March 27, 2026
Dept. 9
Tentative Rulings

1.	**23CV1510**	**WEXELMAN vs. J.S WEST MILLING COMPANY**
PAGA Settlement		

Pursuant to Labor Code § 2699(l)(2), Plaintiffs request the Court's approval of the Parties' PAGA Settlement Agreement, Amendment to PAGA Settlement Agreement, and Second Amendment to PAGA Settlement Agreement ("Settlement" or "Settlement Agreement") between Plaintiffs and Defendant J.S. West Milling Company ("Defendant") to resolve claims brought under the Private Attorneys General Act of 2004, Labor Code § 2698, et seq. ("PAGA") seeking civil penalties for various violations of the California Labor Code and Industrial Wage Commission's Wage Orders. Pursuant to the Settlement, Defendant will pay a gross settlement amount of $355,000.00 ("Gross Settlement Amount" or "GSA").

"Aggrieved Employees" included in the Settlement are defined as: "all individuals who were employed by Defendant, as hourly, non-exempt employees in California at any time during the PAGA Period, from September 5, 2022, through March 10, 2025."

Pending Court approval, the Gross Settlement Amount will be allocated as follows:

(1) Attorneys' fees in the amount of one-third of the Gross Settlement Amount, which is $118,333.33 ("PAGA Counsel Fees Award");
(2) Actual litigation costs incurred in this matter in the amount of $27,565.93 ("PAGA Counsel Costs Award"); and
(3) Settlement administration costs of up to $6,500.00 to be paid to the Administrator, Phoenix Class Action Administration Solutions ("Phoenix"), for sending notices and for calculating settlement shares, preparing all checks and mailings, and preparing the necessary tax return and reporting documents. ("Administration Expenses Payment").
(4) The remaining settlement amount of $202,600.74 ("Net Settlement Amount") shall be allocated between the Labor and Workforce Development Agency ("LWDA") and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% ($151,950.56) allocated to the Labor and Workforce Development Agency ("LWDA PAGA Payment") and 25% ($50,650.18) allocated to the Aggrieved Employees on a pro-rata basis ("Individual PAGA Payment").

The Individual PAGA Payments will be calculated according to the number of PAGA Pay Periods the Aggrieved Employee worked for Defendant in California during the PAGA Period. Defendant estimates there are approximately 478 Aggrieved Employees who worked a total of approximately 17,438 PAGA Periods through March 2025. If the total number of PAGA Pay Periods encompassed within the PAGA Period exceeds 17,438 by more than 10% (i.e., if the total

PAGA Pay Periods exceeds 19,182 pay periods), then the Gross Settlement Amount shall be increased in proportion to the percentage increase in the number of PAGA Pay Periods encompassed in the PAGA Period in excess of 10% (e.g., if there was a 12% increase in PAGA Pay Periods, then Defendant would agree to increase the Gross Settlement Amount by 2%), or the Defendant can instead opt to end the PAGA period as of the date that the PAGA pay periods reached 19,182.

PAGA Counsel is requesting a PAGA Counsel Fees Award in the amount of $118,333.33 and a PAGA Counsel Costs Award of $27,565.93 for litigation costs incurred, which is less than the allocated amount of $32,000.00 in the Settlement Agreement.

According to the Motion and supporting Declarations, PAGA Counsel worked at least 202.2 hours on this matter and calculated the base lodestar at $152,164.00 at rates reflecting those currently earned in the marketplace, which is more than the $118,333.33 in attorneys' fees PAGA Counsel are requesting.

The Parties agreed to use Phoenix as the third-party settlement administrator in this case. Phoenix will be responsible for updating Aggrieved Employees' addresses, mailing the settlement payment letter, and calculating and distributing the settlement checks, among other duties. Phoenix capped its fees at $6,500.00 for administering the Settlement.

TENTATIVE RULING #1: APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, MARCH 27, 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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2.	**23CV1958**	**ROTH vs. GT TRUCK REPAIR**
Relief from Default / Order of Examination		

This is a motion requesting the Court to grant defendant relief from default pursuant to Code of Civil Procedure § 473(b). Defendant further argues that venue is improper in El Dorado County.

