March 20, 2026
Dept. 9
Tentative Rulings

1.	22CV0981	KOHLSTEDT vs. WALMART, INC
Continue Trial Date/Motion to Compel		

Motion to Compel Discovery

Defendant requests the Court to issue an Order to compel Plaintiff to submit to discovery at an examination scheduled for April 15, 2026. The trial in this matter is scheduled on April 21, 2026. The discovery cutoff date is 30 days prior to that date, on March 20, 2026. Code of Civil Procedure § 2024.020. Defendant moves to continue the trial date but even if the Court were to grant that motion, "a continuance or postponement of the trial date does not operate to reopen discovery proceedings" except as provided in Code of Civil Procedure § 2024.050.

Defendant's motion does not expressly request an extension of time for discovery, nor does it reference Section 2024.050. Even if a discovery extension could be considered to be implicit in Defendant's motion to continue the trial date, Plaintiff objects that defendant never conducted mandatory meet and confer efforts as required by Code of Civil Procedure § 2024.050(a). Declaration of Daniel Del Rio, dated March 9, 2026, para. 19.

Accordingly, the Court lacks statutory authority to compel discovery at a time that discovery has ready been cut off and no proper motion is before it to extend the discovery deadline.

This decision is not based on the merits of the motion. The Court does not agree with Plaintiff's interpretation of the holding in Randy's Trucking, Inc. v. Superior Ct., 91 Cal. App. 5th 818, (2023), which very clearly did not *require* the raw data and audio recording of a neuropsychologist's exam to be shared with a Plaintiff's lawyer. Rather, it held that such a decision was within the trial court's discretion and subject to review based on the information that the trial court had before it at the time that the decision was made. Nor does the Court agree that Defendant's motion is procedurally defective. The Court further observes that if the Defendant's motion was filed late, the delay was largely due to Plaintiff's prolonged insistence on adherence to its interpretation of "the Randy's Trucking standard". Nevertheless, the Court is bound by the statutes governing the timing of discovery to deny the motion to compel.

Motion to Continue Trial Date

California Rules of Court, Rule 3.1332 provides that each request for a continuance must be considered on its own merits, and must be supported by a showing of good cause. The Rule lists a variety of circumstances and relevant factors that the Court must consider in ruling on a continuance motion.

The motion is supported by the Declaration of Chloe Sanchez, dated February 24, 2026, citing conflicting trial dates of one co-lead counsel, a leave of absence by the other co-lead counsel, and the fact that counsel was informed by two expert witnesses that they would not be available for the currently scheduled trial dates. In apparent response to Plaintiff's objection that the Sanchez Declaration constituted inadmissible hearsay as to the availability of expert witnesses, Defendant also filed the Declarations of Steven Lee, M.D., and Mark Borsody, M.D., Defendant's expert witnesses, that they would be unavailable for the trial.

Plaintiff's opposition cites the facts that there have already been two continuances, one at each of the two parties' requests. Further, that the requested continuance is for a period of seven months, and that Defendant should be able to reassign counsel and/or preserve expert testimony as an alternative to continuance.

On balance, the Court finds that there is good cause to continue the trial date.

TENTATIVE RULING #1: DEFENDANT'S MOTION TO COMPEL DISCOVERY IS DENIED. DEFENDANT'S MOTION TO CONTINUE THE TRIAL DATE IS GRANTED. THE PARTIES ARE ORDERED TO APPEAR AT 8:30 A.M. ON FRIDAY, MARCH 20, 2026, IN DEPARTMENT NINE TO SET A NEW TRIAL DATE.

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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2.	**22CV1082**	**NAJAFPIR vs. VISIONARY REALTY GROUP INC et al**
Motion to Vacate Sanctions Order		

Plaintiff requests the Court to vacate an award of sanctions made pursuant to Code of Civil Procedure § 127.8 based on Plaintiff's August 25, 2025, motion to lift a stay of proceedings related to the Court's Order to compel arbitration. The Opposition to Plaintiff's motion was filed on October 13, 2025, and the matter was heard on October 24, 2025. The Opposition requested the Court to impose sanctions pursuant to Code of Civil Procedure § 127.8.

Following the parties' arguments at the hearing, the Court made the following findings and conclusions:

> Upon review of the pleadings and the statutory authority and in consideration of the arguments of the parties, the court finds that Plaintiff's motion was presented "primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." (Code Civ. Pro., section 128.7, subd. (b)(1).) The court finds that there is no legal or factual basis to lift the stay and that the same exact issue was put before the court in 2023, after which it was fully briefed and argued with the court imposing the stay at the December 1, 2023 hearing after full consideration of the parties' arguments. The court finds that in effect Plaintiff's motion is an improper and untimely motion for reconsideration, filed approximately 20 months after the court's order and months before the case is set to go to arbitration. The court finds under the circumstances that Plaintiff's primary purpose in filing the motion is to harass or to cause unnecessary delay or to needlessly increase the costs of the litigation. The court finds that Plaintiff had a full opportunity to oppose the imposition of sanctions, yet the court finds that they remain appropriate.

