

1.	26CV1282	DIV 15 TECH INC. VS. KEVIN M. SULLIVAN & ASSOCIATES INC.
MOTION TO COMPEL CONTRACTUAL ARBITRATION AND STAY ACTION		

On August 18, 2026, Plaintiff/Cross-Defendant, Div 15 Tech, Inc. ("Plaintiff") filed a Motion to Compel Contractual Arbitration and Stay Action. An Opposition was filed by Defendant/Cross-Complainant, Kevin M. Sullivan & Associates, Inc. ("Defendant"), on September 28, 2026.

Request for Judicial Notice

Plaintiff seeks judicial notice of the following: 1) Order on Defendant Div Tech, Inc.'s Motion to Compel Contractual Arbitration and Motion to Stay Action dated May 12, 2026, in the case of *Kevin M. Sullivan & Associates, Inc. v. Div 15 Tech, Inc. et al*, El Dorado County Superior Court Case No. 25CV3051; and 2) Order on Defendant Div 15 Tech, Inc.'s Motion to Compel Contractual Arbitration and Motion to Stay Action dated May 12, 2026 in the case of *Kevin M. Sullivan & Associates, Inc. v. Div 15 Tech, Inc. et al*, El Dorado County Superior Court Case No. 25CV1991.

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

Legal Principles

Code of Civil Procedure § 1281.2 provides, in part:

On petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party to the agreement refuses to arbitrate that controversy, the court shall order the petitioner and the respondent to arbitrate the controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that:

- (a) The right to compel arbitration has been waived by the petitioner; or
- (b) Grounds exist for rescission of the agreement.

Background

On July 31, 2025, Defendant filed a Complaint in case number 25CV1991 against Plaintiff and other co-defendants, asserting causes of action for 1) Breach of Contracts; 2) Quantum Meruit; 3) Action on Stop Payment Notice; and 4) Recovery of Payment Bond.

On November 11, 2025, Defendant filed a Complaint against Plaintiff and other co-defendants in case number 25CV3051 for 1) Breach of Contracts; 2) Quantum Meruit; 3) Action on Stop Payment Notice; and 4) Recovery of Payment Bond.

On May 12, 2026, the Court granted Plaintiff's Motion to Compel Contractual Arbitration and Motion to Stay Action as to the First and Second Causes of Action in case numbers 25CV1991 and 25CV3051. The Court stayed the litigation as to all other defendants and as to the remaining causes of action,

On May 6, 2026, Plaintiff filed a Complaint against Defendant in the current case number for 1) Breach of Contract and; 2) Breach of Contract. Defendant filed a First Amended Cross-Complaint on July 14, 2026, asserting causes of action for 1) Breach of Contract; 2) Quantum Meruit; 3) Action on Stop Payment Notice; and 4) Recovery of Payment Bond.

Discussion

Plaintiff asserts that on or about March 6, 2024, Plaintiff entered into a Subcontract Agreement with the general contractor, Zovich & Sons, Inc. dba Zovich Construction to perform HVAC related construction services on the project known as CA Conservation Corps Greenwood: New Residential Center located at 4411 CA-193 Greenwood, El Dorado County, California 95635 (the "Project"). On or about September 20, 2024, Plaintiff and Defendant, entered into a Subcontract Agreement to serve as subcontractor to Plaintiff for HVAC ductwork on the Project. On or about September 27, 2024, Plaintiff and Defendant entered into a Subcontract Agreement with Plaintiff to serve as a subcontractor Plaintiff for refrigeration piping work on the Project.

Plaintiff asserts that each Subcontract Agreement contains a provision under which Plaintiff agreed to binding contractual arbitration to resolve "any controversy or claim arising out of related to this Agreement."

Despite the Court's May 12, 2026, Order in case numbers 25CV3051 and 25CV1991, Defendant has refused to stipulate to an order staying the action and to compel binding arbitration. Plaintiff asserts that the First and Second Causes of Action to its Complaint assert claims for Breach of Contract pursuant to the Parties' Subcontract Agreements. Plaintiff further contends that Defendant's cross-claims with respect to the other cross-defendants must be stayed as was ordered in case numbers 25CV3051 and 25CV1991.

Defendant requests that their Motion Granting Leave to File a Second Amended Cross-Complaint ("SACC") be heard prior to or in conjunction with the Motion to Compel Arbitration and Stay Proceedings to preserve its statutory recovery rights by targeting the bond. Defendant alleges that the SACC names a new Cross-Defendant and amends the cause of action on the Stop Payment Notice. Defendant further requests the Parties be allowed to continue discovery in the civil action. The Court does not find Defendant's Motion Granting Leave to File a Second Amended Cross-Complaint has been filed, and no hearing date is currently pending.

The Court finds that the Subcontract Agreements contain valid arbitration agreements. Plaintiff's motion to compel is granted. Plaintiff and Defendant are ordered to arbitrate Plaintiff's First and Second Causes of Action and Defendant's First and Second Causes of Action in their First Amended Cross-Complaint against Plaintiff. Pending arbitration, the Court shall stay the litigation as to all other cross-defendants as to Defendant's Third and Fourth Causes of Action in their First Amended Cross-Complaint.

