF COURT, RULE 3.1362.

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

March 13, 2026
Dept. 9
Tentative Rulings

**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.**

March 13, 2026
Dept. 9
Tentative Rulings

| | | |
|----------|----------|--|
| 8. | 25CV3113 | WILKINSON ET AL vs. PHH MORTGAGE CORP. ET AL |
| Demurrer | | |

TENTATIVE RULING #8: THIS MATTER IS CONTINUED TO 8:31 A.M. ON FRIDAY, APRIL 24, 2026, IN DEPARTMENT NINE.

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.

March 13, 2026
Dept. 9
Tentative Rulings

| | | |
|-----------------|----------|---|
| 9. | 22CV1669 | LESARRA HOMEOWNERS ASSOCIATION vs. SELVAN |
| Attorneys' Fees | | |

TENTATIVE RULING #9: THIS MATTER IS CONTINUED TO 8:30 A.M. ON FRIDAY, APRIL 10, 2026, IN DEPARTMENT NINE.

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.

| | | |
|---------------------------------------|-----------------|----------------------------------|
| 10. | 25CV0901 | KIMBRIEL vs. CISCOE ET AL |
| Partition/Summary Adjudication | | |

This matter was continued from the hearing of February 20, 2026, after the parties appeared and argued. Plaintiff seeks summary adjudication of her right to an interlocutory judgment to partition real property, which is governed by Title 10.5, Sections 872.010 *et seq.* Defendant disputes the factual allegations regarding the parties' respective ownership rights to the property.

Since the February 20, 2026, hearing, Defendant filed an Opposition to a proposed Interlocutory Judgment proposed by Plaintiff, but neither party has filed the proposed Interlocutory Judgment with the Court.

TENTATIVE RULING #10: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, MARCH 13, 2026, IN DEPARTMENT NINE.

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.