October 24, 2025 Minute Order.

Plaintiff argues that the award was procedurally improper because the request for sanctions was not filed as a separate motion and did not provide Plaintiff with a 21 day "safe harbor" period to withdraw his motion to avoid the imposition of sanctions. Code of Civil Procedure § 127.8(c)(1), which provides:

> (c) If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation. In determining what sanctions, if any, should be ordered, the court shall consider whether a party seeking sanctions has exercised due diligence.
>
> (1) A motion for sanctions under this section shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision

> (b). Notice of motion shall be served as provided in Section 1010, but shall not be filed with or presented to the court unless, within 21 days after service of the motion, or any other period as the court may prescribe, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. . . .
>
> (2) On its own motion, the court may enter an order describing the specific conduct that appears to violate subdivision (b) and directing an attorney, law firm, or party to show cause why it has not violated subdivision (b), unless, within 21 days of service of the order to show cause, the challenged paper, claim, defense, contention, allegation, or denial is withdrawn or appropriately corrected.

The Court finds that the October 24, 2025, Minute Order did not meet the procedural requirements of Code of Civil Procedure § 127.8(c) and vacates the order without prejudice.

TENTATIVE RULING #2: THE COURT'S OCTOBER 24, 2025, MINUTE ORDER IS VACATED WITHOUT PREJUDICE.

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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3.	**26CV0127**	**FRUEAN vs. COUNTY OF EL DORADO**
Petition for Relief from Government Claims Act		

Before the Court is a Petition for relief from the requirements of Government Code § 945.4.

On July 10, 2024, Petitioner was severely injured in a motor vehicle collision during the course of his employment. Petitioner's injuries were extreme and his medical condition following the incident was such that "[h]e was unable to move, care for himself, or meaningfully communicate due to his severe injuries", and required "total assistance with all activities of daily living, respiratory dysfunction, dysphagia care, and ongoing treatment for neurologic deficits, tracheostomy care, tube feeding, and catheterization" through October, 2024. Declaration of Jean-Jacques Abitbol, M.D., dated December 31, 2025 ("Abitbol Declaration"), para. 5-6.

Between October 2024 and August 2025:

> [Petitioner] continued to require 24/7 care, including skilled nursing for suprapubic catheter and colostomy care, respiratory management due to recurrent infections, repositioning every two hours to prevent pressure wounds, and total assistance for all mobility and self-care. His medical course was complicated by upper respiratory infections requiring ventilatory support, a COVID-19 infection, decubitus ulcers, and ongoing cognitive impairment including memory deficits, slowed processing, and impaired communication. He remained unable to move or care for himself in any way.

Abitbol Declaration, para. 7. See *also*, Declaration of Thomas Schweller, M.D., dated December 31, 2025; Declaration of Manuia Fruean, dated December 15, 2025.

During the period of his recovery a guardian ad litem ("GAL") was appointed for Petitioner by order of the Workers Compensation Appeals Board on June 3, 2025. Petitioner's attorney filed a late claim against El Dorado County ("County" or "Respondent") on his behalf on June 30, 2025, pursuant to Government Code § 911.4. Petition, Exhibit 1. This request to file a late claim was denied on August 8, 2025. Petition, Exhibit 2.

Government Code § 946.6(c) provides Petitioner the opportunity to request relief from the Court, which relief must be granted if the reason for filing the claim after the statutory deadline was due to mistake, inadvertence, surprise and excusable neglect, or if "[t]he person who sustained the alleged injury, damage, or loss was physically or mentally incapacitated during any of the time specified in Section 911.2 for the presentation of the claim and by reason of that disability failed to present a claim during that time, . . ."

Petitioner contends that he comes within the statutory definition of medical incapacity for the purpose of Section 946.6(c)(5), as well as the circumstance of "excusable neglect" listed

in Section 946.6(c)(1) given his extreme injuries and physical and mental incapacity during the claim filing period.

Respondent argues that the late claim application was not legally effective because it was not filed by Petitioner's legally appointed GAL, and he concedes that he lacked the mental capacity to file such a claim himself at the time that it was filed. Accordingly, Respondent claims that there is no legally effective claim before the Court. The Court disagrees. The plain language of Government Code § 910, directly addressing the issue of claims filed by persons other than the claimant, states that "[a] claim shall be presented by the claimant or by a person acting on his or her behalf." *See also,* Government Code § 910.2, which requires the claim to be signed by the claimant "or by some person on his behalf." The Legislature could have used other words to indicate a "legal representative," "guardian ad litem", "conservator", "parent", "agent" or other language to indicate the necessity of a narrowly defined legal relationship between the filer and the claimant, but it did not.