TENTATIVE RULING #1:

PLAINTIFF'S MOTION TO COMPEL IS GRANTED. PLAINTIFF AND DEFENDANT ARE ORDERED TO ARBITRATE PLAINTIFF'S FIRST AND SECOND CAUSES OF ACTION AND DEFENDANT'S FIRST AND SECOND CAUSES OF ACTION IN THEIR FIRST AMENDED CROSS-COMPLAINT AGAINST PLAINTIFF. PENDING ARBITRATION, THE COURT SHALL STAY THE LITIGATION AS TO ALL OTHER CROSS-DEFENDANTS AS TO DEFENDANT'S THIRD AND FOURTH CAUSES OF ACTION IN THEIR FIRST AMENDED CROSS-COMPLAINT.

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

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

2.	26CV1525	GRIFFIN BURKE ET AL VS. DEB HOWARD & CO INC.
MOTION FOR ORDER DEEMING REQUESTS FOR ADMISSIONS ADMITTED / MOTION TO COMPEL DISCOVERY RESPONSES		

On August 17, 2026, Plaintiff, Gregory Burke ("Plaintiff"), filed the following motions: 1) Motion to Have Requests Served on Defendant Kevin Hopkins Deemed Admitted; 2) Motion to Compel Defendant Kevin Hopkins to Provide Verified Responses to the Special Interrogatories, Set One; and 3) Motion to Compel Defendant Kevin Hopkins to Provide Verified Responses to the Form Interrogatories, Set One. No opposition has been filed by Defendant, Kevin Hopkins ("Defendant").

Plaintiff alleges that the Form Interrogatories, Set One, Special Interrogatories, Set One, and Requests for Admission, Set One, were propounded on Defendant on May 18, 2026. Defendant failed to respond during the statutory response period. Plaintiff met and conferred with Defendant and agreed to extend the deadline to July 15, 2026, on the condition that Defendant provide verified responses without objection.

As to the Form Interrogatories, Defendant has failed to provide a verified response without objection to date. Although Defendant's responses to the Special Interrogatories and Requests for Admissions are dated July 15, 2026, the proof of service establishes they were not served until July 22, 2026, and contain substantive answers with no verification.

Code of Civil Procedure § 2030.290 provides if a party to whom interrogatories are directed fails to serve a timely response, the following rules apply:

(a) The party to whom the interrogatories are directed waives any right to exercise the option to produce writings under Section 2030.230, as well as any objection to the interrogatories, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:

(1) The party has subsequently served a response that is in substantial compliance with Sections 2030.210, 2030.220, 2030.230, and 2030.240.

(2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

(b) The party propounding the interrogatories may move for an order compelling response to the interrogatories.

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(c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to interrogatories, 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. If a party then fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

Code of Civil Procedure § 2033.280 provides if a party to whom requests for admission are directed fails to serve a timely response, the following rules apply:

(a) The party to whom the requests for admission are directed waives any objection to the requests, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:

(1) The party has subsequently served a response that is in substantial compliance with Sections 2033.210, 2033.220, and 2033.230.

(2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

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

(c) The court shall make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220. It is mandatory that the court impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion.

As to Requests for Admissions, Set One, and Special Interrogatories, Set One, the Court finds the lack of verification is tantamount to no response at all. *Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, 636 [253 Cal.Rptr. 762, 764]. The Court orders Defendant to serve verified code-compliant responses without objections on Plaintiff within fifteen (15) days of the

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Court's order. Defendant is further ordered to serve a verified code-compliant response to Form Interrogatories, Set One on Plaintiff within fifteen (15) days of the Court's order.

Regarding the request for monetary sanctions, sanctions are mandatory for one who "unsuccessfully makes or opposes a motion to compel a response...unless [the court] finds that one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust" Cal. Civ. Pro. §2030.300(d) (interrogatories), § 2031.310(h) (requests for production) & § 2033.290(d) (requests for admission). In all other circumstances, the imposition of discovery sanctions is permissive. This includes instances where there has been no opposition and discovery responses were served after the filing of the motion. Cal. Rule of Ct., Rule 3.1348(a).

Here, while responses to the Requests for Admissions and Special Interrogatories have been served, it remains that they are not verified and tantamount to no response at all. Defendant has not provided any substantial justification for the failure to timely serve the responses, nor has he provided the Court with any reason why the imposition of sanctions would be unjust. Accordingly, Plaintiff is awarded \$180.00 in monetary sanctions payable by Defendant within thirty (30) days of the Court's order.

TENTATIVE RULING #2:

PLAINTIFF'S MOTIONS ARE GRANTED AS REQUESTED. DEFENDANT IS ORDERED TO SERVE VERIFIED CODE-COMPLIANT RESPONSES TO REQUESTS FOR ADMISSION, SET ONE, SPECIAL INTERROGATORIES, SET ONE, AND FORM INTERROGATORIES, SET ONE WITHOUT OBJECTIONS ON PLAINTIFF WITHIN FIFTEEN (15) DAYS OF THE COURT'S ORDER. DEFENDANT IS ORDERED TO PAY TO PLAINTIFF \$180.00 WITHIN THIRTY (30) DAYS OF THE COURT'S ORDER.

