

1.	23CV1460	MARK SCHNEIDER VS. GOLD RUSH ENERGY SOLUTIONS
ATTORNEY WITHDRAWAL		

This matter was continued from August 21, 2026. The tentative issued on August 21, 2026, is amended as follows:

Counsel for Defendant, Gold Rush Energy Solutions (“Defendant”), and Cross-Complainant, Jordan Lykins (“Cross-Complainant”), has filed motions 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 each motion, as required by California Rules of Court, Rule 3.1362, stating that there is a breakdown of the attorney-client relationship with each client that has rendered it unreasonably difficult to carry out representation effectively. The declaration for Defendant’s motion is not signed.

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 Cross-Complainant at her last known was filed on July 22, 2026. Counsel for Defendant indicates that service has been effectuated by mail at Defendant’s last known address; however, the Declaration is unsigned attesting the foregoing is true and correct under penalty of perjury.

The Findings and Order sections in each of Counsel's proposed Order are incomplete as required by California Rules of Court, Rule 3.1362(e).

TENTATIVE RULING #1:

ABSENT OBJECTION, THE MOTIONS ARE GRANTED, CONTINGENT ON COUNSEL’S FILING OF PROPOSED ORDERS (FORM MC-053) THAT MEET THE REQUIREMENTS OF CALIFORNIA RULES OF COURT, RULE 3.1362(E) AND THE SIGNED DECLARATION FOR DEFENDANT’S MOTION. COUNSEL IS DIRECTED TO SERVE A COPY OF THE SIGNED ORDERS ON THE CLIENT AND ALL PARTIES THAT HAVE APPEARED IN THE CASE IN ACCORDANCE WITH CALIFORNIA RULES OF COURT, RULE 3.1362(e).

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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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.

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2.	25CV0249	EUGENE BAILEY VS. MARSHALL MEDICAL CENTER, A BUSINESS ENTITY, FORM UNKNOWN ET AL
ATTORNEY WITHDRAWAL		

Pursuant to Plaintiff's Counsel's Notice of Withdrawal of Motion to be Relieved as Counsel filed on August 26, 2026, the hearing on September 4, 2026, is vacated.

TENTATIVE RULING #2:

THE HEARING SCHEDULED ON SEPTEMBER 4, 2026, FOR PLAINTIFF'S COUNSELS MOTION TO BE RELIEVED AS COUNSEL IS VACATED.

3.	26CV0723	JONATHAN EFRIN GALLEGOS VS. PARK PLACE FINANCE, LLC ET AL
MOTION TO EXPUNGE LIS PENDENS / DEMURRER		

Before the Court are two motions: 1) Motion to Expunge Lis Pendens and Request for Attorney's Fees and Costs; and 2) Demurrer.

MOTION TO EXPUNGE LIS PENDENS

This matter was continued from August 14, 2026. The tentative ruling issued on August 14, 2026, remains in effect.

DEMURRER

On June 25, 2026, Defendant, Tahoe LLC ("Defendant"), filed a Demurrer to Plaintiff's First Amended Complaint. The Proof of Service was filed on the same date indicating Plaintiff, Valentin Razumovsky, and Maxton Builders, Inc. were served. No Proof of Service is on file indicating all other co-defendants were served.

California Code of Civil Procedure § 1005(b) requires that all moving and supporting papers shall be served and filed at least 16 court days before the hearing, which includes service on counsel for all parties who have appeared in the action, whether or not the motion seeks relief against such parties. *Alford v. Superior Court* (2003) 29 Cal.4th 1033, 1048 [130 Cal.Rptr.2d 672, 683, 63 P.3d 228, 238].

As Defendant failed to serve all other co-defendants, service is deemed defective. The Court continues the matter to October 30, 2026, to allow for proper service.

TENTATIVE RULING #3:

1. MOTION TO EXPUNGE LIS PENDENS

THE TENTATIVE RULING ISSUED ON AUGUST 14, 2026, REMAINS IN EFFECT

2. DEMURRER

DEFENDANT'S DEMURRER IS CONTINUED TO OCTOBER 30, 2026, AT 8:30 A.M. IN DEPARTMENT NINE TO ALLOW FOR PROPER SERVICE.

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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4.	26CV1706	BRENDA BOSWELL ET AL VS. NEWREZ LLC
LIS PENDENS		

This matter was continued from August 21, 2026. The tentative ruling issued on August 21, 2026, remains in effect.

TENTATIVE RULING #4:

THE TENTATIVE RULING ISSUED ON AUGUST 21, 2026, REMAINS IN EFFECT.

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5.	26CV1756	JASON A BOSTON VS. EDCA LIFE SKILLS ET AL
PETITION FOR WRIT OF MANDATE		

This matter was continued from August 7, 2026. The tentative ruling issued on August 7, 2026, remains in effect.

TENTATIVE RULING #5:

THE TENTATIVE RULING ISSUED ON AUGUST 7, 2026, REMAINS IN EFFECT.

6.	26CV0408	SUSAN M. BOURNE-SASANO VS. JANICE LOUISE BOURNE
MOTION TO DETERMINE VALUE AND SEND BUYOUT NOTICE		

Plaintiff, Susan M. Bourne-Sasano (“Plaintiff”), filed a Motion to Determine Value and Send Buyout Notice on July 13, 2026. An Opposition was filed by Defendant, Janice Louise Bourne (“Defendant”), on August 17, 2026. Plaintiff’s Reply was filed on August 25, 2026.

Plaintiff seeks the following orders: 1) appoint Christine Pyle-Banks as Appraiser for the Property located at 5100 Green Valley Road, Placerville, California 95667; 2) assign the costs of appraisal to the Defendant to the extent they oppose partition and set a deadline for their payment within 20 days of the hearing on this Motion, or alternatively, to apportion the costs in accordance with the Parties’ interests if Defendant does not oppose partition; 3) set a hearing date to determine the fair market value, or otherwise order the Property to be sold; and 4) send a buyout notice with a deadline for compliance—under Code of Civil Procedure sections 872.720, 872.810, 873.010, 874.316, 874.317, and 874.318.

Defendant opposes the appointment of an appraiser on the grounds that Plaintiff does not establish the proposed appraiser is “disinterested”, the appraiser’s fee is excessive, and Plaintiff offers no legitimate basis to apportion more than 50% of the appraiser’s fee to Defendant. Further, Defendant asserts the Court cannot schedule a hearing to determine the property’s value until the appraisal is completed, filed with the court, and notice is sent to each party.

Code of Civil Procedure § 874.316 instructs, in part:

(a) Except as otherwise provided in subdivisions (b) and (c), the court shall determine the fair market value of the property by ordering an appraisal pursuant to subdivision (d).

(d) If the court orders an appraisal, the court shall appoint a disinterested real estate appraiser licensed in the State of California to determine the fair market value of the property assuming sole ownership of the fee simple estate. On completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the court.

Code of Civil Procedure § 874.317 provides, in part:

(a) If any cotenant requested partition by sale, the court shall, after the determination of value under Section 874.316, send notice to the parties that any cotenant except a cotenant that requested partition by sale may buy all the interests of the cotenants that requested partition by sale.

(b) Not later than 45 days after the notice is sent under subdivision (a), any cotenant except a cotenant that requested partition by sale may give notice to the court that it elects to buy all the interests of the cotenants that requested partition by sale.

The Court orders the Parties to meet and confer in an effort to reach a mutual agreement regarding the selection of a disinterested appraiser. Within ten days of the Court's order, the Parties are ordered to mutually exchange a list of two disinterested appraisers, their contact information, curriculum vitae, fee schedule, anticipated time to begin work on the appraisal and turnaround time, and confirmation of willingness and availability to serve as appraiser. Thereafter, the Parties are to meet and confer to select one. The Parties are ordered to file a joint status report identifying the appraiser selected no later than September 24, 2026.

If an agreement cannot be reached, the joint status report shall identify each party's proposed appraiser, a declaration from the appraiser that includes, but is not limited to, their curriculum vitae, disclosing whether they have an interest in the matter, the cost of the appraisal, their anticipated time to begin work on the appraisal and turnaround time, and confirmation of willingness and availability to serve as appraiser.

The hearing on Plaintiff's motion is continued to October 2, 2026.

TENTATIVE RULING #6:

PLAINTIFF'S MOTION IS CONTINUED TO OCTOBER 2, 2026, AT 8:30 A.M. IN DEPARTMENT NINE. PARTIES AND COUNSEL ARE ORDERED TO COMPLY WITH THE COURT'S ORDER TO MEET AND CONFER AS OUTLINED IN THE TENTATIVE RULING.

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**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.	PC20210448	THOMAS STUART VS DAVID CORDANO
MOTION TO STRIKE/TAX COSTS		

On June 30, 2026, Plaintiffs, Thomas Stuart and Teresa Stuart (collectively "Plaintiffs"), filed a Memorandum of Costs. Defendants, David Cordano and Jeanne Cordano (collectively "Defendants"), filed a Motion to Strike or, in the alternative, to Tax Costs and a Request for Judicial Notice on July 14, 2026.

An Amended Memorandum of Costs and Declaration of Nicholas S. Seliger in Support of Plaintiffs' Amended Memorandum of Costs were filed by Plaintiffs on July 30, 2026. Plaintiffs' Amended Memorandum of Costs requests a total amount of \$42,117.24, as follows: 1) \$545.00 for filing and motion fees; 2) \$155.00 for jury fees; 3) \$956.00 for deposition costs; 4) \$943.03 for service of process; 5) \$804.45 for court-ordered transcripts; 6) \$1,710.63 for fees for electronic filing or service; and 7) \$37,003.13 for "other" costs.

Defendants filed a Declaration and Memorandum of Points and Authorities in Support of Response to Amended Memorandum of Costs and Supplemental to Motion of Defendants to Strike or, in the alternative, to Tax Costs on August 17, 2026. No opposition has been filed.

Request for Judicial Notice

Defendants seek judicial notice of a Motion for Determination of Good Faith Settlement filed in this Court on August 18, 2025.

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 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, including, but not limited to, "[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States."

Section 452 provides that the court "may" take judicial notice of the matters listed therein, while Section 453 provides a caveat that the court "shall" take judicial notice of any matter "specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request...to enable such adverse party to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter." Cal. Evid. Code § 453.

While the request made by Defendants fall within the purview of Section 452, matters which *may* be judicially noticed, the Court does find that Defendants provided Plaintiffs and the Court sufficient notice of the request and copies of the documents requested to be noticed. As

such, Defendants have satisfied the requirements of Evidence Code § 453 and the request for judicial notice is granted.