The purpose of the statute is to provide the government with actual notice of a potential claim and an opportunity to address it administratively to prevent unnecessary litigation at public expense. This purpose is served regardless of the identity of the person filing the claim. Nor does the identity of the filer affect the underlying validity of the claim or the government's ability to ultimately contest its merit. Although Government Code § 910.8 provides a process for the government to reject a claim as non-conforming to the form or content requirements of Section 910 and 910.2, the County's Claims Administrator did not deny the claim based on lack of standing, or refuse to process it based on the identity of the filer, which was clearly indicated as "attorney" on the form.

Further, while the chain of events does not appear in the record, Petitioner's attorney filed the claim on Petitioner's behalf within a few weeks after the GAL was appointed; this could not have occurred unless the GAL retained counsel to pursue a claim and so it is reasonable to infer that the attorney acted according to the GAL's instructions. *See, e.g.* Cnty. of Los Angeles v. Superior Ct. (Crystal B., Steven G., Anita G.), 91 Cal. App. 4th 1303, 1311 (2001) ("[T]he guardian oversees any attorney representing minor's litigation-related interests and may make tactical and even fundamental decisions affecting the litigation, but always with the interest of the minor in mind.")

The cases cited by Respondent do not mandate that only a GAL may file a claim on behalf of an incapacitated petitioner. Hernandez v. Cnty. of Los Angeles, 42 Cal. 3d 1020 (1986) held that a mentally incapacitated minor does not receive any additional extension of time to file a

late claim under Section 911.4(c)(1)[1] because the Legislature presumed that a minor already has a parent or guardian in place, whereas a mentally incapacitated adult may require additional time for a third party to be appointed to oversee matters that the adult would normally be available to handle themselves. Cnty. of Los Angeles v. Superior Ct. (Crystal B., Steven G., Anita G.), 91 Cal. App. 4th 1303 (2001), held that where a minor is legally in the custody of a juvenile court, the time for filing a claim was not tolled by the appointment of court-appointed counsel because, as a public employee, counsel appointed by the juvenile court has an inherent conflict of interest, such that it couldn't even be counted on to recommend the appointment of a GAL. Accordingly, the statutory claims period was tolled once those minors "had a parent or guardian capable of representing their interests". Cnty. of Los Angeles v. Superior Ct., 91 Cal. App. 4th at 1313. Indeed, in that case once their dependency case terminated, "[m]inor's new counsel filed such application . . . ." Id.

Request for Continuance

Respondent requests additional time before this hearing to conduct discovery on this issue of Petitioner's standing to file a late claim petition. While the Court acknowledges that the statutes require the Court to consider all evidence presented at the hearing, Respondent acknowledges that this is a summary proceeding. The sole purpose is to determine Petitioner's right to relief from a statutory deadline for submitting a claim according to two evidentiary questions: 1) whether the Petitioner is "physically or mentally incapacitated during any of the time specified in Section 911.2 for the presentation of the claim and by reason of that disability failed to present a claim during that time", or 2) whether the Petitioner's physical and/or mental condition amounts to "excusable neglect."

In its March 9, 2026, Opposition Respondent indicated that it would issue subpoenas for witness testimony at the hearing, which it is free to do. Respondent also claims that it had no opportunity to conduct discovery between the time it received notice of the Petition and the hearing date. Petitioner's March 13, 2026, Declaration of Jamie Ritterbeck, declares that Respondent was served on February 10, 2026, for a March 6, 2026, hearing, which was subsequently continued at the County's request to March 20, 2026, but has not served any discovery during this period other than a deposition subpoena which Petitioner alleges did not meet statutory requirements. Declaration of Jamie Ritterbeck, dated March 13, 2026, paras. 4-6. Petitioner has not received subpoenas to testify at the hearing as of March 13, 2026. Id. at para. 8. Respondent has not alleged that Petitioner's filings in this matter have violated any statutory deadlines.

[1] " The time during which the person who sustained the alleged injury, damage, or loss as a minor shall be counted, but the time during which he or she is mentally incapacitated and does not have a guardian or conservator of his or her person shall not be counted." Government Code § 911.4(c)(1).

Further, Respondent's Claims Administrator could have extended the period for evaluating the claim during the administrative review process if additional facts were required to establish Petitioner's eligibility to submit a late claim, and did not. Government Code § 912.4.

Finally, this hearing only establishes whether Petitioner is entitled to maintain a claim. It does not cast any weight on the ultimate determination of whether Respondent is liable for Petitioner's injuries. Respondent will have every opportunity to test the merits of the case going forward.

Based upon the evidence in the record, the Court finds that the Petitioner has demonstrated that it meets the definitions set forth in of Government Code § 946.6(c)(1) and (c)(5), and has thus established the right to submit a late claim.

TENTATIVE RULING #3: THE PETITION IS GRANTED.