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

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**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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3.	26CV1175	CAPITAL ONE, N.A., SUCCESSOR BY MERGER TO DISCOVER BANK VS. SIMONE ANDRA
JUDGMENT ON THE PLEADINGS		

On August 18, 2026, Plaintiff, Capital One, N.A., successor by merger to Discover Bank ("Plaintiff") filed a Motion for Judgment on the Pleadings. No proof of service has been filed.

Plaintiff's motion is denied without prejudice due to lack of service.

TENTATIVE RULING #3:

PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS IS DENIED DUE TO LACK OF 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.	25CV1097	PHILLIP LIIMATTA ET AL VS. JOHN WILLIAM EVANS ET AL
MOTION TO COMPEL FURTHER RESPONSES		

Before the Court are the following motions filed by Plaintiffs, Phillip Liimatta and Lauren Liimatta: 1) Motion for Order Compelling Defendant John William Evans to Provide Further Responses to Special Interrogatories, Set One; 2) Motion for Order Compelling Defendant Jared Evans to Provide Further Responses to Special Interrogatories, Set One; 3) Motion for Order Compelling Defendant John William Evans to Provide Further Responses to Form Interrogatories – Construction Litigation, Set One; 4) Motion for Order Compelling Defendant Jared Evans to Provide Further Responses to Form Interrogatories – Construction Litigation, Set One; 5) Motion for Order Compelling Defendant John William Evans to Provide Further Responses to Inspection Demands, Set One; 6) Motion for Order Compelling Defendant Jared Evans to Provide Further Responses to Inspection Demands, Set One

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 Plaintiffs' motions to compel further responses. 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 November 20, 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 of 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.

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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 December 4, 2026, at 8:30 AM in Department 9.

TENTATIVE RULING #4:

PLAINTIFFS' MOTIONS TO COMPEL FURTHER RESPONSES ARE CONTINUED TO DECEMBER 4, 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.

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

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5.	25CV0172	DONALD L. AUSTIN ET AL VS. GREG HANSEN
GOOD FAITH SETTLEMENT / MOTION TO ENFORCE DISCOVERY ORDER		

Before the Court are two motions: 1) Motion for Determination of Good Faith Settlement; and 2) Motion to Enforce April 27, 2026, Discovery Order.

GOOD FAITH SETTLEMENT

Defendants, Adam Kovalevsky and Sharon Kovalevsky (collectively “Settling Defendants”), have agreed to a settlement of claims brought by Plaintiff, Donald Austin (“Plaintiff”). Settling 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 by mail on August 19, 2026. Defendants, Greg Hansen and Janelle Hansen (collectively “Defendant Hansen”), filed an Opposition on September 21, 2026.

The settlement provides, in part, that Settling Defendants acknowledge that they do not contest Plaintiff’s use of Forest Brook Lane as it crosses Lot 165 and agree not to interfere with, obstruct, or challenge such use. Plaintiff agrees to contribute toward the reasonable costs of maintaining Forest Brook Lane as it crosses Lot 165, including grading, resurfacing, drainage, improvements, and similar maintenance activities. No monetary payment is required from Settling Defendants to Plaintiff or vice versa beyond the ongoing maintenance cost-sharing arrangement.

Defendant Hansen opposes the motion on the grounds that they dispute Plaintiff has an ownership in Lot 165 which is supported by Plaintiff’s discovery responses. Additionally, Defendant Hansen assert their Demurrer and Motion to Strike the Second Amended Complaint are set for October 23, 2026, and a determination on the good faith settlement should not be made removing Settling Defendants from the action until after this time. The Settling Defendants also failed to respond to Defendant Hansen’s discovery requests and a motion to compel hearing is presently set for November 6, 2026. Such responses are directly relevant to Plaintiff’s underlying claims and the present settlement.

Further, Defendant Hansen argues that the history of the settlement presents a question as to whether it would unfairly prejudice them by cutting off access to evidence that they have been attempting to obtain for months. Defendant Hansen also asserts the Settlement Agreement was not served on them, despite being mentioned in the motion.

Where a written agreement exists and the settlors want judicial confirmation that their settlement is in good faith, the settling parties must produce the agreement for the nonsettling party who opposes the motion. *Mediplex of California, Inc. v. Superior Court* (1995) 34 Cal.App.4th 748, 754 [40 Cal.Rptr.2d 397, 401].

We have determined that it would be appropriate for the objecting non-settlor to move for a continuance of the hearing, if necessary, for the purpose of gathering facts, which could include further formal discovery, to support its statutory burden of proof as to all *Tech-Bilt* factors non-settlers placed in issue in order that the matter can be fully and fairly litigated. Such a procedure was suggested in the recent case of *Singer Co. v. Superior Court* (1986) 179 Cal.App.3d 875, 898, 225 Cal.Rptr. 159. This rule shall apply to all contested good faith settlement hearings, no matter which of the *Tech-Bilt* factors are in issue. As we indicated earlier in this opinion, this could necessarily lead to motions for further discovery, additional declarations, and counterdeclarations by the parties and a delay in the proceedings, but this procedure will ensure that the expanded scope of the hearing dictated by *Tech-Bilt* will be followed, the evidence will be intelligently assessed, and the objectives of *Tech-Bilt* will be attained. *City of Grand Terrace v. Superior Court* (1987) 192 Cal.App.3d 1251, 1265 [238 Cal.Rptr. 119, 128].