Legal Principles

A prevailing party is entitled to recover its costs. (Code Civ. Proc., § 1032, subd. (b).) Code of Civil Procedure section 1033.5 creates three categories of costs—allowed, prohibited, and discretionary. (*Rozanova v. Uribe* (2021) 68 Cal.App.5th 392, 402 [question presented was which category covered the claimed item].) First, Code of Civil Procedure section 1033.5, subdivision (a) lists the items specifically allowed as recoverable costs. Second, Code of Civil Procedure section 1033.5, subdivision (b) lists items that “are not allowable as costs, except when expressly authorized by law[.]” (*Ibid.*) Third, Code of Civil Procedure section 1033.5, subdivision (c)(4) provides that an item neither specifically allowable under subdivision (a) nor explicitly prohibited under subdivision (b) may be allowed or denied in the discretion of the court if certain requirements are satisfied. (*Id.*, subd. (c)(4).) In particular, the item must be (1) “incurred, whether or not paid;” (2) “reasonably necessary to the conduct of the litigation rather than merely convenient or beneficial to its preparation;” and (3) “reasonable in amount.” (*Id.*, subd. (c).)

“ ‘In ruling upon a motion to tax costs, the trial court’s first determination is whether the statute expressly allows the particular item and whether it appears proper on its face. “If so, the burden is on the objecting party to show [the costs] to be unnecessary or unreasonable.” [Citation.] Where costs are not expressly allowed by the statute, the burden is on the party claiming the costs to show that the charges were reasonable and necessary.’ ” (*Rozanova, supra*, 68 Cal.App.5th at p. 399; see *Berkeley Cement, Inc. v. Regents of University of Cal.* (2019) 30 Cal.App.5th 1133, 1139.)

Discussion

Defendants contend that the Motion for Determination of Good Faith Settlement establishes that nine other defendants/cross-defendants reached settlements prior to the Trial of David and Jeanne Cordano. Plaintiffs did not provide an itemization of costs that was necessary for litigating this matter solely against Defendants. As sufficient information has not been provided to determine reasonableness or whether the costs are permitted by statute, Defendants request the Court tax the following costs: 1) service of process; 2) court-ordered transcripts; 3) fees for electronic filing or service; and 4) “other” costs.

1. Service of Process Costs

Of the \$943.03 claimed, Defendants seek to tax \$543.03 on the grounds that it was not reasonably necessary to the conduct of the litigation against Defendants, and not reasonable in amount.

As Plaintiffs have not filed an opposition, the Court is unable to determine the reasonableness of the service of process costs. Absent proof of the service of process costs attributable to Defendants, Defendants' request to tax is granted.

2. Court-Ordered Transcripts Costs

Defendants seek to tax \$804.45 of the \$804.45 claimed for court-ordered transcripts, as the costs are excluded by statute since the transcripts were not court ordered.

Code of Civil Procedure § 1033.5(a)(9) allows for the costs of transcripts of court proceedings ordered by the court. Alternatively, § 1033.5(b)(5) expressly prohibits costs of transcripts of court proceedings not ordered by the court.

Finding the transcripts were not court-ordered, Defendants' request to tax the costs for court-ordered transcripts in the amount of \$804.45 is granted.

3. Electronic Filing or Service Costs

Defendant requests the court tax the entirety of the \$1,710.63 in fees for electronic filing or service on the grounds that it was not reasonably necessary to the conduct of the litigation and not reasonable in amount. Without an itemization, Defendants are unable to discern what amounts are attributable to litigation against them.

Plaintiffs contend that one hundred percent of the fees are attributable to the costs incurred filing and electronically serving documents pertaining to the instant litigation. However, no opposition was filed which identified which costs were attributable to Defendants.

Absent proof the electronic filing or service costs are attributable specifically to Defendants, Defendants' request to tax the costs for electronic filing or service costs is granted.

4. "Other" Costs

Defendants request the court tax the entirety of the \$37,003.13 "other" costs on the basis that it was not reasonably necessary to the conduct of the litigation and not reasonable in amount.

Plaintiffs assert the "other" costs are comprised of: 1) \$5,313.75 in expert fees incurred by Plaintiffs' general construction expert Geoff Laurin and Laurin Construction; 2) \$26,199.38 in expert fees incurred by Plaintiffs' expert Steve Sert and Sert Consulting, Inc.; and 3) \$5,490 in fees representing the fees paid by Plaintiffs for Court-appointed Special Master, Peter Dekker of Castle, Dekker & Bellagamba which represents Plaintiffs' allocation of fees paid for his work as Special Master and Mediator.

Defendants further contend that they did not participate in the Special Master proceedings, the mediation process, or any depositions other than their own. Per the Ruling on Submitted Matter, the only expert to testify was Laurin, Plaintiffs' expert.

Code of Civil Procedure § 1033.5(a)(8) allows for the fees of expert witnesses ordered by the Court. Conversely, § 1033.5(b)(1) expressly provides that fees of experts not ordered by the court are not allowable, except when expressly authorized by law.

Absent evidence that Plaintiff's general construction expert Goeff Laurin and Laurin Construction and Plaintiffs' expert Steve Sert and Sert Consulting, Inc. were ordered by the Court or expressly authorized by law, Plaintiffs are not entitled to recover their expert witness fees.

A special master having been appointed by the court, his or her fee is analogous to the award of "[f]ees of expert witnesses ordered by the court." (§ 1033.5, subd. (a)(8); see *Estrin v. Fromsky* (1942) 53 Cal.App.2d 253, 255, 127 P.2d 603.) The expense of court-appointed experts is first apportioned and charged to the parties, and then the prevailing party's share is allowed as an item of costs. (See *City of Los Angeles v. City of San Fernando* (1975) 14 Cal.3d 199, 297, fn. 104, 123 Cal.Rptr. 1, 537 P.2d 1250.) *Winston Square Homeowner's Assn. v. Centex West, Inc.* (1989) 213 Cal.App.3d 282, 293 [261 Cal.Rptr. 605, 611].

A trial court does not abuse its discretion when it allocates court-appointed expert costs to other parties. *Baker-Hoey v. Lockheed Martin Corp.* (2003) 111 Cal.App.4th 592, 605 [3 Cal.Rptr.3d 593, 603] (finding it was reasonable to allocate the expenses of the discovery referee equally among the eight defeated plaintiffs).

The Court finds the costs for the Special Master fees are not reasonable, as Defendants were one of ten total defendants/cross-defendants. The Court equally allocates the \$5,490.00 among all defendants/cross-defendants in the amount of \$549.00. The Court grants Defendants' request to tax \$36,454.13 of "other" costs.

TENTATIVE RULING #7:

DEFENDANTS' MOTION TO TAX IS GRANTED AS REQUESTED FOR SERVICE OF PROCESS COSTS, COURT-ORDERED TRANSCRIPTS COSTS AND ELECTRONIC FILING OR SERVICE COSTS. DEFENDANTS' MOTION TO TAX IS GRANTED IN THE AMOUNT OF \$36,454.13 FOR "OTHER" COSTS.

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8.	25CV3152	JPMORGAN CHASE BANK N.A. VS. WENDY DARCY
MOTION TO SET ASIDE DEFAULT		

This matter was continued from August 21, 2026. The tentative ruling issued on August 21, 2026, remains in effect.

TENTATIVE RULING #8:

THE TENTATIVE RULING ISSUED ON AUGUST 21, 2026, REMAINS IN EFFECT.

9.	26CV0672	EVAN SPROAT ET AL VS. VICTOR DOMINGUEZ ET AL
GOOD FAITH SETTLEMENT		

Defendants, Roofchecks.com and Alex Tsivirinko (collectively “Defendants”), have agreed to pay \$25,000 in settlement of claims brought by Plaintiffs, Evan Sproat and Emily Ellis. Defendants now move for a determination of good faith settlement under Code of Civil Procedure Section 877.6. According to the proof of service, all parties were served electronically and by certified mail on July 22, 2026. The motion is not opposed.

Any party to an action in which it is alleged that two or more parties are joint tortfeasors is entitled to a court hearing on the issue of the good faith of a settlement between the plaintiff and one or more of the alleged tortfeasors. Cal. Civ. Pro. § 877.6(a)(1). A determination by the court that the settlement was made in good faith bars any other joint tortfeasor from bringing any further claims against the settling tortfeasor for equitable comparative contribution, or partial or comparative indemnity, based on comparative negligence or comparative fault. Cal. Civ. Pro. § 877.6(c).

In *Tech-Built v. Woodward-Clyde & Associates*, the California Supreme Court addressed the good faith requirement for settlements under Section 877.6. The policies underlying the requirement, “...require that a number of factors be taken into account including a rough approximation of plaintiffs’ total recovery and the settlor’s proportionate liability, the amount paid in settlement, the allocation of settlement proceeds among plaintiffs, and a recognition that a settlor should pay less in settlement than he would if he were found liable after a trial. Other relevant considerations include the financial conditions and insurance policy limits of settling defendants, as well as the existence of collusion, fraud, or tortious conduct aimed to injure the interests of non-settling defendants.” *Tech-Built v. Woodward-Clyde & Associates*, 38 Cal.3d 448, 499 (1985).

However, as noted in *City of Grand Terrace v. Superior Court*, the overwhelming majority of applications for a good faith determination are unopposed and a full factual response to all of the *Tech-Built* factors would be a waste of valuable time and resources. So, when no one objects, a “barebones motion which sets forth the ground of good faith, accompanied by a declaration which sets forth a brief background of the case is sufficient.” *City of Grand Terrace v. Superior Court*, 192 Cal.App.3d 1251, 1261 (1987).

In the present case, the Court has reviewed the application of Defendants and determined that it sets forth the basic statutory elements as required. As such, the motion for determination of good faith settlement is granted.

TENTATIVE RULING #9:

THE MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT IS GRANTED.

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10.	23CV1955	SYNCHRONY BANK VS. TRICIA D. HAMERTON
MOTION FOR ENTERING JUDGMENT		

This matter was continued from August 7, 2026. The tentative ruling issued on August 7, 2026, denied Plaintiff's, Synchrony Bank ("Plaintiff"), Motion for Entering Judgment Pursuant to Defendant's Default Under Settlement and Release Agreement due to defective service. On August 7, 2026, a Proof of Service was filed indicating service was effectuated by mail on the same date.

Plaintiff seeks to enter judgment in favor of Plaintiff and against Defendant, Tricia Hamerton ("Defendant"), due to Defendant's default of the settlement agreement. No opposition has been filed. Pursuant to the Settlement and Release Agreement (the "Settlement Agreement"), the Parties agreed Defendant owed a principal balance of \$4,847.07 and court costs incurred by Plaintiff. The Parties agreed Plaintiff would pay the total amount of \$2,666.00 as a full and final settlement in the installment payments of \$112.00 per month. Should Defendant default, Plaintiff may immediately file motion to seek entry of judgment for the balance due less credit for any payments received, plus court costs associated with filing and serving the action and any motion to obtain judgment. The Settlement Agreement provided that the Court would retain jurisdiction pursuant to Code of Civil Procedure § 664.6 to enforce the terms of the agreement.

Plaintiff alleges as of the date of its declaration, Defendant should have paid \$6,940.00; however, Plaintiff has received zero payments. Plaintiff accordingly seeks to enter judgment in the amount of \$5,235.77, comprised of a principal balance of \$4,847.07 and \$388.70 for costs associated with filing and serving the Complaint and underlying motion.