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4.	**24CV1621**	**Watermark on the Lake HOA vs. Bradley**
Motion to Dissolve Preliminary Injunction		

The Motion is denied for failure to comply with Local Rule 7.10.05. Further, the motion does not state any cognizable grounds for relief under Code of Civil Procedure § 473 in that it does not allege a right to relief based on mistake, inadvertence, surprise, or excusable neglect.

TENTATIVE RULING #4: THE MOTION IS DENIED.

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5.	**25CV0901**	**KIMBRIEL vs. CISCOE et al**
Motion to File Cross-Complaint		

Defendant moves to file a compulsory cross-complaint pursuant to Code of Civil Procedure § 428.50(c): "A party shall obtain leave of court to file any cross-complaint . . . . Leave may be granted in the interest of justice at any time during the course of the action."

. Plaintiff's Opposition asserts that the motion is procedurally defective because the notice of motion cites Code of Civil Procedure § 428.50, while the memorandum of points and authorities filed in support of the motion cites section 426.50, which states:

> A party who fails to plead a cause of action subject to the requirements of this article, whether through oversight, inadvertence, mistake, neglect, or other cause, may apply to the court for leave to amend his pleading, or to file a cross-complaint, to assert such cause at any time during the course of the action. The court, after notice to the adverse party, shall grant, upon such terms as may be just to the parties, leave to amend the pleading, or to file the cross-complaint, to assert such cause if the party who failed to plead the cause acted in good faith. This subdivision shall be liberally construed to avoid forfeiture of causes of action.

The Court finds that there is no procedural defect that would invalidate the motion. First, the two sections are not contradictory. Section 428.50 specifies that unless a compulsory cross-complaint is filed before an Answer is due, leave of the Court is required. Section 426.50 lists some of the reasons that a party might use to explain the reasons for failing to file the pleading initially or earlier in the proceedings, in this case, the discovery of a potential forgery. Parties are not limited in their legal arguments to only those authorities cited in the notice of motion. From the Notice of Motion Plaintiff is on notice that Defendant seeks the permission of the Court to file a compulsory cross-complaint. The Memorandum of Points and Authorities expands on the Notice and explains why the Court should grant permission. Plaintiff has had every opportunity to review and respond to the authorities and arguments listed in support of the motion.

<u>Jurisdictional Defect</u>

The Court is also not persuaded by Plaintiff's argument that the Court has already ruled on the issues. The hearing on February 20, 2026, was continued to March 13, 2026. At the hearing on March 13, 2026, the Court took the matter under submission and did not adopt the tentative ruling. On March 16, 2026, the Court issued an *ex parte* Minute Order in which it ordered the parties to meet and confer on the fair market value of the property and indicated that at the next hearing it would consider evidence of the parties' respective contributions to the property, whereupon it would continue with the procedure described in Code of Civil Procedure § 874.317.

The Court has made no ruling on whether to allow a Cross-Complaint, or on any cause of action listed in the proposed Cross-Complaint. To the extent the proposed Cross-Complaint

addresses title to the property, the Court's determinations under the partition statutes are based on the face of the deed, not on any allegations of fraud that may have led to the state of the title on the face of the deed.

Statute of Limitations/Admissibility of Evidence/Prejudice

To reiterate, the Court did not adopt the prior tentative ruling regarding the statute of limitations. Defendant raises issues of fraud that were allegedly discovered when Plaintiff filed this partition action on April 7, 2025. Plaintiff's substantive arguments on the issue may be directed to the Cross-Complaint when it is filed. The issue before the Court is simply whether it is in the interest of justice to allow Defendant's claims to be heard. The Court finds that it is in the interests of justice to allow both parties to assert their legal claims with respect to the property. The statute must be "liberally construed to avoid forfeiture of causes of action."

TENTATIVE RULING #5: LEAVE TO FILE A CROSS-COMPLAINT IS GRANTED; THE CROSS-COMPLAINT SHALL BE FILED 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).

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6.	**25CV2707**	**HIGH HILL RANCH, LLC vs. REINDERS**
Compel Arbitration and Stay Proceedings		

TENTATIVE RULING #6: THIS MATTER IS CONTINUED TO 8:31 A.M. ON FRIDAY, APRIL 24, 2024, IN DEPARTMENT NINE.

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7.	**24CV0034**	**TAPIA vs. TAPIA et al**
Default Judgment		

A hearing was scheduled on January 16, 2026, to consider Defendant's request for award of attorneys' fees in a partition action. Prior to the January 16, 2026, hearing, Plaintiff did not notify the Court of her intention to dispute the tentative ruling that had been posted the previous afternoon. At the hearing, for due process reasons, the Court had no authority to entertain Plaintiff's oral argument without prior notice to Defendant, and accordingly, adopted the tentative ruling as required by El Dorado County Superior Court Local Rule 8.05.07(B)(1)(b) and California Rules of Court, Rule 3.1308(a)(1).