The Court finds a continuance is warranted under the circumstances and to ensure Defendant Hansen has an opportunity to review the Settlement Agreement. Plaintiff's Motion for Determination of Good Faith Settlement is continued to November 6, 2026. Plaintiff is ordered to serve Defendant Hansen with the underlying Settlement Agreement within three (3) days of the Court's order.

MOTION TO ENFORCE DISCOVERY ORDER

On August 14, 2026, Defendants, Greg and Janelle Hansen ("Defendants"), filed a Motion to Enforce April 27, 2026, Discovery Order, Compel Full Compliance with Requests for Production Nos. 18 and 22, and for Monetary and Other Sanctions. An Opposition was filed by Plaintiff, Donald L. Austin ("Plaintiff"), on September 29, 2026.

On April 27, 2026, the Court granted Defendants' motion to compel further responses as to Requests for Production nos. 18 and 22. Defendants assert that Plaintiff failed to produce documents and electronically stored information in accordance with his May 13, 2026, statements that production responsive to Requests for Production Nos. 18 and 22 would be allowed "in whole." Defendants assert Plaintiff's production remained materially redacted, repeatedly referenced responsive photographs, videos, MP4 files, emails, forwarded emails, screenshots, social-media materials, and other responsive items that were not included in the production.

Plaintiff argues the motion to compel is moot because the responsive documents were produced before the motion was filed. Plaintiff asserts if Defendants contend production remains deficient, the proper procedural vehicle is a motion to compel further responses, not this motion. Moreover, Plaintiff's response fails to identify the speakers to the communications.

The Court finds the responses incomplete. The correspondence/communications indicate several photographs/screenshots and MP4s were exchanged within the messages but were not included or visible within the production. The messages also referred to emails which were forwarded between Plaintiff and the third-party speaker that were not included in the production. Moreover, Plaintiff's failure to produce correspondence/communications without identifying the speakers is an evasive and incomplete production.

Defendants' motion to compel is granted. Plaintiff is ordered to produce all remaining responsive materials, including, but not limited to, complete correspondence/communications that identify each speaker with the exchanged photographs, screenshots, MP4s, and any emails exchanged, within ten (10) days of the Court's order.

Code of Civil Procedure § 2031.310(i) provides: Except as provided in subdivision (j), if a party fails to obey an order compelling further response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of, or in addition to, that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

Code of Civil Procedure § 2031.320(c) provides: Except as provided in subdivision (d), if a party then fails to obey an order compelling inspection, copying, testing, or sampling, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

Code of Civil Procedure § 2023.050 provides, in part: Notwithstanding any other law, and in addition to any other sanctions imposed pursuant to this chapter, a court shall impose a one-thousand-dollar (\$1,000) sanction, payable to the requesting party, upon a party, person, or attorney if, upon reviewing a request for a sanction made pursuant to Section 2023.040, the court finds any of the following:

- (1) The party, person, or attorney did not respond in good faith to a request for the production of documents made pursuant to Section 2020.010, 2020.410, 2020.510, or 2025.210, or to an inspection demand made pursuant to Section 2031.010.

The Court finds Plaintiff failed to respond in good faith without substantial justification and sanctions are warranted. Plaintiff is ordered to pay to Defendants \$1,000.00 and any costs associated with filing the motion within ten (10) days of the Court's order.

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TENTATIVE RULING #5:

PLAINTIFF'S MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT IS CONTINUED TO NOVEMBER 6, 2026, AT 8:30 A.M. IN DEPARTMENT NINE. PLAINTIFF IS ORDERED TO SERVE DEFENDANT HANSEN WITH THE UNDERLYING SETTLEMENT AGREEMENT WITHIN THREE (3) DAYS OF THE COURT'S ORDER.

DEFENDANTS' MOTION TO COMPEL IS GRANTED. PLAINTIFF IS ORDERED TO PRODUCE ALL REMAINING RESPONSIVE MATERIALS, INCLUDING, BUT NOT LIMITED TO, COMPLETE COMMUNICATIONS/CORRESPONDENCE, THAT IDENTIFY EACH SPEAKER WITH THE EXCHANGED PHOTOGRAPHS, SCREENSHOTS, MP4S, AND ANY EMAILS EXCHANGED, WITHIN TEN (10) DAYS OF THE COURT'S ORDER. PLAINTIFF IS ORDERED TO PAY TO DEFENDANTS \$1,000.00 AND ANY COSTS PLAINTIFF INCURRED WITH FILING THE MOTION WITHIN TEN (10) DAYS OF THE COURT'S ORDER.