TENTATIVE RULING #10:

PLAINTIFF'S MOTION FOR ENTERING JUDGMENT PURSUANT TO DEFENDANT'S DEFAULT UNDER THE SETTLEMENT AND RELEASE AGREEMENT IS GRANTED. JUDGMENT SHALL BE ENTERED AGAINST DEFENDANT IN THE AMOUNT OF \$5,235.77, COMPRISED OF THE OUTSTANDING BALANCE (\$4,847.07) AND COSTS (\$388.70).

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.

11.	25CV2599	MISTI PALOMAR VS. TY A LEWIS ET AL
MOTION TO CONDUCT DISCOVERY		

The Notice does not comply with Local Rules 7.10.05. Repeated violations will be grounds for sanctions pursuant to Local Rule 7.12.13.

Plaintiff, Misti Palomar (“Plaintiff”), moves for an order requiring California Highway Patrol (“Defendant CHP”) and any other governmental agency, division, unit, or custodian with possession, custody, or control of responsive materials concerning Defendant, Ty A. Lewis (“Defendant Lewis”), to produce those materials to the Court for in camera review to conduct discovery pursuant to Evidence Code §§ 1043 and 1045 (*Pitchess*).

Plaintiff further requests the Court to compel Defendant CHP to provide further responses to Plaintiff’s Special Interrogatories to Defendant CHP, Set One, Nos. 1-2, 4-9 and Form Interrogatories to Defendant CHP, Set One, Nos. 12.1, 12.2, 12.3, 12.7, 14.2.

Legal Principles

On a showing of good cause a criminal defendant is entitled to discovery of relevant documents or information in the personnel records of a police officer accused of misconduct against the defendant. (Evid.Code, § 1043, subd. (b).) Good cause for discovery exists when the defendant shows both “ ‘materiality’ to the subject matter of the pending litigation and a ‘reasonable belief’ that the agency has the type of information sought.” (*City of Santa Cruz v. Municipal Court* (1989) 49 Cal.3d 74, 84, 260 Cal.Rptr. 520, 776 P.2d 222 (*Santa Cruz*).) A showing of good cause is measured by “relatively relaxed standards” that serve to “insure the production” for trial court review of “all potentially relevant documents.” (*Ibid.*) *Warrick v. Superior Court* (2005) 35 Cal.4th 1011, 1016 [29 Cal.Rptr.3d 2, 5, 112 P.3d 2, 4].

A showing of good cause requires a defendant seeking *Pitchess* discovery to establish not only a logical link between the defense proposed and the pending charge, but also to articulate how the discovery being sought would support such a defense or how it would impeach the officer's version of events. This court has long required that the information sought must be described with some specificity to ensure that the defendant's request is not so broad as to garner “ ‘all information which has been obtained by the People in their investigation of the crime’ ” but is limited to instances of officer misconduct related to the misconduct asserted by the defendant. (*Pitchess, supra*, 11 Cal.3d at p. 537, 113 Cal.Rptr. 897, 522 P.2d 305; accord, *People v. Mooc, supra*, 26 Cal.4th at p. 1226, 114 Cal.Rptr.2d 482, 36 P.3d 21; *Santa Cruz, supra*, 49 Cal.3d at p. 85, 260 Cal.Rptr. 520, 776 P.2d 222.) This specificity requirement excludes requests for officer information that are irrelevant to the pending charges. (See, e.g., *People v. Husted, supra*, 74 Cal.App.4th at p. 416, 87 Cal.Rptr.2d 875 [prior complaints of excessive force by arresting officer “irrelevant” after charge of resisting arrest was dropped and remaining charge was evasion of arrest in an automobile].) *Id.* at 1021.

Only documentation of past officer misconduct which is *similar* to the misconduct alleged by defendant in the pending litigation is relevant and therefore subject to discovery. (See *People v. Gill* (1997) 60 Cal.App.4th 743, 749, 70 Cal.Rptr.2d 369; *People v. Husted* (1999) 74 Cal.App.4th 410, 417, 87 Cal.Rptr.2d 875.) This is because “evidence of habit or custom [is] admissible to show that a person acted in conformity with that habit or custom on a given occasion.” (*People v. Memro*, *supra*, 38 Cal.3d at p. 681, 214 Cal.Rptr. 832, 700 P.2d 446.) Similarly, “evidence of reputation, opinion, and specific instances of conduct is admissible to show, inter alia, motive, intent, or plan.” (*Ibid.*) *California Highway Patrol v. Superior Court* (2000) 84 Cal.App.4th 1010, 1021 [101 Cal.Rptr.2d 379, 387].

“ ‘As a further safeguard,’ ” an order of disclosure ordinarily involves revelation of only the “ ‘name, address and phone number of any prior complainants and witnesses and the dates of the incidents in question.’ ” (*Alford*, *supra*, 29 Cal.4th at p. 1039, 130 Cal.Rptr.2d 672, 63 P.3d 228.) Section 1045(e) *requires* the court to impose a protective order providing that the “records disclosed or discovered may not be used for any purpose other than a court proceeding pursuant to applicable law.”⁸ (§ 1045(e).) The “relatively low threshold for discovery embodied in section 1043 is offset, in turn, by section 1045’s protective provisions which: (1) explicitly ‘exclude from disclosure’ certain enumerated categories of information (§ 1045, subd. (b)); (2) establish a procedure for in camera inspection by the court prior to any disclosure (§ 1045, subd. (b)); and (3) issue a forceful directive to the courts to consider the privacy interests of the officers whose records are sought and take whatever steps ‘justice requires’ to protect the officers from ‘unnecessary annoyance, embarrassment or oppression.’ ” (§ 1045, subds. (c), (d) & (e).)” (*Santa Cruz*, *supra*, 49 Cal.3d at pp. 83–84, 260 Cal.Rptr. 520, 776 P.2d 222.) *Chambers v. Superior Court* (2007) 42 Cal.4th 673, 679–680 [68 Cal.Rptr.3d 43, 46–47, 170 P.3d 617, 620]

Discussion

Plaintiff asserts the requested records are material for the following reasons:

1. They may support Plaintiff’s claims, impeach Defendant Lewis, identify witnesses, reveal admissions or findings, show prior similar misconduct, lead to admissible evidence, or establish facts relevant to the reasonableness, credibility, intent, absence of mistake, notice, pattern, or practice issues in the case;
2. They may support Plaintiff’s claims of negligence, negligent supervision, hiring, training and retention of Defendant Lewis she has against Defendant CHP. Such records help to show notice, knowledge, ratification, and failure to take corrective action against Defendant Lewis; and
3. Defendant CHP’s “privilege log” identifies such documents as being responsive to Plaintiff’s Demand for Production of Documents and Things, Set One.

Defendants argue Plaintiff has failed to establish good cause. Plaintiff’s affidavit stating that good cause is based on the need to establish negligence, and negligent hiring, supervision,

and training causes of action is irrelevant because Defendant CHP cannot be liable for either cause of action as it is not a recognized claim unless there is a statutory duty owed by the entity to the injured party. Defendant further contends that the majority of the records Plaintiff seeks are related to another lawsuit pending in Inyo County Superior Court and are not material to the allegations in this case.

Plaintiff seeks the following records from Defendants:

REQUEST ONE (1): Records of complaints, investigations, findings, discipline, corrective action, adverse action, or other proceedings concerning excessive force, unreasonable force, threatened force, taser use, taser display, taser deployment, threatened taser use, improper weapon display, assaultive conduct, intimidation, coercion, retaliation, abuse of authority, misuse of authority, or improper treatment of civilians.

Defendants argue the request is excessive overbroad, and violative of the restrictions on *Pitchess* discovery.

The Court finds that good cause exists for Plaintiff's request. However, the Court finds Plaintiff's request for records concerning coercion and retaliation is overbroad and Plaintiff has not met her burden establishing good cause. The request is narrowed to only records concerning excessive force, unreasonable force, threatened force, taser use, taser display, taser deployment, threatened taser use, improper weapon display, assaultive conduct, intimidation, abuse of authority, misuse of authority, or improper treatment of civilians.

REQUEST TWO (2): Complete Internal Affairs files concerning Defendant Lewis that relate to any of the categories described above, including complaints, intake materials, assignments, investigator notes, memoranda, reports, interviews, witness statements, officer statements, audio recordings, video recordings, photographs, exhibits, findings, recommendations, discipline, correspondence, and closing materials.

Defendants argue the Declaration of David Watson fails to establish how all materials related to all Internal Affairs investigations, regardless of the subject matter or underlying allegations, would themselves be admissible in this case or would lead to any item of evidence that would be admissible in this case involving the use of a taser.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted in part. The request is narrowed to only records concerning excessive force, unreasonable force, threatened force, taser use, taser display, taser deployment, threatened taser use, improper weapon display, assaultive conduct, intimidation, abuse of authority, misuse of authority, or improper treatment of civilians.

REQUEST THREE (3): Complete Investigative Services Unit files concerning Defendant Lewis that relate to any of the categories described above, including investigative reports, evidence logs,

recordings, witness interviews, officer interviews, summaries, findings, recommendations, internal communications, attachments, and exhibits.

Defendants argue the Declaration of David Watson fails to establish how all materials related to all Investigative Services Unit files, regardless of the subject matter or underlying allegations, would themselves be admissible in this case or would lead to any item of evidence that would be admissible in this case involving the use of a taser. Plaintiff is engaging in a fishing expedition and has not established good cause.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted in part. The request is narrowed to only records concerning excessive force, unreasonable force, threatened force, taser use, taser display, taser deployment, threatened taser use, improper weapon display, assaultive conduct, intimidation, abuse of authority, misuse of authority, or improper treatment of civilians.

REQUEST FOUR (4): Records concerning dishonesty, false statements, false reports, fabrication, omission of material facts, perjury, moral turpitude, credibility, impeachment, or other conduct bearing on Defendant Lewis's truthfulness or reliability as a witness.

Defendants argue that discovery is not justified by asserting that since an officer's credibility will be an issue at trial, anything that could conceivably bear on his credibility should be disclosed.

Plaintiff argues that Defendant Lewis's account of the incident to the Placerville Police Department materially contradicts Plaintiff's account of the same events, specifically, as to whether a taser was drawn, aimed, and discharged. As both accounts cannot be true, evidence that Defendant Lewis has previously falsified reports or given false statements in an official investigation is material.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted.

REQUEST FIVE (5): Records concerning discipline, termination, Skelly proceedings, administrative appeals, State Personnel Board proceedings, grievances, settlement of disciplinary matters, reinstatement proceedings, appeal decisions, or related employment proceedings involving Defendant Lewis, to the extent those records concern use of force, taser conduct, weapon display, citizen complaints, dishonesty, false reporting, credibility, retaliation, abuse of authority, or other issues material to this case.

Defendants argue Plaintiff failed to establish good cause and seeks to engage in a fishing expedition. Pursuant to Penal Code § 832.7, such records are confidential. Defendants contend that Plaintiff has not demonstrated that the disciplinary records would be admissible in the case or would lead to the discovery of admissible evidence.