At the time, Plaintiff understood that she was representing herself in the matter. Plaintiff's retainer agreement with her attorney provided for representation through the process of partitioning a real property. Declaration of Olivia Torrise, dated February 17, 2026 ("Torrise Declaration"), paragraph 4.

Instead of following the statutory procedures, the partition was accomplished by a series of Stipulations. In those Stipulations, the parties reserved the Court's jurisdiction "to determine whether equitable distributions to the net proceeds to the parties are just and proper, including but not limited to, any and all claim(s) for reimbursement of . . . attorney's fees/costs. . . or other compensatory adjustment among the parties relating to the Property." February 28, 2025, Joint Stipulation to Interlocutory Judgment, paragraph 30. The April 23, 2025, Joint Stipulation to Determine Fair Market Value and Cotenant Buyout provided that "[t]he Parties expressly reserve the issue of Apportionment of the costs of partition under CCP § 874.321.5 for later determination by the Court." On July 25, 2025, the Court entered an Order for Disbursement of Funds, due to be paid to Plaintiff on August 1, 2025.

At this point, both Plaintiff and Plaintiff's counsel considered the contingency retainer agreement for representation to be concluded. Torrise Declaration, para. 6.

Defendant filed a motion to recover attorneys' fees on December 12, 2025, and served that motion on Plaintiff's counsel on December 12, 2025. In response, on December 18, 2025, Plaintiff's counsel filed a motion to be relieved as counsel, stating in part: "Counsel's representation was limited in scope pursuant to a contingency fee agreement that concluded upon entry of judgment regarding property division or sale, and that scope has been completed. Post-judgment matters, including attorney's fees, were not included, and Client has declined to execute a new retainer or remit payment despite notice."

The December 8, 2025, motion for award of attorney's fees contained a statement of the Court's tentative ruling system, which requires litigants to notify the Court whether they intend to appear for oral argument during a two-hour window following the time a tentative ruling is

published by the Court. The motion also included notice of the hearing date, scheduled for January 16, 2026. The Court has no record as to how Plaintiff herself, as opposed to her counsel, became aware of the hearing date or whether she ever received the notice of motion document that included the tentative ruling instructions.

The deadline to file an Opposition to the attorneys' fee motion was January 5, 2026. At the time that the Opposition was due, Plaintiff understood that she was self-represented. Plaintiff served a substitution of attorney on Defendant as of January 7, 2026, to notify Defendant that she would be representing herself, and filed it with the Court on January 22, 2026. There is no evidence that Defendant re-served the attorneys' fee motion documents on Plaintiff directly after receiving the substitution of attorney. There is also no evidence that the motion documents that were served on Plaintiff's counsel were actually delivered to Plaintiff.

Plaintiff has filed this motion to be relieved of that January 16, 2026, Order pursuant to Code of Civil Procedure § 473(b) and 473(d). Section 473(b) provides:

> The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. 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, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken.

Section 473(d) further states: "The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed, and may, on motion of either party after notice to the other party, set aside any void judgment or order."

As there was no mistake invalidating the Order the remaining authority for potential relief is Section 473(b) on the grounds of mistake, inadvertence, surprise, or excusable neglect. Under the circumstances, with no evidence that Plaintiff herself ever received notice of the tentative ruling system from Defendant when he became aware that she would be representing herself, or from her then-former counsel, the Court finds that it is in the interests of justice and due process to set aside the January 16, 2026, Minute Order and hear the motion on the merits.

While the statute requires that the motion "be accompanied by a copy of the answer or other pleading proposed to be filed therein", the Local Rules do not require written Opposition to a motion. Instead, [f]ailure to timely serve and file opposition papers may be deemed, in the Court's discretion, as a waiver of any objections and may be treated as an admission that the motion or other application is meritorious." Local Rule 7.10.02(B). Accordingly, the failure to include a proposed written Opposition to the attorneys' fee motion does not require the Court

to reject the Section 473(b) motion. Plaintiff has included with the Section 473(b) motion the following declarations of intention to oppose an attorneys' fee award to Defendant:

> "I fully intended to oppose the motion and to present my position to the Court that I am entitled to recover attorney's fees incurred in connection with the partition action."
>
> "I believe I have valid defenses and affirmative claims regarding attorney's fees, which were expressly reserved by the parties' stipulation and were never adjudicated by the Court prior to entry of judgment."

Declaration of Sonia Tapia, dated February 4, 2026, page 2.

Sanctions

Defendant suggests that Plaintiff should be found in contempt of Court for filing the motion for relief from the Minute Order awarding attorneys' fees in violation of Code of Civil Procedure §§ 1008 and 128.7. Because the motion was not brought under Section 1008, and because the Court has granted the Section 473(b) motion, the Court will not find Plaintiff in contempt of Court or issue sanctions.