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

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

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

6.	PC20200201	JOSEF DULLER ET AL VS GABRIELE MCINNIS ET AL
ATTORNEY FEES / MOTION FOR RELIEF		

Before the Court are the following motions: 1) Motion to Determine Amount of Attorney's Fees Awarded During Trial (filed inadvertently); 2) Motion for Relief Under California Rules of Court, Rule 2.259; 3) Motion Under CCP 473(b) for Relief from Default of Time for Filing Motion for Attorney's Fees and/or for Extension of Time to File Motion for Attorney's Fees Under CRC, Rule 3.1702(d).

MOTION FOR RELIEF UNDER CRC 2.259

On August 18, 2026, Plaintiffs, Josef Duller, Mark Duller, and Peter Duller (collectively "Plaintiffs"), filed a Motion for Relief Under California Rules of Court, Rule 2.259. Plaintiffs move for an order deeming the following documents timely filed as of August 17, 2026:

1. Notice of Motion to Determine Amount of Attorney Fees Awarded During Trial, which was electronically filed with a timestamp of 12:00:29 a.m. on August 18, 2026; and
2. The Notice of Motion Under CCP 473(b) for Relief from Default of Time for Filing Motion for Attorney's Fees and/or for Extension of Time to File Motion for Attorney's Fees Under CRC, Rule 1.1702(d), which failed to upload due to a Green Filing technical error

Plaintiffs allege that the filing deadline for the underlying documents was August 17, 2026. Upon filing, Plaintiffs experienced technical issues with document conversion through Green Filing. One set of documents was filed at 12:00:29 a.m. on August 18, 2026, while the remaining documents were not filed due to a conversion error despite repeated efforts. Plaintiffs undertook immediate remedial action by filing the underlying motion and corrected documents the following day.

Defendant, Gabriele McInnis ("Defendant"), argues the motion should be denied because the requested relief is not available under Rule 2.259, and there appears to be no practical need to grant the motion. Defendant contends the Court must deny the motion because Green Filing is not the Court's electronic filing system, but rather a third-party filing company that provides services to parties in multiple states. Additionally, Defendant asserts that the motion makes several references to a supposed August 17, 2026, filing deadline, but there is no information or legal citation provided to suggest what deadline they are referring to and how it was calculated.

If a technical problem with a court's electronic filing system prevents the court from accepting an electronic filing on a particular court day, and the electronic filer demonstrates that he or she attempted to electronically file the document on that day, the court must deem the document as filed on that day. This subdivision does not apply to the filing of a complaint or any other initial pleading in an action or proceeding. California Rules of Court, Rule 2.259(c).

In *Lazar v. Bishop* (2024) 107 Cal.App.5th 668, 676, the court deemed a notice of appeal timely filed where it was submitted before the filing deadline but rejected due to a technical issue with electronic filing, and counsel promptly refiled the same day counsel received the rejection. Similarly here, Plaintiffs attempted to file the motion on August 17, 2026, but it was rejected due to a technical issue with electronic filing. Upon notice of the error, Plaintiffs acted diligently to file the motion the following day.

Although the Court agrees with Defendant that it is unclear what the purported August 17, 2026, deadline relates to, the Court does find that California Rules of Court, Rule 2.259(c) applies. Plaintiffs' motion for relief under CRC 2.259 is granted.

MOTION FOR RELIEF UNDER CCP 473(B)

Plaintiffs request relief under Code of Civil Procedure § 473(b) from any default of time for filing a motion for attorneys' fees, or, in the alternative, an extension of time under California Rules of Court, Rule 3.1702(d) for good cause to file the motion for attorneys' fees. Plaintiffs' grounds for the requested relief stems from the confusion regarding the characterization of the Ruling on Submitted Matter entered on October 9, 2025 (the "Ruling"), representations from Court clerks regarding the pending judgment, and related denial of Plaintiffs' Motion for Nunc Pro Tunc Entry of Judgment.

Plaintiffs' counsel asserts that he did not believe the deadline for a motion for attorney's fees had yet commenced because a formal judgment had not been entered. It was not until the Court's June 12, 2026, adoption of its tentative ruling denying the Motion for Nunc Pro Tunc Entry of Judgment did Plaintiff's counsel definitively learn the Court considered the Ruling to be the judgment and that the deadline for filing a motion for attorney's fees had commenced on that date. Plaintiffs assert the motion is timely because it was filed well within six months of June 12, 2026, in which the Court affirmed its May 29, 2026, tentative ruling determining the October 9, 2025, was the date of entry of judgment.

Defendant argues the deadline to file a 473(b) request would be April 9, 2026, because that is six months after the Ruling.

The Court finds Plaintiffs' request pursuant to Code of Civil Procedure § 473(b) is untimely, as it was filed more than six months after the Ruling was entered on October 9, 2025. Plaintiffs' request for relief under Code of Civil Procedure § 473(b) is denied.

In the alternative, Plaintiffs request an extension of time to file a motion for attorney's fees pursuant to California Rules of Court, Rule 3.1702. Plaintiffs assert good cause exists based upon counsel's belief the judgment had not been entered and Defendant will suffer no prejudice from extension of the deadline because she has been on notice that the Court ordered her to pay Plaintiff's reasonable attorney's fees.