In reply, Plaintiff narrows the request to discipline, adverse action, and the findings and disposition of any resulting appeal, limited to matters concerning use or threatened use of force, taser or weapon use or display, or dishonesty or false reporting.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted in part. The request is narrowed to records concerning discipline, adverse action, and the findings and disposition of any resulting appeal, limited to matters concerning use or threatened use of force, taser or weapon use or display, or dishonesty or false reporting.

REQUEST SIX (6): Any Brady list, Brady alert, Brady bank, officer-integrity database entry, credibility database entry, impeachment tracking record, officer-integrity notice, or similar record concerning Defendant Lewis, to the extent such record exists and is maintained by CHP or any related custodian.

Defendants assert that *Brady* obligates the prosecution or the prosecution team to disclose material within its possession, not an employer like Defendant CHP. Additionally, a search for such material within a peace officer's personnel file goes beyond the scope of and is not mandated by the *Pitchess* procedure.

Plaintiff asserts she asks whether Defendant CHP maintains a record, a Brady-list entry, officer-integrity or credibility database entry, or equivalent notation – concerning Defendant Lewis. Plaintiff argues such records exist and *Pitchess* is the mechanism by which the records are obtained. If no such records exist, the custodian can say so under oath at the in-camera hearing.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted.

REQUEST SEVEN (7): Any record concerning training, remedial training, counseling, corrective action, restriction of duties, removal from assignment, or employment status change involving Defendant Lewis that relates to use of force, taser use, threatened force, weapons display, truthfulness, reporting, credibility, retaliation, or abuse of authority.

Defendants contend Plaintiff's request is a fishing expedition, as it is overly broad. Plaintiff further has not demonstrated that these records would be admissible or even lead to the discovery of admissible evidence.

Plaintiff argues that if Defendant Lewis was retrained, counseled, restricted, or reassigned following a prior aggression, force or taser incident, it bears on his knowledge of applicable taser policy, on whether the April 10, 2025, deployment departed from training he had already received, and on malice or conscious disregard under Civil Code § 3294.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted in part. The request is narrowed to only records that relate to use of force, taser use, threatened force, weapons display, truthfulness, reporting, credibility, and abuse of authority.

REQUEST EIGHT (8): All California Commission on Peace Officer Standards and Training (POST) records regarding Defendant Lewis in CHP's possession including, but not limited to, POST records for hiring, training compliance, certification tracking, background checks, and employment verification.

Defendants assert that Plaintiff does not establish the records requested are material to her cause of action involving the taser incident and that these records would be admissible or lead to the discovery of admissible evidence.

Plaintiff contends that Defendants' argument that these materials fall outside the scope of Penal Code § 832.8's enumeration of personnel records would mean that no *Pitchess* privilege attaches to them and they are discoverable in the ordinary course pursuant to Code of Civil Procedure § 2017.010, yet Defendant CHP withheld such records as privileged on its log. To the extent the Court concludes they are not personnel records, it should order them be produced directly.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted.

REQUEST NINE (9): Records relating to the April 10, 2025, incident involving Plaintiff, including incident reports, supplemental reports, statements, audio, video, photographs, dispatch materials, CAD logs, taser data, taser download records, body-worn camera or patrol-camera materials if any, use-of-force review materials, supervisory reviews, complaint materials, and internal investigation materials.

Defendants concede there is good cause for the Court to perform an in camera review of the materials related to the internal investigation into the specific incident that forms the basis of this action, subject to the Court's discretion as to what is material and relevant.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted.

REQUEST TEN (10): All records identified in CHP's Privilege Log provided by CHP with Defendant California Highway Patrol's Response to Plaintiff's Request for Production of Documents and Things, Set One.

Defendants argue the records are remote in time because they pertain to events six and seven years prior to the alleged taser assault and they are also immaterial to the action. Plaintiff failed to explain how they establish good cause and did not explain materiality of any of the items specifically identified in the privilege log.

In regards to Defendants' remoteness argument, Plaintiff does not ask the Court to disregard Evidence Code § 1045, subdivision (b)(1) but rather it be applied in chambers rather than to permit Defendant CHP to apply it unilaterally.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted.

REQUEST ELEVEN (11): Any other documents, recordings, witness information, findings, conclusions, or materials in Defendant Lewis's personnel, Internal Affairs, Investigative Services Unit, disciplinary, employment, appeal, or credibility files that the Court determines are relevant and discoverable after in camera review.

Defendants argue that the records requested fall outside the scope of Penal Code § 832.8's enumeration of personnel records.

Plaintiff contends that Defendants' argument that these materials fall outside the scope of Penal Code § 832.8's enumeration of personnel records would mean that no *Pitchess* privilege attaches to them and they are discoverable in the ordinary course pursuant to Code of Civil Procedure § 2017.010, yet Defendant CHP withheld such records as privileged on its log. To the extent the Court concludes they are not personnel records, it should order them be produced directly. Plaintiff further asserts that the request that the Court exercise the discretion § 1045(b) already confers on it.

The Court finds that good cause exists for Plaintiff's request. Plaintiff's request is granted.

Plaintiff's motion is granted as narrowed. The Court shall conduct an in camera hearing of the requested records where the Court shall determine the relevance of each item. The Court further shall enter a mutual protective order limiting the use of the disclosed materials to this litigation and related court proceedings. All disclosed documents and all copies thereof shall be returned to Defendants' counsel at the final resolution of the action, including appeals.

As for Plaintiff's request to compel Defendant CHP to provide further responses to Plaintiff's Special Interrogatories to Defendant CHP, Set One, Nos. 1-2, 4-9 and Form Interrogatories to Defendant CHP, Set One, Nos. 12.1, 12.2, 12.3, 12.7, 14, the Court does not find the meet and confer requirements of Code of Civil Procedure section 2030.300(b)(1) or separate statement requirements of California Rules of Court, Rule 3.1345 have been met. Plaintiff's request is denied without prejudice.

TENTATIVE RULING #11:

PLAINTIFF'S MOTION IS GRANTED AS NARROWED WITHIN THE TENTATIVE RULING. THE COURT SHALL CONDUCT AN IN CAMERA HEARING OF THE REQUESTED RECORDS WHERE THE COURT SHALL DETERMINE THE RELEVANCE OF EACH ITEM. THE COURT FURTHER SHALL ENTER A MUTUAL PROTECTIVE ORDER LIMITING THE USE OF THE DISCLOSED MATERIALS TO THIS LITIGATION AND RELATED COURT PROCEEDINGS. ALL DISCLOSED DOCUMENTS AND ALL COPIES THEREOF SHALL BE RETURNED TO DEFENANTS' COUNSEL AT THE FINAL RESOLUTION OF THE ACTION, INCLUDING APPEALS.

PLAINTIFF'S REQUEST TO COMPEL FURTHER RESPONSES TO SPECIAL INTERROGATORIES, SET ONE, NOS. 1-2, 4-9 AND FORM INTERROGATORIES, SET ONE, NOS. 12.1, 12.2, 12.3, 12.7, AND 14 IS DENIED WITHOUT PREJUDICE.

September 4, 2026
Dept. 9
Civil Tentative Rulings

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.

September 4, 2026
Dept. 9
Civil Tentative Rulings

12.	25CV0505	CAPITAL ONE, N.A. VS. LINDA F RIDDLE
ATTORNEY WITHDRAWAL		

This matter was continued from August 14, 2026. The tentative ruling issued on August 14, 2026, remains in effect.

TENTATIVE RULING #12:

THE TENTATIVE RULING ISSUED ON AUGUST 14, 2026, REMAINS IN EFFECT.

September 4, 2026
Dept. 9
Civil Tentative Rulings

13.	25CV0508	CAPITAL ONE, N.A. VS. LINDA F RIDDLE
ATTORNEY WITHDRAWAL		

This matter was continued from August 14, 2026. The tentative ruling issued on August 14, 2026, remains in effect.

TENTATIVE RULING #13:

THE TENTATIVE RULING ISSUED ON AUGUST 14, 2026, REMAINS IN EFFECT.

14.	25CV0550	TRAVIS TEXER ET AL VS. GARY ROMERO ET AL
MOTION TO COMPEL		

Defendants, Folsom Hall Investors, Inc. dba Keller Williams Realty – Folsom, a California Corporation, and Ricky O’Neal (“Defendants”), move to compel and request monetary sanctions against Plaintiffs, Travis Texer and Michelle Texer (“Plaintiffs”). No opposition has been filed.

On March 31, 2026, Defendants served Requests for Production of Documents, Set One to Plaintiff Michelle Texer and Requests for Production of Documents, Set One to Plaintiff Travis Texer (collectively the “Discovery Requests”) on Plaintiffs through their counsel. After the statutory deadline passed, Defendants’ counsel met and conferred with Plaintiffs’ counsel and agreed that Plaintiffs would provide objection-free responses.

On May 28, 2026, Plaintiffs provided responses to the Requests for Production of Documents; however, the response contained “General Objections,” and indicated that they would comply with the requests to produce all documents “to which no objection is being made.” Included with the document responses was “TEXER0095 through TEXER0108” which was extensively redacted.

Defendants seek the following:

1. Declare that Plaintiffs have waived all objections to the subject discovery requests;
2. Order Plaintiffs to provide amended responses that omit the “General Objections” and omit the qualification that responsive documents will be produced if “no objection is being made”;
3. Order Plaintiffs to produce any responsive documents that were withheld based on the General Objections and qualification addressed in number 2;
4. Order Plaintiffs to produce completely unredacted copies of TEXER0095 through TEXER0108; and
5. Order Plaintiffs’ attorney, Kevin James, and his firm, Becker, Nelson, Center and James, jointly and severally, be ordered to pay monetary sanctions in the amount of \$735.00 to \$1,185.00.

If a party to whom a demand for inspection, copying, testing, or sampling is directed fails to serve a timely response to it, the party to whom the demand for inspection, copying, testing, or sampling is directed 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).

Misuses of the discovery process include making, without substantial justification, an unmeritorious objection to discovery. Code of Civil Procedure § 2023.010.

If a party to whom a demand for inspection, copying, testing, or sampling is directed fails to serve a timely response to it, the court shall impose a monetary sanction against any party,

person, or attorney who unsuccessfully makes or opposes a motion to compel a response to a demand for inspection, copying, testing, or sampling, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. Code of Civil Procedure § 2031.300(c).

The Court finds that Plaintiffs failed to timely serve responses to the Discovery Requests and therefore waived all objections. Plaintiffs are ordered to provide amended responses that omit all objections, whether general or specific.

As Plaintiffs waived all objections, including one based on privilege or protection for work product, the redaction of TEXER0095 through TEXER0108 was improper. Plaintiffs are ordered to provide an unredacted copy of TEXER0095 through TEXER0108 and all responsive documents that were withheld based on objections. Defendants' request for sanctions in the amount of \$787.50 is granted.

TENTATIVE RULING #14:

DEFENDANTS' MOTION TO COMPEL IS GRANTED AS REQUESTED. DEFENDANTS' REQUEST FOR SANCTIONS IS GRANTED IN THE AMOUNT OF \$787.50.

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.