TENTATIVE RULING #7:

1. **THE MOTION FOR SANCTIONS IS DENIED.**
2. **THE MOTION TO SET ASIDE THE JANUARY 16, 2026, MINUTE ORDER IS GRANTED.**
3. **THE MATTER IS CONTINUED TO MAY 8, 2026; THE PARTES MAY FILE ADDITIONAL BRIEFINGS IN ACCORDANCE WITH CODE OF CIVIL PROCEDURE § 1005.**

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.

8.	**24CV1319**	**EL DORADO HILLS CSD vs. VAN PATTEN ET AL**
Permanent Injunction/Declaratory Relief		

Defendants own a recreational vehicle ("RV") that is parked on their property, and their property is subject to CC&R restrictions that limit the parking and storage of such vehicles.

District's Enforcement Authority

The Plaintiff is the El Dorado Hills Community Services District ("Plaintiff" or "District"), which, as a community district formed pursuant to state law, is empowered by law to enforce the Covenants, Conditions and Restrictions ("CC&Rs") for housing tracts within the District.

Government Code § 61105, which supercedes Government Code § 61601.10, carries forward the District's authority to enforce CC&Rs for housing tracts within its boundaries.[1] UMF No. 7. Defendants' property is located within "Franciscan Village Unit 1", and as such, is subject to the following restriction:

> No boats, boat trailer, house trailer, recreation vehicles, or other vehicles shall be regularly parked on any street, upon any driveway, or upon any lot unless they are to the rear of the front set-backlines behind a suitable fence, or in an enclosed garage or carport, or so as to be not visible from any street, road or drive which provides access to any other dwelling or place. Offending vehicles may be towed away at owner's expense.

UMF No. 1-3, 5-6.

The District claims authority to open a code enforcement case and follow a "CC&R Enforcement Process" set forth in the District's Policy Guide. Policy Guide Series 7010; UMF No. 8.

From the Court the District seeks summary judgment of its entitlement to a preliminary and permanent injunction and declaratory relief that would allow the District to enter Defendants' property and remove the offending vehicle at Defendants' expense.

Request for Judicial Notice

Plaintiff requests the Court to take judicial notice of certain recorded deeds and the Statement of Vote resulting from the November, 1983 election, as well as a Google Maps image of Defendants' property. Judicial notice is a mechanism which allows the court to take into consideration matters which are presumed to be indisputably true. California Evidence Code

[1] Government Code § 61105(e): The . . . El Dorado Hills Community Services District, . . . , which enforced covenants, conditions, and restrictions prior to January 1, 2006, pursuant to former . . . Section 61601.10, may continue to exercise the powers set forth in . . . former Section 61601.10.

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 lists matters of which the court may take judicial notice.

Evidence Code § 452(b) authorizes the court to take judicial notice of "regulations and legislative enactments issued by or under the authority of the of the United States or any public entity in the United States."

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."

These Evidence Code sections require the Court to take judicial notice of the recorded Deeds (Items 1 and 3) and of legislative enactments (Item 4), but not of Google map screenshots. Accordingly, Plaintiff's request for judicial notice is granted as to Items 1, 3 and 4, but not of Item 2.

Factual Background

After receiving a complaint in 2022, the District initiated an enforcement process that resulted in a lengthy series of inspections, notices, meetings and hearings that continued through 2024, but failed to resolve the issue. UMF Nos. 12-41.

Early on Defendants took the position that the CC&Rs required that either the vehicle be parked "behind a suitable fence," or that it be located "in an enclosed garage or carport, or so as to be not visible from any street, road or drive which provides access to any other dwelling or place." UMF No. 34. Given that the vehicle is parked behind a fence, it is Defendants' position that they are in compliance with the restriction.

Defendants have made efforts during the pendency of this dispute to address the visibility of the vehicle over the top of their fence by installing landscaping to shield the view, but Plaintiff takes the position that these efforts have not met the requirements of the CC&Rs. Material Fact Nos. 42-43, 45. Defendants argue that the photographs Plaintiffs have submitted to show that the vehicle is still visible are not taken "from the street" and as such do not have evidentiary value in determining whether Defendants are in violation of the CC&Rs. Material Fact Nos. 45-46.

The District maintains that removal of the offending vehicle is the only solution, whereas Defendants assert that the District has allowed other neighbors to install lattice or increase the height of their fence in order to block the view.[1]

Standard for Summary Judgment

> [S]ummary judgment or summary adjudication is to be granted when there is no triable issue of material fact and the moving party is entitled to judgment as a matter of law." (*Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 894–895, 83 Cal.Rptr.3d 146.) The "party moving for summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact." (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 861–862, 107 Cal.Rptr.2d 841, 24 P.3d 493.)
>
> "A defendant seeking summary judgment bears the initial burden of proving the cause of action has no merit by showing that one or more of its elements cannot be established or there is a complete defense to it.... [Citations.]" (*Cucuzza v. City of Santa Clara* (2002) 104 Cal.App.4th 1031, 1037, 128 Cal.Rptr.2d 660.)