Defendant contends there is no “honest mistake” or “good reason” for Plaintiff’s delay, as the Ruling directed the amount of attorneys’ fees would be resolved upon a noticed fee motion or stipulation. Even if Plaintiffs’ counsel was confused regarding the characterization of the Ruling’s title, the Court provided clarification that it was the “final” ruling on October 31, 2025. Moreover, allowing the fee motion will result in severe prejudice to Defendant because she had no knowledge of the requested fee amount and can no longer appeal the Court’s ability to award fees, as the deadline has passed and the trial court lacks jurisdiction to extend it. Defendant asserts that as she was under the belief Plaintiffs were not going to be filing a motion for fees, Defendant chose not to file an appeal against them as to whether the trial court had the legal ability under the Elder Abuse Act to award fees.

“Rule 3.1702(d) is ‘remedial’ and is to be given a liberal, rather than strict interpretation. [Citation.]” (*Lewow v. Surfside III Condominium Owners Assn., Inc.* (2012) 203 Cal.App.4th 128, 135, 137 Cal.Rptr.3d 376 (*Lewow*)). Flexibility is built into Rule 3.1702 through subdivision (d), which allows a judge “ ‘[f]or good cause’ ” to “extend the time for filing a motion for attorney’s fees in the absence of a stipulation or for a longer period than allowed by stipulation.” A court may grant a request for extension of time to file a motion for attorney’s fees even if the motion is not filed until after the deadline for filing an attorney’s fees motion under Rule 3.1702. (*Ibid.*) Even a claim of inadvertence, if it is not prejudicial, may constitute good cause for a late filing. (*Pollard v. Saxe & Yolles Dev. Co.* (1974) 12 Cal.3d 374, 381, 115 Cal.Rptr. 648, 525 P.2d 88 (*Pollard*) [cost bill].) *Robinson v. U-Haul Co. of California* (2016) 4 Cal.App.5th 304, 326 [209 Cal.Rptr.3d 81, 99].

[T]he trial court has considerably more latitude in ruling on an extension of time to file an attorney’s fees motion under the “good cause” standard of Rule 3.1702(d) than it does in granting relief from a “judgment, dismissal [or] order” under Code of Civil Procedure, section 473, subdivision (b). *Id.* at 327.

The Court finds that Plaintiffs’ counsel had an honest mistake of law as it related to the Ruling and belief that California Rule of Court, Rule 3.1590 applied, which caused the delay in filing the motion for attorneys’ fees. The Court further finds that Defendant is not prejudiced by permitting an extension of time to file the motion. The Ruling explicitly stated:

The court uses its discretion under Probate Code section 859 to order Gabriele to pay the brothers’ reasonable attorney’s fees and costs. The amount of attorney’s fees and costs to be awarded shall be resolved by noticed motion or stipulation between the parties.

Defendant was on full notice that the Court explicitly ordered an award of attorney’s fees and costs to be paid by her to Plaintiffs. Defendant’s failure to file an appeal within the requisite time period is of her own discretion. Plaintiffs’ request for an extension of time under California Rules of Court, Rule 3.1702(d) to file the motion for attorney’s fees is granted. A hearing on the

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motion is set for November 20, 2026, with Defendant's opposition due November 6, 2026, and Plaintiffs' reply due November 13, 2026.

TENTATIVE RULING #6:

PLAINTIFFS' MOTION FOR RELIEF UNDER CRC 2.259 IS GRANTED.

PLAINTIFFS' REQUEST FOR RELIEF UNDER CODE OF CIVIL PROCEDURE § 473(B) IS DENIED. PLAINTIFF'S REQUEST FOR AN EXTENSION OF TIME UNDER CRC 3.1702(D) TO FILE THE MOTION FOR ATTORNEY'S FEES IS GRANTED. A HEARING ON THE MOTION IS SET FOR NOVEMBER 20, 2026, WITH DEFENDANT'S OPPOSITION DUE NOVEMBER 6, 2026, AND PLAINTIFFS' REPLY DUE NOVEMBER 13, 2026.

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

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7.	24CV2835	LEON ABRAVANEL ET AL VS. ORTIZ TROY ET AL
MOTION FOR ORDER ISSUING COMMISSION AND LETTER OF REQUEST TO TAKE ORAL DEPOSITION OF THIRD-PARTY WITNESS		

Plaintiffs, Lean Abravanel, Kristen Abravanel, and Tahoe Event Company LLC (collectively “Plaintiffs”), filed a Motion for Order Issuing Commission and Letter of Request to Take Oral Deposition of Third-Party Witness Stephen MacLauchlan on August 12, 2026. No opposition has been filed.

Plaintiffs assert that Stephen MacLauchlan (“Mr. MacLauchlan”) is a nonparty material percipient witness who was a member, manager, and one-third owner of the Meyers Sled Company, LLC (“TMSC”), the business entity at issue in the underlying professional negligence and breach of fiduciary duty action. Plaintiffs seek an order pursuant to Code of Civil Procedure § 2027.010(e) authorizing the issuance of a commission and, to the extent necessary or convenient, a related letter of request or letters rogatory, to the extent required or appropriate under Canadian law, to take Mr. MacLauchlan’s remote deposition in Canada.