The Complaint, filed on November 13, 2023, arises from a vehicle repair to Plaintiff's vehicle that was performed by Defendant's business in Applegate, California, in Placer County. The Complaint was filed on Judicial Council Form JUD-100 and does not include attachments describing the facts underlying the claimed causes of action. The Summons and Complaint was served in May, 2024.

Although Defendant did not file an Answer to the Complaint, Defendant appeared at Case Management Conferences held on July 2, 2024, October 29, 2024, and April 15, 2025. After Defendant did not appear at the Case Management Conference scheduled for August 5, 2025, Plaintiff submitted an application for a default judgment, which was entered by the Court Clerk on August 20, 2025.

<u>Venue</u>

Code of Civil Procedure § 585.5(a) provides:

> Every application to enter default under subdivision (a) of Section 585 shall include, or be accompanied by, an affidavit stating facts showing that the action is or is not subject to Section 1812.10 . . . of the Civil Code or subdivision (b) of Section 395.

The application for default form included a declaration by Plaintiff that the contract at issue came within both Sections 1812.10 and 395.

Civil Code § 1812.10 governs actions on a contract or installment account under Civil Code Title 2, Chapter 1 ("Retail Installment Sales"), including "services . . . furnished in connection with the repair of motor vehicles. Code of Civil Procedure § 395 applies to lawsuits arising from contracts for the provision of goods and services intended primarily or personal, household or family use, other than those contracts that come within the scope of Section 1812.10.

Regardless of which of these statutes would apply to this case, both statutes require that litigation related to contracts within their scope be filed in an appropriate venue, including "where the buyer resides at the commencement of the action." Plaintiff's address on the Complaint indicates that he resided in El Dorado County at the at the commencement of the action. Further, repairs on the vehicle were initiated within El Dorado County before the vehicle

was relocated to Defendant's shop in Placer County. Accordingly, neither Code of Civil Procedure § 1812.10 or 395 require this matter to be heard in Placer County.

Relief from Default

Code of Civil Procedure § 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.

Defendant never filed an Answer in this matter, but attaches a proposed Answer to the Defendant's Declaration filed in support of Defendant's motion. The motion for relief from default was filed on February 19, 2026, just within the six-month deadline.

However, it is not necessary to rely on "mistake, inadvertence, surprise, or excusable neglect" to relieve Defendant from the entry of default under Section 473(b). The Court may "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" pursuant to Section 473(d).

The Complaint was not sufficient to support entry of default. Code of Civil Procedure § 425.10 requires a Complaint to contain "a statement of facts constituting the cause of action, in ordinary and concise language." California Rules of Court, Rule 3.1800 ("Default Judgments") specifies that a request for default judgment based on declarations must include: "a brief summary of the case identifying the parties and the nature of plaintiff's claim; . . . [and] Declarations or other admissible evidence in support of the judgment requested; . . ." In this case, the Complaint contained neither of these required elements.

Where the Judicial Council form indicated that attachments were required to detail each listed cause of action, there were no attachments or allegations of facts or even recitation of the elements of the asserted causes of action in the Complaint. The only attachment was a repair receipt for the vehicle. The amount of damages was listed as $15,800 "according to proof", but the attached repair bill was for $6,796.73. The Complaint is insufficient as a matter of law.

> [B]ecause the law strongly favors trial and disposition on the merits, any doubts in applying section 473 must be resolved in favor of the party seeking relief from default (*Waite* v. *Southern Pacific Co*. (1923) 192 Cal. 467, 470-471 [221 P. 204]; *Carli v. Superior Court* (1984) 152 Cal.App.3d 1095, 1099 [199 Cal.Rptr. 583] [in the context of deemed

admissions § 473 should be applied liberally "so cases can be tried on the merits"]; *Flores v. Board of Supervisors, supra*, 13 Cal.App.3d at p. 483.)