15.	25CV2442	ELIJAH CARON ET AL VS. DOMINICK SAGER ET AL
MOTION TO COMPEL / MOTION TO ENFORFORCE CONTRACTUAL HOLDOVER RENT AND MODIFY FAIR RENTAL VALUE		

Before the Court are three motions: 1) Defendants' Motion to Compel Further Discovery Responses to Form Interrogatories, Set Two; 2) Defendants' Motion to Compel Further Responses to Demand for Production of Documents, Set Two to Elijah Caron; and 3) Defendants' Motion to Enforce Contractual Holdover Rent and Modify Fair Rental Value Payment Order.

MOTIONS TO COMPEL

As to Defendants' Motion to Compel Further Responses to Form Interrogatories, Set Two and Motion to Compel Further Responses to Demand for Production of Documents, Set Two to Elijah Caron (collectively the "Discovery Motions") filed on July 20, 2026, the Court finds the meet and confer efforts to be inadequate. The Court therefore orders the following:

Parties are to immediately begin the meet and confer process on the Discovery Motions dated July 20, 2026. The parties are ordered to meet and confer on video conference or in person in a good faith effort to resolve each matter on an item-by-item basis. Both parties are referred to standards of professionalism and civility as discussed in *Townsend v. Superior Court* (1998) 61 Cal.App.4th 1431, 1439; and *Manzetti v. Superior Court* (1993) 21 Cal.App.4th 373, 380, fn.8. The meet and confer meeting(s) is to be recorded and the recording is to be made available to the Court at the hearing. All parties/attorneys are ordered to make the recording or may all agree to only one party making the recording.

No later than October 9, 2026, the parties shall file a JOINT status report of no more than 5 pages outlining which, if any, items remain in dispute and why, including any request for sanctions. Failure to sign and participate in drafting the joint report will open each side to monetary sanctions for failure to follow this Order pursuant to California Rules of Court 5.14 and 5.98.

The parties shall not file a response or reply papers or any other papers in support or opposition of this motion. The court will only consider the joint status report that should explain what item(s) remains in dispute and the legal reasons why it's in dispute.

Parties shall explain the amount of monetary sanctions sought and the reasons why within the joint status report such that the court can address the same in any subsequent order individually.

The court reminds the parties that it is not enough to refer the court back to the original papers or to other papers filed in association with each matter or previous status report. Moreover, the joint status report(s) should proceed to list items remaining in dispute along with the legal reason(s) why. The parties shall submit a joint status report that complies with CRC

3.1345 which explains why a specific request is in dispute and each party's position. Parties should be careful to delineate the items in dispute in such a way that the Court will be fully aware as to which set of discovery the item in dispute is referring. If an item is not specifically listed and briefed with applicable points and authorities in the joint status report, the Court will assume that the issue has been resolved.

The parties are required to be reasonable in this process or face additional monetary sanctions.

A courtesy copy of the joint status report(s) shall be delivered electronically to Department 9. The hearing on this motion is scheduled on October 16, 2026, at 8:30 a.m. in Department 9.

MOTION TO ENFORCE CONTRACTUAL HOLDOVER RENT AND MODIFY FAIR RENTAL VALUE

On July 9, 2026, Defendants/Cross-Complainants, Dominick and Wendy Sager ("Defendants") filed a Motion to Enforce Contractual Holdover Rent and Modify Fair Rental Value Payment Order. Plaintiffs, Elijah Caron and Karenda Caron ("Plaintiffs"), filed an Opposition on August 10, 2026.

Defendants assert that as holdover tenants, Plaintiffs owe the fair market rental value of the Subject Property, which is established at \$4,900/month. In the alternative, Defendants request that pursuant to Section 29 of the lease, the Base Rent increased to 150% for any period the Plaintiffs hold over, which is accordingly \$4,019.03/month.

On June 22, 2026, the Court entered an order which, in part, ordered Plaintiffs to pay the sum of \$2,679.35 to Defendants each month. The foregoing payments shall be deemed fair rental value payments, post-lease termination, and will not revive or create any tenancy or landlord/tenant relationship. The Court reserved jurisdiction to modify the amount of fair rental value payments.

Plaintiffs argue that it is unclear what authority, if any, the Court has to "enforce" the agreement at this phase of the litigation. It appears Defendants are asking for either 1) injunctive relief or 2) to reconsider its ruling where it determined the payment amount was fair rental and reasonable at this phase of the litigation. Plaintiffs argue Defendants have already received over \$300,000.00 from Plaintiffs and are currently receiving roughly \$2,700/month despite breaching the contract with Plaintiffs; therefore, Defendants are not suffering from any injury.

The Court is not inclined to modify rent during the pendency of the litigation. The Court finds this is a consolidated matter wherein there is a factual dispute as to whether Plaintiffs are in fact holdover tenants. Upon a finding by a trier of fact that Plaintiffs are holdover tenants, Defendants would be entitled to damages, including the fair rental value, which could be greater

than the contractual rent amount. Code of Civil Procedure § 1174(b). Defendants' request is denied.

TENTATIVE RULING #15:

DEFENDANTS' DISCOVERY MOTIONS ARE CONTINUED TO OCTOBER 16, 2026, AT 8:30 A.M. IN DEPARTMENT 9. PARTIES AND COUNSEL ARE ORDERED TO COMPLY WITH THE COURT'S ORDER TO MEET AND CONFER AS OUTLINED IN THE TENTATIVE RULING.

DEFENDANTS' MOTION TO ENFORCE CONTRACTUAL HOLDOVER RENT AND MODIFY FAIR RENTAL VALUE 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).

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.

16.	26CV2005	VINCEPT SAPORITO VS. COBRA VAN LINES, LLC
ARBITRATION AWARD		

The Notice does not comply with Local Rules 7.10.05. Repeated violations will be grounds for sanctions pursuant to Local Rule 7.12.13.

Petitioners, Vincent Saporito and Kathleen Saporito (collectively “Petitioners”), petition the Court for an order confirming the arbitrator’s award. Petitioners assert that a Contract for Arbitration Services (the “Contract”) was entered into on March 27, 2026; however, the Contract does not contain Respondent’s signature as required. Petitioner’s declaration confirms that Respondent did not sign the Contract or participate in arbitration.

The Final Arbitration Award was issued on May 11, 2026 (the “Arbitration Award”). The Arbitration award indicates that Respondent did not pay the administrative fee, submit a brief or evidence, and did not otherwise participate in the arbitration. Nevertheless, the arbitration proceeded on the timely-filed record. The Arbitration Award provides, in part, as follows:

It is hereby ordered that Respondent Cobra Van Lines, LLC shall pay \$3,900.91 to Petitioners Vincent Saporito and Kathleen Saporito within forty-five (45) days of the date of this Final Arbitration Agreement. Failure to timely pay permits Petitioners to pursue all remedies at law or equity, including entry of judgment on this Award and recovery of reasonable costs and attorney’s fees incurred in enforcement.

Any party to an arbitration in which an award has been made may petition the court to confirm, correct or vacate the award. The petition shall name as respondents all parties to the arbitration and may name as respondents any other persons bound by the arbitration award. Code Civil Procedure § 1285.

Code of Civil Procedure § 1285.4 requires that a petition shall:

- (a) Set forth the substance of or have attached a copy of the agreement to arbitrate unless the petitioner denies the existence of such an agreement.
- (b) Set forth the names of the arbitrators.
- (c) Set forth or have attached a copy of the award and the written opinion of the arbitrators, if any.

The Court does not find there is a valid agreement to arbitrate, as Respondents did not enter into the agreement evidenced by the lack of signature. The Petition to Confirm Arbitration Award is denied.

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TENTATIVE RULING #16:

PETITION TO CONFIRM ARBITRATION AWARD 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).

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.

17.	PC20200622	BASSEM MANSOUR V. JOHN DAVID STONE
JUDGMENT ON THE PLEADINGS		

The Notice does not comply with Local Rule 7.10.05. Repeated violations will be grounds for sanctions pursuant to Local Rule 7.12.13.

On May 7, 2026, Defendant/Cross-Complainant, N.L. Christensen Enterprises, Inc. dba Folsom Lake Marina ("Defendant"), filed a Motion for Judgment on the Pleadings. On June 12, 2026, Plaintiff, Baseem Mansour ("Plaintiff"), filed an Opposition. On June 15, 2026, Defendant, John David Stone ("Defendant Stone"), filed an Opposition. Defendant filed a Reply to Defendant Stone's Opposition and a Reply to Plaintiff's Opposition on June 16, 2026.

JUDICIAL NOTICE

Defendant asks the Court to take judicial notice of the following: 1) Defendant State of California Separate Statement of Undisputed Material Facts in Support of Defendant State of California's Motion for Summary Judgment; and 2) Plaintiff's Second Amended Complaint.

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 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, including "[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States."

Section 452 provides that the court "may" take judicial notice of the matters listed therein, while Section 453 provides a caveat that the court "shall" take judicial notice of any matter "specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request...to enable such adverse party to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter." Cal. Evid. Code § 453.

While the requests made by Defendant fall within the purview of Section 452, matters which *may* be judicially noticed, the Court does find that Defendant provided Plaintiff, co-Defendants and the Court sufficient notice of the request and copies of the documents requested to be noticed. As such, Defendant has satisfied the requirements of Evidence Code § 453 and the request for judicial notice is granted.

JUDGMENT ON THE PLEADINGS

Background

On September 14, 2022, Plaintiff filed a Second Amended Complaint ("SAC") alleging the following causes of action: 1) Negligence (Motor Vehicle) (Defendant Stone); 2) Dangerous

Condition of Public Property (Defendant State of California); 3) Public Employee/Contractor Liability for Dangerous Condition (Defendant State of California); 4) Negligence (Premises Liability) (Defendants N.L. Christensen Enterprises, Inc. dba Folsom Lake Marina); and 5) Negligence (Defendants N.L. Christensen Enterprises, Inc. dba Folsom Lake Marina).

Legal Principles

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).

In ruling on motions for judgment on the pleadings, the court need not treat as true contentions, deductions or conclusions of fact or law. *People ex rel. Harris v. Pac Anchor Transp., Inc.* (2014) 59 Cal.4th 772, 777.

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.

The hearing on demurrer may not be turned into a contested evidentiary hearing through the guise of having the court take judicial notice of affidavits, declarations, depositions, and other such material which was filed on behalf of the adverse party and which purports to contradict the allegations and contentions of the plaintiff. (*Tyree v. Epstein*, 99 Cal.App.2d 361, 221 P.2d 1002.)” *Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604-605.

If the allegations in the complaint conflict with attached exhibits, we rely on and accept as true the contents and legal effect of the exhibits. (*SC Manufactured Homes, Inc. v. Liebert* (2008) 162 Cal.App.4th 68, 83, 76 Cal.Rptr.3d 73; *Barnett v. Fireman's Fund Ins. Co.* (2001) 90 Cal.App.4th 500, 505, 108 Cal.Rptr.2d 657.)” *Chisom v. Board of Retirement of County of Fresno Employees' Retirement Association* (2013) 218 Cal.App.4th 400, 410.