Alvarez v. Seaside Transportation Servs. LLC, 13 Cal. App. 5th 635, 641–42, 221 Cal. Rptr. 3d 119, 124–25 (2017)

> We accept as true the facts in the evidence of the party opposing summary judgment and the reasonable inferences that can be drawn from them, viewing the evidence in the light most favorable to the opposing party, and liberally construing that party's evidentiary submissions, while strictly scrutinizing the moving party's evidence. (*Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 253–254, 100 Cal.Rptr.3d 296.) "[A]ny doubts about the propriety of summary judgment must be resolved in favor of the opposing party." (*Richards v. Sequoia Ins. Co.* (2011) 195 Cal.App.4th 431, 435, 124 Cal.Rptr.3d 637.) We consider "all the evidence set forth in the moving and opposing papers except that to which objections were made and sustained." (*Grossman v. Santa*

[1] The District objects to the Declarations of Erik and Bianca Wittenberg for relevance, lack of foundation and lack of personal knowledge. The Court sustains the objection as to Paragraph 8 of the Declaration ("Weare aware of the conflict between Van Pattens and CSD, and the plantings installed by them to shield their RV from street view."), and overrules the Objection as to the rest of the Declaration. The District objects to the Declaration of Jennifer and David Moore for relevance, lack of foundation and lack of personal knowledge. The Court overrules these objections, except that the objection is sustained as to Paragraph 10 ("We are aware of the conflict between the Van Pattens and CSD."). The District further objects that the document referenced in Paragraph 9 of the Declaration, and is said to be attached, is not authenticated or attached. This objection is sustained. Finally, the District objects to the reference to the Minutes of the District Board of Directors as hearsay. This objection is overruled because the referenced document meets the requirements of the official records exception to the hearsay rule. Evidence Code § 1280.

Monica-Malibu Unified School Dist. (2019) 33 Cal.App.5th 458, 465, 245 Cal.Rptr.3d 205 (*Grossman*).)

Zaragoza v. Adam, 109 Cal. App. 5th 113, 118 (2025).

Interpretation of the CC&R Restriction

An initial question is the interpretation of Section 11 of the Franciscan Village Declaration, quoted above. District cites the interpretation of its "Policy Guide Series 7000-CC&Rs, a document adopted by the Board of Directors of the El Dorado Hills Community Services District ("Board") "to guide future boards, advisory committees, and staff." With respect to Section 11, the Policy Guide Series concludes that:

> When the foregoing restrictions are read in connection with the restriction which requires that any parking or storage of vehicles on areas of the lot other than in a garage or on an approved driveway surface to be a location behind a suitable fence so as not to be visible from the street, the most reasonable interpretation of the CC&Rs, as a while, is that parking and storage of vehicles . . . should be completely out of view if the vehicle or property cannot be stored in the garage or on the driveway.

Section 7015.80.

This is facially in conflict with Section 7000.10 ("General Guideline") of the same document, which states that: "For purposes of design review, decisions will be based on the plain language set forth in the CC&R's applicable to the subject property. . . . The Design Review Policy and Guideline Manual shall in no manner establish new CC&R language, which has not been approved by the property owners as required by the relevant CC&R's." Section 11 does not say, as it is quoted in the Policy Guide, that the CC&Rs require a vehicle to be parked "on areas of the lot other than in a garage or on an approved driveway surface to be a location behind a suitable fence so as not to be visible from the street." Rather, it says that such vehicles must be parked: "behind a suitable fence, or in an enclosed garage or carport, or so as to be not visible from any street."

The language of the proposition submitted to the ballot by Resolution 83-7 defined the Board's authority:

> Shall the El Dorado Hills Community Services District be authorized to *enforce* the covenants, conditions, and restrictions adopted for each tract within the boundaries of the District, and to assume the duties of the architectural control committee for each tract within the boundaries of the district (*to the extent authorized by the covenants, conditions, and restrictions applicable to the tract)*, for the purpose of maintaining uniform standards of development within the District, as adopted in the covenants, conditions, and restrictions . . . .

Request for Judicial Notice, Exhibit 4.

Section 21 of the CC&Rs provides that the deed restrictions "may be terminated or modified at any time by the agreement of the owners of a majority of all acreage in El Dorado Hills. They may also be modified by agreement between Grantor and the owners of record of a majority of the land area conveyed by his Deed. Any such agreement must be in writing and be duly recorded in the official records of El Dorado County to be effective." Request for Judicial Notice, Exhibit 3.

While the Board may have authority to enforce the CC&R requirements and adopt policies to guide their enforcement, it does not have the authority to rewrite them through the adoption of enforcement policies.

Section 19.b of the CC&Rs, which defines the authority of the Architectural Control Committee, and by extension the authority of the Board, states: "the Committee shall not arbitrarily or unreasonably withhold its approval or any plans or requests submitted to it pursuant hereto." Id.