Elston v. City of Turlock, 38 Cal. 3d 227, 233, 695 P.2d 713 (1985).

TENTATIVE RULING #2: DEFENDANT'S MOTION IS GRANTED. THE ORDER FOR APPEARANCE AND EXAMINATION IS VACATED.

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.	**26CV0275**	**CENTRAL PARK SYSTEMS CORP, D/B/A FORTIS TELECOM vs. CAPITOL IT PARTNERS, INC. ET AL**
Preliminary Injunction/Stay Proceedings		

Plaintiff ("Fortis") filed this action on January 29, 2026, against Defendants Capitol IT Partners, Inc. ("CIP") and Jason Howard, an individual, alleging Interference with Contractual Relations, Trespass to Chattels, and Unfair Competition regarding an agreement for the transition of operational responsibility for customer billing functions ("Agreement") as part of a larger transition of CIP's business to Fortis. Fortis claims that CIP has obstructed access to its technology systems and thereby prevented Fortis from administering the business functions. Many of the actions required to accomplish the transition must be performed by Defendant Howard, and Fortis claims that Howard has not cooperated to accomplish the transitional process contemplated by their Agreement.

Several months before this action as filed in El Dorado County, Howard filed an action in Placer County that arises from the same Agreement. Defendant has filed a motion to stay the proceedings in this Court because of the concurrent action in Placer County that is based on the same controversy. Plaintiff argues that this Court has acquired jurisdiction while the Placer County Court is not yet at issue because, as of January 26, 2026, the Minute Order resulting from the Case Management Conference in the Placer County case noted that Defendants and not yet been served in that case, not had they filed any pleading responsive to the Placer County Complaint. Under these circumstances, the El Dorado County Court has jurisdiction to proceed with the case. Plant Insulation Co. v. Fibreboard Corp., 224 Cal. App. 3d 781 (1990); People ex rel. Garamendi v. Am. Autoplan, Inc., 20 Cal. App. 4th 760 (1993); Figgs v. Superior Ct. of Los Angeles Cnty., 204 Cal. App. 2d 231 (1962).

Request for Judicial Notice

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, Plaintiff's request for judicial notice is granted.

Preliminary Injunction

Plaintiff has moved for a preliminary injunction to:

1. Restore Fortis's administrative access and control over its core platforms and vendor portals.
2. Enjoin Defendants from interfering with, disabling, or conditioning Fortis's administrative access and control over those core platforms and vendor portals; and
3. Order Defendant to take all reasonable steps necessary to restore Fortis's administrative access and control over its core platforms and vendor portals.

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, 72 Cal. Rptr. 3d 678, 680 (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. Matich, 128 Cal. App. 2d 50, 52, (1954) (citations omitted).

The Court's files reflect no Opposition filed to the preliminary injunction request. Pursuant to Local Rule 7.10.02(B), the failure to file an Opposition "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. The Court, in its discretion, may also grant the motion."

TENTATIVE RULING #3: PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE IS GRANTED. DEFENDANT'S MOTION TO STAY THE PROCEEDINGS IS DENIED. PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION IS GRANTED.

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4.	**PC20200191**	**GREEN ET AL. vs. SNIPES CONSTRUCTION ET AL.**
Good Faith Settlement		

TENTATIVE RULING #4: THIS MATTER IS CONTINUED TO 8:30 A.M. ON FRIDAY, APRIL 10, 2026, IN DEPARTMENT NINE SO THAT IT MAY BE HEARD CONCURRENTLY WITH THE RELATED MOTION FOR GOOD FAITH SETTLEMENT AS TO LR LANDSCAPING.

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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5.	**24CV1621**	**WATERMARK ON THE LAKE HOA vs. BRADLEY**
Motion for Reconsideration		

Defendant filed two motions for relief from its previous rulings. On February 5, 2026, Defendant filed a "motion for relief." That motion was heard on March 20, 2026. At that hearing the Court adopted the Tentative Ruling, which found that the motion failed to comply with Local Rule 7.10.05. The Court then continued the hearing as to Defendant's February 13, 2026, motion for reconsideration was filed pursuant to Code of Civil Procedure § 1008. This motion requests the Court to reconsider its Order of February 6, 2026, granting Plaintiff's motion for summary judgment. The motion fails for two reasons. First, this motion also fails to comply with Local Rule 7.10.05. Second, the motion fails to allege any "new or different facts, circumstances, or law" that would justify reconsideration under Section 1008.