Code of Civil Procedure § 439(a) provides a meet and confer requirement in which the moving party must meet in confer in person, by telephone, or by video conference for the purpose of determining whether an agreement can be reached. A determination by the court that the meet and confer process was insufficient shall not be grounds to grant or deny the motion for judgment on the pleadings.

The Declaration of Michael D. Shoeck provides that he contacted Plaintiffs' counsel on April 28, 2026, and was unable to reach her. He left a detailed voicemail and requested a return call. On April 29, 2026, he followed up with further detailed correspondence. Despite attempting to address the contentions, an agreement between counsel was not reached.

A motion for judgment on the pleadings may be granted with or without leave to amend. Cal. Civ. Pro. § 438(h)(1). Generally speaking, leave to amend is to be liberally granted. *Mendoza v. Continental Sales Co.* (2006) 140 Cal. App. 4th 1395 ("When there is a reasonable possibility that a defect in pleading can be cured by amendment, the trial court considering the motion for judgment on the pleadings abuses its discretion by not granting leave to amend..."). However, where the defective pleading is not reasonably susceptible to cure, it is proper for the court to decline leave to amend. *Id.* When leave to amend is not granted, "...then judgment shall be entered forthwith in accordance with the motion granting judgment to the moving party." Cal. Civ. Pro. § 438(h)(3).

Discussion

1. Timeliness

Plaintiff argues Defendant's motion should be denied because the initial trial date was July 22, 2025, therefore making the motion untimely pursuant to Code of Civil Procedure § 438.

Defendant asserts that Code of Civil Procedure § 438 provides sufficient grounds for the motion to proceed and to be granted.

Code of Civil Procedure § 438(e) provides that no motion may be made pursuant to this section if a pretrial conference order has been entered pursuant to Section 575, or within 30 days of the date the action is initially set for trial, whichever is later, unless the court otherwise permits.

"It is evident that whether to grant ... leave [to file a late motion for judgment on the pleadings] is a matter residing in the trial court's discretion to control litigation before it." (*Sutherland v. City of Fort Bragg*, *supra*, 86 Cal.App.4th at p. 25, fn. 4, 102 Cal.Rptr.2d 736.) ... "The interests of all parties are advanced by avoiding a trial and reversal for defect in pleadings." (*Ion Equipment Corp. v. Nelson* (1980) 110 Cal.App.3d 868, 877, 168 Cal.Rptr. 361.) *Burnett v. Chimney Sweep* (2004) 123 Cal.App.4th 1057, 1063 [20 Cal.Rptr.3d 562, 567].

Section 438, subdivision (e) “authorizes the trial court to permit late filings of such motions and does not specify any grounds which might serve to limit its power to do so.” (*Sutherland v. City of Fort Bragg* (2000) 86 Cal.App.4th 13, 25, fn. 4 [102 Cal. Rptr. 2d 736]; see *Burnett v. Chimney Sweep* (2004) 123 Cal.App.4th 1057, 1063 [20 Cal. Rptr. 3d 562] [§ 438, subd. (e) permits late filings of motions for judgment on the pleadings and does not impose a “good cause” requirement].) *Korchemny v. Piterman* (2021) 68 Cal.App.5th 1032, 1054 [284 Cal.Rptr.3d 104, 121].

The Court within its inherent discretion permits Defendant’s motion to proceed on the merits.

2. Meet and Confer

Plaintiff argues that Defendant’s meet and confer efforts were insufficient as Defendant failed to meet and confer five days before filing, nor is a voicemail and unspecified “correspondence” the statutorily required in-person, telephone, or video-conference meeting. Plaintiff asserts that the later May 13/May 14, 2026, filings do not cure the defect. Additionally, Defendant failed to file the statutory extension declaration pursuant to § 439(a)(2).

Defendant contends that counsel contacted Plaintiff multiple times in an effort to meet and confer in advance of filing and cannot be held responsible for Plaintiff’s unresponsiveness.

Code of Civil Procedure § 439(a) requires that before filing a motion for judgment on the pleadings pursuant to this chapter, the moving party shall meet and confer in person, by telephone, or by video conference with the party who filed the pleading that is subject to the motion for judgment on the pleadings for the purpose of determining if an agreement can be reached that resolves the claims to be raised in the motion for judgment on the pleadings. The parties shall meet and confer at least 5 days before the date a motion for judgment on the pleadings is filed. **A determination by the court that the meet and confer process was insufficient shall not be grounds to grant or deny the motion for judgment on the pleadings.** (emphasis added).

The Court finds Defendant’s meet and confer efforts were insufficient; however, Code of Civil Procedure § 439(a)(4) expressly instructs such deficiencies shall not be grounds to deny the motion.

3. Negligence-Premises Liability and Negligence

Defendant argues that Plaintiff’s claims fail on the grounds that Defendant, who has an interest in the Subject Property, did not owe a duty of care to Plaintiff to keep the premises safe for entry or use by others, or to give any warning of hazardous conditions on those premises because Plaintiff entered for a recreational purpose pursuant to Civil Code § 846.

Defendant asserts that Defendant State of California's Separate Statement of Undisputed Material Facts in Support of Defendant State of California's Motion for Summary Judgment provides the basis for Plaintiff's conclusive admission that Plaintiff entered the Subject Premises for a recreational purpose, which render the causes of action defective for failing to state facts sufficient to constitute a cause of action.

Plaintiff and Defendant Stone contend that Defendant's reliance on selected portions of Defendant's State of California's summary-judgment separate statement and request to treat those assertions as Plaintiff's conclusive admissions is improper as it is not evidence. In reply, Defendant argues it is undisputed that Plaintiff admitted during his deposition that on the date of the incident, he rode his bicycle from his home to a trailhead that enters the Browns Ravine Recreation Area.

In considering whether a defendant is entitled to judgment on the pleadings, **we look only to the face of the pleading under attack....** All facts alleged in the complaint are admitted for purposes of the motion, and the court determines whether those facts constitute a cause of action. **The court also may consider matters subject to judicial notice.** *Harris v. Grimes* (2002) 104 Cal.App.4th 180, 185 [127 Cal.Rptr.2d 791, 795] (emphasis added).

While we may take judicial notice of court records and official acts of state agencies (Evid.Code, § 452, subds.(c), (d)), **the truth of matters asserted in such documents is not subject to judicial notice.** (*Sosinsky v. Grant* (1992) 6 Cal.App.4th 1548, 1564–1565, 8 Cal.Rptr.2d 552.) *Arce v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 482 [104 Cal.Rptr.3d 545, 556] (emphasis added).

Among the matters of which judicial notice may be taken are judicial admissions, i.e., admissions and inconsistent statements in the same case. In other words, “a court may take judicial notice of admissions or inconsistent statements by [a party] in earlier pleadings in the same lawsuit” and “may *disregard conflicting factual allegations* in the [challenged pleading].” (Weil & Brown, *supra*, ¶ 7:47, citing *Larson v. UHS of Rancho Springs, Inc.* (2014) 230 Cal.App.4th 336, 344, 179 Cal.Rptr.3d 161 [demurrer]; *Pang v. Beverly Hospital Inc.* (2000) 79 Cal.App.4th 986, 989-990, 94 Cal.Rptr.2d 643 [motion for judgment on pleadings].) *Alameda County Waste Management Authority v. Waste Connections US, Inc.* (2021) 67 Cal.App.5th 1162, 1174–1175 [283 Cal.Rptr.3d 171, 178], as modified (Sept. 8, 2021).

Not every document filed by a party constitutes a pleading from which a judicial admission may be extracted. Code of Civil Procedure section 420 explains that pleadings serve the function of setting forth “the formal allegations by the parties of their respective claims and defenses, for the judgment of the Court.” (Code Civ. Proc., § 420.) “The pleadings allowed in civil actions are complaints, demurrers, answers, and cross-complaints.” (Code Civ. Proc., § 422.10.) When these pleadings contain allegations of fact in support of a claim or defense, the opposing party may rely on the factual statements as judicial admissions. (*St. Paul Mercury, supra*, 111 Cal.App.4th at

p. 1248, 4 Cal.Rptr.3d 416.) *Myers v. Trendwest Resorts, Inc.*, (2009) 178 Cal.App.4th 735, 746 [100 Cal.Rptr.3d 658, 666], as modified (Nov. 20, 2009)

Neither a motion for summary judgment nor its accompanying statement of undisputed facts constitutes pleadings within the meaning of Code of Civil Procedure section 422.10. Motions for summary judgment do not serve the same purpose as pleadings in setting forth factual allegations. To the contrary, motions for summary judgment by defendants seek to show that they are entitled to dismissal as a matter of law. (Code Civ. Proc., § 437c; *Myers I, supra*, 148 Cal.App.4th at p. 1409, 56 Cal.Rptr.3d 501.) *Id.* at 747...**[S]eparate statements of undisputed facts in support of a motion for summary judgment or adjudication make no binding judicial admissions.** *Id.* (emphasis added).

The Court accordingly finds that the contents of Defendant State of California's Separate Statement do not constitute judicial admissions. Defendant's reliance upon Plaintiff's deposition transcript to establish an admission is improper on a motion for judgment on the pleadings.

Defendant further argues that the SAC admits that Defendant had a control interest of the area and there is no dispute that Plaintiff's injuries were a result of recreational activities in or within the Subject Area. Plaintiff has not alleged facts sufficient to bring this action within any of § 846's statutory exceptions.

Plaintiff argues that Civil Code § 846 does not bar the SAC and the statutory exceptions cannot be negated on the face of the pleadings. The SAC adequately alleged Defendant had actual knowledge or constructive knowledge of the dangerous vegetation and failed to protect against it. To the extent Defendant contends the exceptions cannot apply, that contention requires an evidentiary record.

Defendant Stone similarly argues that determining the applicability of Civil Code § 846 requires findings of fact. Defendant Stone asserts the question under consideration in a motion for judgment on the pleading is whether or not the SAC sufficiently states a claim against Defendant, not whether Plaintiff has already mustered adequate evidence to rebut an affirmative defense

Under section 846, an owner of any estate or other interest in real property owes no duty of care to keep the premises safe for entry or use by others for recreational purposes or to give recreational users warning of hazards on the property, unless: (1) the landowner willfully or maliciously fails to guard or warn against a dangerous condition, use, structure or activity; (2) permission to enter for a recreational purpose is granted for a consideration; or (3) the landowner expressly invites rather than merely permits the user to come upon the premises. *Ornelas v. Randolph* (1993) 4 Cal.4th 1095, 1099–1100 [17 Cal.Rptr.2d 594, 596, 847 P.2d 560, 562].

The Court is unpersuaded by Defendant's argument that the SAC provides all elements establishing immunity under Civil Code § 846. Plaintiff's allegation that Defendant had actual or constructive knowledge of the dangerous condition and failed to protect against it, accepted as true, is sufficient to raise the statutory exceptions which is a factual question that cannot be resolved on the face of the pleadings. Defendant's motion for judgment on the pleadings is denied.