Plaintiffs argue that the deposition cannot practicably be conducted in California because Mr. MacLauchlan resides in Canada, is not a party to the action, is outside of the Court’s ordinary subpoena power, and cannot be compelled through ordinary California procedures to travel to California for deposition.

On motion of the party seeking to take an oral deposition in a foreign nation, the court in which the action is pending shall issue a commission, letters rogatory, or a letter of request, if it determines that one is necessary or convenient. The commission, letters rogatory, or letter of request may include any terms and directions that are just and appropriate. The deposition officer may be designated by name or by descriptive title in the deposition notice and in the commission. Letters rogatory or a letter of request may be addressed: “To the Appropriate Judicial Authority in [name of foreign nation].” Code of Civil Procedure § 2027.010(e).

Plaintiffs’ Motion for Order Issuing Commission and Letter of Request to Take Oral Deposition of Third-Party Witness Stephen MacLauchlan is granted as requested.

TENTATIVE RULING #7:

PLAINTIFFS’ MOTION FOR ORDER ISSUING COMMISSION AND LETTER OF REQUEST TO TAKE ORAL DEPOSITION OF THIRD-PARTY WITNESS STEPHEN MACLAUHLAN IS GRANTED AS REQUESTED.

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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8.	25CV0662	PLACER VILLAGE APARTMENTS, L.P., A CALIFORNIA LIMITED PARTNERSHIP VS. FEDERAL INSURANCE COMPANY, AN INDIANA CORPORATION
SUMMARY JUDGMENT		

Defendant/Cross-Complainant, Federal Insurance Company (“Defendant”), moves for summary judgment pursuant to Code of Civil Procedure § 437(c). The motion is made on the grounds there are no triable issues of material fact precluding summary judgment in Defendant’s favor.

Request for Judicial Notice

Defendant seeks judicial notice of 1) First Amended Complaint dated December 29, 2025; 2) Judgment dated May 5, 2023; and 3) Complaint by Plaintiff against Defendant dated March 17, 2021 (PC20210177).

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 Defendant falls within the purview of Section 452, matters which *may* be judicially noticed, the Court does find that Defendant provided Plaintiff 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.

Legal Principles:

[S]ummary judgment or summary adjudication is to be granted when there is no triable issue of material fact and the moving party is entitled to judgment as a matter of law.” (*Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 894–895, 83 Cal.Rptr.3d 146.) The “party moving for

summary judgment bears an initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he carries his burden of production, he causes a shift, and the opposing party is then subjected to a burden of production of his own to make a prima facie showing of the existence of a triable issue of material fact.” *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 861–862, 107 Cal.Rptr.2d 841, 24 P.3d 493.

In *Thatcher v. Lucky Stores, Inc.* (2000) 79 Cal.App.4th 1081, 1084, 94 Cal.Rptr.2d 575, a trial court granted summary judgment to defendant because plaintiffs failed to file any opposition, pursuant to a local court rule providing that the failure to oppose a motion may be deemed an admission that the motion is meritorious. On appeal, the local rule was held invalid because it conflicted with Code of Civil Procedure section 437c by authorizing the trial court “to grant summary judgment based solely on the absence of opposition, without a preliminary finding that the moving party has met its initial burden of proof.” (*Thatcher v. Lucky Stores, Inc.*, *supra*, at pp. 1086–1087, 94 Cal.Rptr.2d 575.) The *Thatcher* court emphasized that the statute requires that the moving party assume the initial burden of producing evidence that no triable issue of material fact exists. (*Id.* at p. 1085, 94 Cal.Rptr.2d 575.) *Boyle v. CertainTeed Corp.*, 137 Cal. App. 4th 645, 654, 40 Cal. Rptr. 3d 501, 508 (2006).

Under summary judgment law, any party to an action, whether plaintiff or defendant, “may move” the court “for summary judgment” in his favor on a cause of action (i.e., claim) or defense (Code Civ. Proc., § 437c, subd. (a))—a plaintiff “contend[ing] ... that there is no defense to the action,” a defendant “contend[ing] that the action has no merit” (*ibid.*). The court must “grant[]” the “motion” “if all the papers submitted show” that “there is no triable issue as to any material fact” (*id.*, § 437c, subd. (c))—that is, there is no issue requiring a trial as to any fact that is necessary under the pleadings and, ultimately, the law (see *Riverside County Community Facilities Dist. v. Bainbridge 17* (1999) 77 Cal.App.4th 644, 653 [92 Cal.Rptr.2d 29]; *Kelly v. First Astri Corp.* (1999) 72 Cal.App.4th 462, 470 [84 Cal.Rptr.2d 810])—and that the “moving party is entitled to a judgment as a matter of law” (Code Civ. Proc., § 437c, subd. (c)). The moving party must “support[]” the “motion” with evidence including “affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice” must or may “be taken.” (*Id.*, § 437c, subd. (b).)