TENTATIVE RULING #5: DEFENDANT'S MOTION 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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6.	**25CV1907**	**HAYNES ET AL vs. SPENCER ET AL**
Trial Preference		

Plaintiff has filed this unopposed motion for trial preference pursuant to Code of Civil Procedure § 36(a) and California Rules of Court, Rule 3.1335.

California Rules of Court, Rule 3.1335 requires that a request for trial preference by submitted by means of a noticed motion or ex parte application, and states that: "The request may be granted only upon an affirmative showing by the moving party of good cause based on a declaration served and filed with the motion or application."

Code of Civil Procedure § 36(a) provides:

> (a) A party to a civil action who is over 70 years of age may petition the court for a preference, which the court shall grant if the court makes both of the following findings:
>
> (1) The party has a substantial interest in the action as a whole.
>
> (2) The health of the party is such that a preference is necessary to prevent prejudicing the party's interest in the litigation.

The Court finds that Plaintiff has made an affirmative showing of good cause, and has submitted evidence with her motion that she meets the statutory criteria of Section 36(a).

TENTATIVE RULING #6: THE MOTION IS GRANTED. APPEARANCES ARE REQUIRED AT 8:30 A.M. ON FRIDAY, MARCH 27, 2026, IN DEPARTMENT NINE TO SELECT TRIAL DATES.

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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7.	25CV0514	WELLS FARGO BANK, N.A. vs. BAILEY
Summary Adjudication		

Plaintiff filed this motion for summary adjudication on a Complaint for credit card collection that includes causes of action for Breach of Contract[1], Account Stated[2] and Money Lent.[3] The motion is made under the authority of Code of Civil Procedure § 437c, which provides that:

> A motion for summary adjudication may be made by itself or as an alternative to a motion for summary judgment and shall proceed in all procedural respects as a motion for summary judgment.

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[1] 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] . . . .

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

[2] An account stated is "an agreement, based on prior transactions between the parties, that the items of an account are true and that the balance struck is due and owing." (*Lauron*, *supra*, 8 Cal.App.5th at p. 968, 214 Cal.Rptr.3d 419.) "When an account stated is ' "assented to, either expressly or impliedly, it becomes a new contract." '... Accordingly, an action on an account stated is not based on the parties' original transactions, but on the new contract under which the parties have agreed to the balance due." (Ibid.)

Pro. Collection Consultants v. Lujan, 23 Cal. App. 5th 685, 691 (2018), citing Professional Collection Consultants v. Lauron (2017) 8 Cal.App.5th 958, 214 Cal.Rptr.3d 419 (2017).

[3] A claim for "money lent" is one of the common counts. (*Moya v. Northrup* (1970) 10 Cal.App.3d 276, 278–279, 88 Cal.Rptr. 783 (*Moya*).) The common counts arose from the action of assumpsit in the common law. Such an action permitted a plaintiff to recover money that, under the circumstances, the defendant should be required to repay to avoid inequity. (*Philpott v. Superior Court* (1934) 1 Cal.2d 512, 518–519, 36 P.2d 635 (*Philpott*); see 4 Witkin, Cal. Procedure (5th ed. 2020) Pleading, § 553.)

A common count claim broadly applies "wherever one person has received money which belongs to another, and which in 'equity and good conscience,' or in other words, in justice and right, should be returned." (*Philpott, supra,* 1 Cal.2d at p. 522, 36 P.2d 635, quoting 3 Page on Contracts, § 1473, pp. 2510–2512.) The claim does not require privity of contract. Although the plaintiff's right to recover under a common count is based on equitable principles, the claim is legal in nature. (*Philpott*, at p. 522, 36 P.2d 635, citing Page on Contracts, at pp. 2510–2512.)