TENTATIVE RULING #17:

DEFENDANT'S MOTION FOR JUDGMENT ON THE PLEADINGS 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).

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.

18.	26CV1525	GRIFFIN BURKE ET AL VS. DEB HOWARD & CO INC.
DEMURRER		

Defendants, Deb Howard & Co, Inc., Debra K. Howard, and Walter K. Johnson (collectively “Defendants”), demurrer to Plaintiffs, Griffin Burke and Gregory Burke (collectively “Plaintiffs”), First Amended Complaint (“FAC”). On August 3, 2026, Plaintiffs filed an opposition. Defendants filed a Reply on August 28, 2026.

Request for Judicial Notice

Defendants seek judicial notice of the “Grant Deed” recorded on January 23, 2023, from the Sellers, Defendants Danelle E. Snyder, Douglas Snyder and Kevin Hopkins to “Griffin Burke as Trustee of the Ciaphas Management Trust”.

Plaintiffs also seek judicial notice of the following: 1) the Disclosure Regarding Real Estate Agency Relationship, executed on October 26, 2022; 2) the Residential Purchase Agreement and Joint Escrow Instructions, executed on October 26, 2022; 3) the Preliminary Title Report dated October 25, 2022; 4) The Grant Deed, recorded on September 6, 2023, in the Official Records of El Dorado County as Document No. 2023-0025035, transferring title from Griffin Burke, as Trustee of the Ciaphas Management Trust, to Griffin Burke, a single man.

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 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, including, but not limited to, “[r]ecords of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.”

Section 452 provides that the court “may” take judicial notice of the matters listed therein, while Section 453 provides a caveat that the court “shall” take judicial notice of any matter “specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request...to enable such adverse party to prepare to meet the request; and (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.” Cal. Evid. Code § 453.

While the request made by Defendants and Plaintiff’s fourth request falls within the purview of Section 452, matters which *may* be judicially noticed, the Court does find that Defendants and Plaintiff provided one another and the Court sufficient notice of the request and copies of the documents requested to be noticed. As such, Defendants and Plaintiffs have satisfied the requirements of Evidence Code § 453 and the request for judicial notice is granted

as to Defendants' request and Plaintiff's fourth request. The Court does not find that Plaintiffs' first through third requests are proper subjects of judicial notice and denies these requests.

Meet and Confer Requirement

Code of Civil Procedure §430.41(a) provides: Before filing a demurrer pursuant to this chapter, the demurring party shall meet and confer in person or by telephone with the party who filed the pleading that is subject to demurrer for the purpose of determining whether an agreement can be reached that would resolve the objections to be raised in the demurrer.

Code of Civil Procedure §430.41(a)(3):

The demurring party shall file and serve with the demurrer a declaration stating either of the following:

(A) The means by which the demurring party met and conferred with the party who filed the pleading subject to demurrer, and that the parties did not reach an agreement resolving the objections raised in the demurrer.

(B) That the party who filed the pleading subject to demurrer failed to respond to the meet and confer request of the demurring party or otherwise failed to meet and confer in good faith.

Dumas v. Los Angeles County Bd. of Supervisors (2020) 45 Cal. App. 5th 348 ("If, upon review of a declaration under section 430.41, subdivision (a)(3), a court learns no meet and confer has taken place, or concludes further conferences between counsel would likely be productive, it retains discretion to order counsel to meaningfully discuss the pleadings with an eye toward reducing the number of issues or eliminating the need for a demurrer, and to continue the hearing date to facilitate that effort").

Based on the Declaration of Debra L. Samuels, counsel attempted to meet and confer with Plaintiffs prior to filing, but the dispute could not be resolved.

Background

On June 30, 2026, Plaintiffs filed a First Amended Complaint for the following causes of action: 1) Fraud – Intentional Misrepresentation; 2) Fraud by Concealment; 3) Breach of Fiduciary Duty; 4) Negligent Misrepresentation; 5) Negligence (Agent Defendants); 6) Negligence (Seller Defendants); 7) Violation of Civil Code §§ 1102 et seq (Seller Defendants).

Legal Principles

[A] demurrer challenges only the legal sufficiency of the complaint, not the truth or the accuracy of its factual allegations or the plaintiff's ability to prove those allegations." (*Amarel v. Connell* (1998) 202 Cal.App.3d 137, 140.) A demurrer is directed at the face of the complaint and to matters subject to judicial notice. (Code Civ. Proc., § 430.30, subd. (a).) All properly pleaded

allegations of fact in the complaint are accepted as true, however improbable they may be, but not the contentions, deductions or conclusions of facts or law. (*Blank v. Kirwan* (1985) 39 Cal.3d gives “the complaint a reasonable interpretation, reading it as a whole and its parts in their context.” (*Blank, supra*, 39 Cal.3d at p. 318.)

Discussion

Defendants demurrer to the FAC pursuant to Code of Civil Procedure §§ 430.10(e) on the grounds that Plaintiffs have no standing to sue the moving defendants.

Standing – Gregory Burke (“Plaintiff Gregory”)

Defendants argue that Plaintiff Gregory does not have standing as he is not a purchaser of the property. Additionally, he did not have a direct agency relationship with Defendants because they were acting as agent for the seller and purchaser. Plaintiff Gregory’s assertion of expending funds or being a beneficiary does not confer him any standing against Defendants as a matter of law. Any funds fronted by Plaintiff Gregory were on behalf of the Trust and only the Trust has standing to sue.

Plaintiffs argue that the FAC alleges he personally asked Defendant Johnson if any easements affected the property, that Defendant Johnson falsely represented there were no easements, Plaintiff Gregory reasonably relied on Defendant Johnson’s representation and personally contributed funds toward the project in reliance on the representation before discovering it was false, and suffered independent pecuniary losses as a direct result of Defendant Johnson’s conduct.

1. Fraud – Intentional Misrepresentation, Fraud by Concealment, Negligent Misrepresentation, and Negligence

Civil Code § 2079.24 provides that nothing in the article shall be construed to either diminish the duty of disclosure owed buyers and sellers by agents, or to relieve agents from liability for their conduct or for any breach of a fiduciary duty or a duty of disclosure.

If a broker fails to disclose material facts that are known to him he is liable for the intentional tort of “fraudulent concealment” or “negative fraud.” *Easton v. Strassburger* (1984) 152 Cal.App.3d 90, 99. In *Williams v. Wells & Bennett Realtors* (1997) 52 Cal.App.4th 857, 863, the court found that “a real estate agent’s liability for fraud existed prior to the *Easton* case, and that the new duty imposed by *Easton* did not change the preexisting law of fraud.”

Under the law of agency, real estate agents owe a duty of care to all persons, including third persons, within the area of foreseeable risk. (*Norman I. Krug Real Estate Investments, Inc. v. Praszker* (1990) 220 Cal.App.3d 35, 42–43, 269 Cal.Rptr. 228.) “One who assumes to act as an agent is responsible to third persons as a principal for his acts in the course of his agency ... [¶] ... [¶] ... [w]hen his acts are wrongful in their nature.” (Civ.Code, § 2343.) The extent of a real

estate agent's duty to a third person is “determined by an examination of whether a reasonable person would have foreseen an unreasonable risk of harm to the third person and whether in view of such risk the [agent] exercised ordinary care under the circumstances.” (Miller, Cal. Real Estate, *supra*, at § 3:45, p. 268.) *Hall v. Rockcliff Realtors* (2013) 215 Cal.App.4th 1134, 1140 [155 Cal.Rptr.3d 739, 743].

Negligent misrepresentation is a form of “actual fraud,” consisting of “[t]he positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true.” (Civ.Code, § 1572, subd. 2.) A real estate broker or salesperson has a statutory duty toward a prospective purchaser of residential real property “to conduct a reasonably competent and diligent visual inspection of the property offered for sale and to disclose to that prospective purchaser all facts materially affecting the value or desirability of the property that an investigation would reveal....” (Civ.Code, § 2079, subd. (a).) A real estate agent also has a statutory liability for negligence: “[i]f an agent ... places a listing or other information in the multiple listing service, that agent ... shall be responsible for the truth of all representations ... of which that agent ... had knowledge or reasonably should have had knowledge to anyone injured by their falseness or inaccuracy.” (Civ.Code, § 1088.) *Furla v. Jon Douglas Co.* (1998) 65 Cal.App.4th 1069, 1077 [76 Cal.Rptr.2d 911, 915–916].

The Court is unpersuaded by Defendants’ argument that Plaintiffs are unable to plead around the statutory limits of Civil Code § 2709 by presenting common law theories. Defendants’ reliance on *Coldwell Banker Residential Brokerage Co. v. Superior Court* (2004) 117 Cal.App.4th 158 is flawed. The Court in *Coldwell Banker* held that plaintiff did not have standing pursuant to Civil Code § 2079 and found that:

[E]ven if we were to disregard section 2079, the result would not change. Marcos emphasizes the affirmative nature of Coldwell Banker's conduct, but fails to acknowledge that his cause of action is necessarily premised on fraud. Although active concealment of a property defect is “more obnoxious than failure to disclose,” the legal effect of active concealment is the same as an affirmative misrepresentation. (5 Witkin, Summary of Cal. Law, *supra*, Torts, § 702, pp. 804–805; *Outboard Marine Corp. v. Superior Court* (1975) 52 Cal.App.3d 30, 37, 124 Cal.Rptr. 852.) **Both sound in fraud and misrepresentation and require a showing of reliance. Because Marcos cannot successfully plead that Coldwell Banker intended to induce him to act to his detriment in reliance on the false representation (i.e., concealment) or that he relied on such conduct, he cannot state a cause of action for fraud or misrepresentation.** (*Conrad v. Bank of America* (1996) 45 Cal.App.4th 133, 156–157, 53 Cal.Rptr.2d 336.) *Coldwell Banker Residential Brokerage Co. v. Superior Court* (2004) 117 Cal.App.4th 158, 168 [11 Cal.Rptr.3d 564, 572] (emphasis added).

The Court did not hold that Civil Code § 2709 precludes common law liability theories, it simply found that it was inapplicable in this case as plaintiff could not establish inducement or reliance. In the case at issue, the FAC as a whole pleads that before Plaintiffs executed the Purchase Agreement, Defendant Johnson directed his false representations specifically to Plaintiff Gregory, knew Plaintiff Gregory would rely upon it, Plaintiff Gregory did rely upon it, and suffered independent pecuniary losses as a direct result. Taking the facts as plead as true, the Court accordingly finds that Plaintiff Gregory has standing. Defendants' demurrer as to the First, Second, Fourth, and Fifth Causes of Action is overruled.

2. Breach of Fiduciary Duty

The Third Cause of Action provides that after Plaintiff Griffin executed the Purchase Agreement, Defendant Johnson undertook to act as his buyer's agent. By virtue of that relationship, Defendant Johnson owed Plaintiff Griffin fiduciary duties. The cause of action is silent as to what, if any, duty was owed to Plaintiff Gregory. Defendants' demurrer as to the Third Cause of Action is sustained with leave to amend.