Likewise, any adverse party may oppose the motion, and, “where appropriate,” must present evidence including “affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice” must or may “be taken.” (*ibid.*) An adverse party who chooses to oppose the motion must be allowed a reasonable opportunity to do so. (*Id.*, § 437c, subd. (h).) In ruling on the motion, the court must “consider all of the evidence” and “all” of the “inferences” reasonably drawn therefrom (*id.*, § 437c, subd. (c)), and must view such evidence (e.g., *Molko v. Holy Spirit Assn.*, *supra*, 46 Cal.3d at p. 1107; *Stationers Corp. v. Dun & Bradstreet, Inc.* (1965) 62 Cal.2d 412, 417 [42 Cal.Rptr. 449, 398 P.2d 785]) and such inferences

(see, e.g., *Crouse v. Brobeck, Phleger & Harrison* (1998) 67 Cal.App.4th 1509, 1520 [80 Cal.Rptr.2d 94] [review on appeal]; *Ales-Peratis Foods Internat., Inc. v. American Can Co.* (1985) 164 Cal.App.3d 277, 280, fn. * [209 Cal.Rptr. 917] [same]), in the light most favorable to the opposing party. *Aguilar v. Atl. Richfield Co.*, 25 Cal. 4th 826, 843, 24 P.3d 493 (2001), as modified (July 11, 2001).

Discussion:

Defendant moves for 1) an Order granting Summary Judgment or Summary Adjudication on the First, Second, and Third Causes of Action of Plaintiff/Cross-Defendant's, Placer Village Apartments, L.P. ("Plaintiff"), First Amended Complaint ("FAC"); 2) an Order granting Summary Judgment or Summary Judgment on Defendant's Second Affirmative Defense in its Answer to the FAC; and 3) an Order granting Summary Judgment or Summary Adjudication on Defendant's Fourth Cause of Action for Declaratory Relief in its Cross-Complaint.

Pursuant to the property coverage part of the 2017 Policy, legal action against Defendant must be "brought within three years after the date on which the direct physical loss or damage occurred." Defendant argues that Plaintiff has been on inquiry notice since 2008 as determined by the Arbitrator and, therefore, should have filed an action against Defendant by 2011 which it failed to do. Defendant argues the doctrines of res judicata and collateral estoppel bar Plaintiff's claims.

Plaintiff argues the Arbitrator did not find Plaintiff was on inquiry notice no later than 2008. There are references to MHTCP knowing about water intrusion at the Property at various times; however, the arbitrator never expressly found that Plaintiff had knowledge of water intrusion issues at the property. The knowledge of MHTCP, a limited partner of Plaintiff, about water intrusion cannot be imputed to Plaintiff. Plaintiff alleges that it knew and/or reasonably should have known of appreciable damage at the Property due to water intrusion by or soon after April 2018 following the service of a lawsuit alleging water intrusion by a family of tenants at the Property. By filing the action on April 8, 2021, Plaintiff was within three years from manifestation of the water damage.

Further, Plaintiff argues the motion must be denied because the only evidence offered by Defendant is the Arbitration Award; however, as a non-party to the Arbitration, and in the absence of an agreement between the arbitral parties to allow it, Defendant cannot rely upon the doctrine of collateral estoppel to say that Plaintiff is bound by the findings of the Arbitrator. Even if Defendant could rely on the Arbitration Award, the Arbitrator did not rule Plaintiff was on "inquiry notice" of water intrusion issues by 2008.

Defendant argues that Plaintiff does not contend that it did not know of the water intrusion issues by 2008, but rather, Plaintiff argues that all parties believed the issues had been repaired.

Defendant asserts that where an insured knew of water damage before the 2017-2018 policy was issued, but allegedly discovered the damage during the policy period, this newly discovered damage is still part of the same “appreciable damage” known to insured before the policy was issued and therefore, it is not a different loss.

The Court finds that triable issues of material facts exist. The Arbitrator did not expressly find Plaintiff was on inquiry notice. Defendant’s assumption that the Arbitrator did not separate findings with respect to Plaintiff and MHTCP, likely because they were in privity with each other and were co-claimants, is unavailing. To the extent Defendant’s argument hinges on MHTCP’s knowledge being imputed to Plaintiff, Corporations Code § 15901.03(h) dispels such an assertion. Moreover, there is a material factual dispute regarding whether the damage claimed under the 2017 policy is the same damage that was allegedly known in 2008 or whether the later damage constitutes newly manifested physical damage. Defendant’s Motion for Summary Judgment, or in the Alternative, Summary Adjudication is denied.

TENTATIVE RULING #8:

DEFENDANT’S MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE, SUMMARY ADJUDICATION IS DENIED.

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

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9.	26CV0275	CENTRAL PARK SYSTEMS CORPORATION D/B/A FORTIS TELECOM VS CAPITOL IT PARTNERS INC., ET AL
DEMURRER		

On the Court's own motion, Cross-Defendants' Demurrer to Cross-Complaint is continued to October 30, 2026.

TENTATIVE RULING #9:

CROSS-DEFENDANTS' DEMURRER TO CROSS-COMPLAINT IS CONTINUED TO OCTOBER 30, 2026, AT 8:30 A.M. IN DEPARTMENT NINE.

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

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