Rubinstein v. Fakheri, 49 Cal. App. 5th 797, 809 (2020).

Summary Judgment Standard

> [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 (2017).

In this case, there is no evidence of a renewed agreement between the parties that would indicate that the elements of "Account Stated" cause of action have been met, notwithstanding a new contract alleged in the Complaint, paragraph 17. However, the evidence submitted by Plaintiff does adequately support the common count of "Money Lent" in that Defendant applied or a line of credit in which he promised to repay moneys advanced to him, received money pursuant to the line of credit, and failed to make payments on that loan after July 25, 2025.

The evidence submitted by Plaintiff also sufficiently supports the claim from Breach of Contract. Plaintiff has met the initial burden of production, establishing that Defendant applied for a line of credit promised to pay amounts that were advanced to him, that Plaintiff advanced Defendant money pursuant to that agreement, and Defendant failed to the pay amounts due as of the last payment received on July 25, 2024. Declaration of Anita Flannery-Brice, dated October 21, 2025 ("Flannery-Bryce Declaration").

Defendant contests some of the factual assertions of Plaintiff. To the extent Defendant's arguments are comprehensible, it appears that his argument rests in part on disputing the $52,534.78 amount claimed as owing in 2024 by referencing prior account statements showing different amounts due in 2022 and 2023. The Declaration submitted by Defendant attaches summaries of the account history and some discovery responses that do not contradict Plaintiff's evidence, and he makes no affirmative representation that would negate Plaintiff's breach of contract cause of action. Defendant claims that he never provided with statements of

loaned amounts or payments made, a statement that is contradicted by Plaintiff's custodian of records. Flannery-Bryce Declaration, para. 11; Exhibit 3.

In short, Plaintiff has met its burden of production on the Breach of Contract and Money Lent causes of action, and Defendant has produced no evidence of a triable issue of material fact.

Attorneys' Fees and Costs

The Small Business Lending Credit Application Agreement and Person Guarantee document that is attached to the Flannery-Brice Declaration states as follows: "I agree (i) I will pay Bank's costs and attorneys' fees in enforcing this guaranty . . ." and bears Defendant's signature. Code of Civil Procedure § 1021 provides that attorneys' fees, where not specifically provided for by statute is a matter that is governed by the agreement of the parties. Accordingly, Plaintiff is entitled to recover attorneys' fees in accordance with the terms of the parties' agreement. Plaintiff claims an amount calculated on the basis of the amount due pursuant to Local Rule 7.10.07(B), totaling $4,350.70. Plaintiff further requests costs in the amount of $673.30.

TENTATIVE RULING #7: PLAINTIFF'S MOTION FOR SUMMARY ADJUDICATION OF BREACH OF CONTRACT AND MONEY LENT CAUSES OF ACTION IS GRANTED; PLAINTIFF'S MOTION FOR SUMMARY ADJUDICATION OF THE ACCOUNT STATED CAUSE OF ACTION IS DENIED. PLAINTIFF IS AWARDED ATTORNEYS' FEES IN THE AMOUNT OF $4,350.70. PLANITIFF IS AWARDED COSTS, SUBJECT TO FILING A MEMORANDUM OF COSTS TO DOCUMENT CLAIMED EXPENSES.

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.	**25CV3397**	**RUSSELL vs. THOMPSON ET AL**
Demurrer		

This unopposed demurrer is directed at the Complaint, filed on Judicial Council form PLD-C-100 and alleging breach of contract. The Complaint attaches a contract document, but does not contain any factual allegations as to the Plaintiff's performance, the Defendant's' breach or claims of damages.

Code of Civil Procedure § 425.10 requires a Complaint to contain "a statement of facts constituting the cause of action, in ordinary and concise language." The Complaint is insufficient as a matter of law.

TENTATIVE RULING #8: DEFENDANT'S DEMURRER IS SUSTAINED WITH LEAVE TO AMEND.

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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