Standing – Griffin Burke ("Plaintiff Griffin")

Defendants argue that the FAC only brings forth causes of action for Plaintiff Griffin as an individual; however, the Grant Deed indicates the purchaser of the property was "Griffin Burke as Trustee of the Ciaphas Management Trust." As such, he does not have standing to sue.

Plaintiffs argue that the FAC alleges that Plaintiff Griffin was the purchaser identified in the Purchase Agreement, executed the Agency Disclosure establishing Johnson as his buyer's agent, wired the earnest money deposit, and remains the Property's owner. The FAC paragraph 17 expressly alleges that Plaintiff Griffin "was the purchaser identified in the Vacant Land Purchase Agreement and acquired title to the Property." In addition, the Grant Deed establishes that title was reconveyed from the Ciaphas Management Trust to Griffin Burke, individually, on September 6, 2023, more than one year before this action was commenced.

Taking the facts plead in the FAC as true, the Court finds Plaintiff Griffin has standing. Defendants' demurrer as to all causes of action for Plaintiff Griffin is overruled.

TENTATIVE RULING #18:

DEFENDANTS' DEMURRER IS OVERRULED AS TO THE FIRST, SECOND, FOURTH, AND FIFTH CAUSES OF ACTION FOR PLAINTIFF GREGORY. DEFENDANTS' DEMURRER AS TO THE THIRD CAUSE OF ACTION FOR PLAINTIFF GREGORY IS SUSTAINED WITH LEAVE TO AMEND. DEFENDANTS' DEMURRER AS TO ALL CAUSES OF ACTION FOR PLAINTIFF GRIFFIN IS OVERRULED.

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL.

RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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

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

19.	25CV1737	STEVEN P. VIANI ET AL VS. ROGER LEASURE ET AL
DEMURRER		

Defendant, Roger Leasure III, as Trustee of the Leasure Family Trust Dated August 3, 2004 (“Defendant”), demurs to Plaintiffs, Steven P. Viani and Karen E. Viani, as Trustees of the Viani Revocable Trust, dated November 28, 2022; John Chapman and Jeanne Chapman, as Husband and Wife, as community property and right of survivorship (collectively “Plaintiffs”), First Amended Complaint (“FAC”). On April 27, 2026, Plaintiffs filed an opposition. Defendants filed a Reply on May 6, 2026.

Finding the meet and confer efforts inadequate, on July 10, 2026, the Court ordered the parties to meet and confer and file a joint status report no later than August 28, 2026. In compliance with the Court’s order, the Parties timely filed the joint status report which has narrowed the issues that remain unresolved.

Background

On January 2, 2026, Plaintiffs filed a First Amended Verified Complaint to Quiet Title to Easement for the following causes of action: 1) Declaratory Relief re Express Easement; 2) Prescriptive Easement; 3) Declaratory Relief re use of Equestrian Way; 4) Quiet Title; and 5) Interference with Easement/Injunctive Relief.

Legal Principles

[A] demurrer challenges only the legal sufficiency of the complaint, not the truth or the accuracy of its factual allegations or the plaintiff’s ability to prove those allegations.” (*Amarel v. Connell* (1998) 202 Cal.App.3d 137, 140.) A demurrer is directed at the face of the complaint and to matters subject to judicial notice. (Code Civ. Proc., § 430.30, subd. (a).) All properly pleaded allegations of fact in the complaint are accepted as true, however improbable they may be, but not the contentions, deductions or conclusions of facts or law. (*Blank v. Kirwan* (1985) 39 Cal.3d gives “the complaint a reasonable interpretation, reading it as a whole and its parts in their context.” (Blank, *supra*, 39 Cal.3d at p. 318.)

Discussion

Pursuant to the meet and confer efforts, the remaining issues remain unresolved:

1. Plaintiffs failed to identify an actual written easement

Defendant argues that Plaintiffs have not identified a valid written easement burdening Defendant’s property, as the October 2, 1991, judgment terminated the interests of Carrington, Seeley, and any other persons known or unknown claiming through those interests. The documents recorded at Book 2191, Pages 65 and 66 were recorded in the wrong order because Carrington first conveyed away the property and thereafter purported

to grant an easement over property in which she no longer held an interest in. Defendant further contends that any easement interests were extinguished by merger when Yee acquired the relevant interests in 1983 and therefore could not thereafter be granted. Defendant argues that an easement may have been reserved in certain documents but was never properly granted to Plaintiffs' predecessors and was ultimately terminated as a matter of law.

Plaintiffs argue that to ensure no future lot would ever be landlocked, Seeley embedded a master reciprocal easement directly into each deed which operated simultaneously as a reservation, holding back a 60-foot-wide right-of-way across conveyed land to benefit his remaining parcels, and an express grant, giving each new buyer a shared right to utilize the developing road system. These rights automatically attached to the land, fracturing and multiplying rather than diluting as the original four 160-acre grantees subsequently divided their blocks into sixteen 40-acre parcels.

As the original deed allowed the exact location of these strips to be "determined at a later time," the five separate Records of Survey recorded in 1983 and 1984 serve as the definitive physical blueprints of the system. As for the Carrington to Seeley deeds at Book 2191 Pages 65 and 66 which were recorded in the wrong order, Carrington first deeded all his land in the east half of section 19 and land in section 20. He then conveyed an easement over land he still owned in the west half of section 19 in the proper order.

Accepting the facts in the FAC as true, Plaintiffs have adequately plead they retain a written easement. Defendant's arguments are questions of fact not resolvable on demurrer. Nevertheless, Plaintiffs have additionally plead a prescriptive easement, as described below.

2. The FAC contains contradictions which serve as admissions

Defendant argues that Plaintiff's alternative pleading of both an express and prescriptive easement is materially inconsistent which serve as admissions. Plaintiff argues it is standard real estate practice to plead both express and prescriptive easements in the alternative.

"A complaint may plead inconsistent causes of action [citations], although it be verified, if there are no contradictory or antagonistic facts [citation]." (*Steiner v. Rowley* (1950) 35 Cal.2d 713, 718–719, 221 P.2d 9.) Thus, "unless the alternate pleadings contain antagonistic statements, the statement of facts sufficient to constitute a cause of action in one count is not a bar to the maintenance of a separately stated count in the same pleading based upon inconsistent allegations." (*Id.* at p. 719, 221 P.2d 9.) "In the absence of inconsistent factual allegations any inconsistency between plaintiff's legal theories is immaterial." (*Thompson v. County of Fresno* (1963) 59 Cal.2d 686, 690, 31 Cal.Rptr. 44, 381 P.2d 924.) "The fact that a party has alleged more than is required to justify his right does not obligate him to prove more than is essential, and the unnecessary allegations will be treated as surplusage unless

the opposing party would be prejudiced.” (*Ibid.*) *Berman v. Bromberg* (1997) 56 Cal.App.4th 936, 944–945 [65 Cal.Rptr.2d 777, 781]

A Plaintiff may seek quiet title based upon an express easement, or, alternatively, a prescriptive easement, treating these as alternative legal theories arising from the same underlying facts. In *Ranch at the Falls LLC v. O’Neal* (2019) 38 Cal.App.5th 155, 181 [250 Cal.Rptr.3d 585, 604] (plaintiff sought to quiet title on the grounds of an express easement or, in the alternative, a prescriptive easement).

The Court finds that the FAC does not contain contradictory or antagonistic facts. As such, the alternative pleading is proper.

3. BLM is an indispensable party and needs to be joined

Defendant argues that the Bureau of Land Management (“BLM”) is a necessary and indispensable party that must be joined. Defendant concedes that BLM allows casual use but does not allow unrestricted business or commercial use. Defendant asserts there is likely a need to take the deposition of a BLM representative so that BLM’s actual position regarding access, permitted use, and restrictions can be established, rather than assumed.

Plaintiffs contend they met with BLM who advised the only issue BLM has with Plaintiffs’ casual use of the BLM land is that Defendant accused Plaintiffs of trespassing over his parcel to reach the BLM land and, based upon this accusation alone, BLM wants a court order that Plaintiffs have the legal right to use the existing road over Defendant’s parcel to access the BLM land. BLM has indicated to Plaintiffs that casual use includes walking and equestrian use and commercial use requires a BLM permit.

Under Code of Civil Procedure § 389(a), a person shall be joined as a party if (1) in their absence complete relief cannot be accorded among those already parties, or (2) they claim an interest relating to the subject of the action and are so situated that disposition in their absence may as a practical matter impair or impede their ability to protect that interest, or leave existing parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations.

Where plaintiffs seek only to have their right of access across a defendant's property established and to protect that right from interference by the defendant, the owner of the adjacent land to which access is sought is not necessarily an indispensable party. *Guerra v. Packard* (1965) 236 Cal.App.2d 272 [46 Cal.Rptr. 25, 39] (finding the State of California was not an indispensable party, as plaintiffs sought only to have their right of access across defendants’ property established and to protect this right from interference by defendants, which would not interfere with the rights of the State of California).

Plaintiffs seek relief for access across Defendant’s property, not a determination it may access BLM land. The Court accordingly does not find BLM is an indispensable party.

4. Equestrian Way was not located in the same spot as the Seeley Reservation Easement

Defendant argues the present configuration of Equestrian Way is not located in the same place as the easement described in the Seeley reservation documents. Defendant disputes Plaintiffs' contention that the present roadway is the same roadway contemplated by the Seeley documents and maintains that the location of any historical easement must be established from the operative instruments and competent survey evidence rather than from the present use of Equestrian Way.

Plaintiffs argue that the existing roadway running from Salmon Falls over the land of Viani, continuing over the lands of the Chapman and Leasure to the section corner marker is the same road described in the Seeley Reservation of Easement. The Records of Survey illustrate the location of the existing road consistent with the Seeley and Wilkinson easements, including a 1990 Record of Survey prepared for the predecessor of the BLM which expressly illustrates the existing roadway to BLM as "Equestrian Way" and the official record references to the Seeley easement and the Wilkinson easement. Plaintiffs assert that it is anticipated an expert survey and percipient witness will testify at trial.

The Court finds Defendant's argument is a question of fact not resolvable on demurrer.

5. Equestrian Way was not located in the same spot as the 1957 Wilkinson Easement

Defendant argues the present configuration of Equestrian Way is not located in the same place as the 1957 Wilkinson Grant of Easement. Defendant disputes the present roadway running over the Viani, Chapman, and Leasure properties follows the same route described or granted in the Wilkinson easement. Defendant contends Plaintiffs must establish from the actual grant and competent survey evidence, that the present Equestrian Way falls within the location and scope of the 1957 easement rather than relying upon later maps or references to the roadway.

Plaintiffs argue the roadway running from Salmon Falls over the land of Viani, continuing over the lands of Chapman and Leasure, and other subdivision parcels to the corner marker is the same road described in the Seeley Reservation and illustrated in the record of surveys. Plaintiffs assert that it is anticipated an expert survey and percipient witness will testify at trial.

The Court finds Defendant's argument is a question of fact not resolvable on demurrer.

TENTATIVE RULING #19:

DEFENDANT'S DEMURRER IS OVERRULED.

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