Material Issues of Fact

Even if this motion could not be resolved by the plain language of the CC&R and the limitations of the District to interpret them in a manner that departs from that plain language, there remains a central issue of fact which is glaringly in dispute: is the vehicle visible "from the street?" Defendants assert that the photos submitted on this issue by the District are taken from a vantage point that is not "from the street." The Moore and Witteneberg Declarations state that the vehicle at issue is "not visible."

In the context of this motion it is not an issue that can be resolved by the Court, which has no ability to determine the position from which the images were taken. The parties' evidentiary submissions differ on this point. In the context of a summary judgment motion, the Court is bound to "accept as true the facts in the evidence of the party opposing summary judgment and the reasonable inferences that can be drawn from them, viewing the evidence in the light most favorable to the opposing party, and liberally construing that party's evidentiary submissions, while strictly scrutinizing the moving party's evidence." Zaragoza v. Adam, 109 Cal. App. 5th 113, 118 (2025) (citations omitted).

There is an additional factual issue of whether the District's enforcement actions were in violation of the CC&R Section 19.b as "arbitrary and capricious" in that similarly situated property owners were allowed to park vehicles on their property through approval of mitigation measures that increased the height of the visual barrier above the standard six-foot fence height.

Accordingly, the Court need not resolve whether the standard for injunctive relief is met when the fact of whether a public nuisance exists remains fundamentally in dispute.

TENTATIVE RULING #8:

1. **PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE IS GRANTED AS TO ITEMS 1, 3 AND 4, BUT NOT OF ITEM 2.**
2. **PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT OR IN THE ALTERNATIVE, SUMMARY ADJUDICATION, IS DENIED.**

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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9.	**25CV2822**	**ZAGHI vs. EVOLVE MANAGEMENT EXPERTS, LLC et al**
Demurrer		

TENTATIVE RULING #9: THIS MATTER SHALL BE CONTINUED TO 8:31 A.M. ON FRIDAY, MAY 15, 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).

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10.	**24CV2236**	**COX vs. BAZEMORE**
Motion for Summary Judgment/Summary Adjudication		

Plaintiff moves for summary judgment, or in the alternative summary adjudication on two causes of action: 1) breach of contract and 2) Civil Code § 3342.

Request for Judicial Notice

Plaintiff requests the court to take judicial notice of an El Dorado County Potentially Dangerous/Vicious Dog Warning Letter Dated June 13, 2024.

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."

The request for judicial notice is granted.

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).

Plaintiff has submitted Declarations and a Separate Statement establishing each element of the cause of action. Defendant has submitted a Declaration that includes the following statements on the issue of the contract cause of action:

> "[D]elays in work progress and confusion had arisen between Plaintiff and BYC Enterprises regarding the project that is the subject of related litigation."
>
> "[I]nformation came to light regarding the scope of the project-related delays and confusion that had existed, which placed the incident and the parties' interactions into broader context."

> "Plaintiff's damages allegations, including claims of lost compensation, are therefore intertwined with the timing and circumstances of these project-related issues. The sequence of events and surrounding context are relevant to understanding the claims asserted and should be evaluated on a complete and balanced evidentiary record."

None of these statements contains any factual assertion relevant to the issues of 1) whether a contract existed, 2) whether Plaintiff performed, 3) whether Defendant breached the contract or 5) whether Plaintiff suffered damages. Defendant asserts that: "Plaintiffs Motion seeks dispositive relief based on a record that is incomplete in context, not volume. The additional evidence identified herein bears directly on the issues Plaintiff asks the Court to resolve as a matter of law." However, Defendant has not submitted any factual evidence for the Court's consideration. Defendant had the opportunity to dispute any fact alleged in the Separate Statement filed with this motion but has not filed any response. This Complaint was filed on October 8, 2024, and Defendant was represented by counsel until July, 2025. Defendant has had ample opportunity to pursue discovery and submit any factual information supporting his position on this motion. The record is bare of any factual assertion that would support Defendant's opposition.

Dog Bite

California Civil Code § 3342(a) provides:

> The owner of any dog is liable for the damages suffered by any person who is bitten by the dog while in a public place or lawfully in a private place, including the property of the owner of the dog, regardless of the former viciousness of the dog or the owner's knowledge of such viciousness. A person is lawfully upon the private property of such owner within the meaning of this section when he is on such property in the performance of any duty imposed upon him by the laws of this state or by the laws or postal regulations of the United States, or when he is on such property upon the invitation, express or implied, of the owner.

Defendant argues that there is a genuine issue of material fact as to whether the incident can be characterized as a "vicious", "violent" or as a "sustained attack". These characterizations do not affect liability under the statute. The only factual issue is whether a Plaintiff was bitten by Defendant's dog, and whether she was lawfully on the property at the time of the incident. The evidence in the record is uncontroverted on both issues.

TENTATIVE RULING #10: PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE IS GRANTED. PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT 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).

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