1.	**25CV0119**	**THEOPOLIS WILLIAMS VS. UBER TECHNOLOGIES, INC. ET AL**
MOTION TO TERMINATING SANCTIONS		

On September 14, 2026, Plaintiff, Theopolis Williams ("Plaintiff"), filed a Motion for Terminating Sanctions Against Defendant Emanuel Nunez Barajas and, in the Alternative, for Issue Sanctions, Evidence Sanctions, an Adverse-Inference Instruction Under Evidence Code § 413 and CACI No. 204, and Additional Monetary Sanctions, for Violation of this Court's July 31, 2026, Order. An Opposition was filed by Defendant, Emanuel Nunez-Barajas ("Defendant") on October 26, 2026. An Opposition was filed by Defendants, Uber Technologies, Inc., Raiser, LLC, and Raiser-CA, LLC (collectively "Defendant Uber"), on October 28, 2026.

Plaintiff argues that despite the Court's July 31, 2026, Order granting Plaintiff's motion to compel in their entirety, awarding sanctions in the amount of $3,120.00, and ordering Defendant to serve verified, code-compliant responses within ten days, Defendant has failed to serve any responses, pay the sanctions or respond to Plaintiff's meet and confer correspondence. Defendant's own counsel has advised she is unable to contact him and has not offered a prospect of compliance.

Accordingly, Plaintiff argues no sanction can compel obedience from Defendant, and as lesser sanctions have been tried and failed, Plaintiff seeks terminating sanctions, or in the alternative, issue sanctions establishing negligence, causation, and Defendant's agency relationship with the Uber entities, evidence sanction precluding him from contesting those facts or relying on documents he never produced, an adverse-inference instruction under Evidence Code § 413 and CACI No. 24, and additional monetary sanctions in addition to the outstanding sanction.

Defendant's counsel, Ashley Canales, asserts after the July 31, 2026, Order, she attempted to reach Defendant through Ethos Risk Services which sent an investigator to his last known address, who was informed by the current residence he has not been at that location for at least six months. Defendant has not shown a willful violation of the Court's Order and Plaintiff has not shown that Defendant was aware of the order, received any notice of the motions or of the sanctions, or chose to withhold anything. Defendant's failure to comply with the July 31, 2026, Order is one continuing circumstance, not a pattern of delay and evasiveness. Lesser sanctions have not failed, as Defendant did not know of it.

Additionally, Plaintiff's alternative issue and evidence sanctions are disproportionate. Evidence Code § 413 and CACI No. 204 request is unsupported and premature, as an inability to obtain verifications from an unreachable client is not intentional concealment, and the CACI instruction is premature. Defendant proposes that if the Court is inclined to impose any evidence sanction, it should be limited to what is necessary to prevent surprise at trial, such as

precluding use at trial of documents responsive to the requests that are not produced by a date certain, and should not take effect until Defendant has had a reasonable chance to comply after notice.

Defendant Uber argues that Plaintiff's request for issue sanctions establishing an agency relationship existed between Defendant and Defendant Uber would punish Defendant Uber for the alleged discovery misconduct of another party, over whom it has no control.

The discovery statutes evince an incremental approach to discovery sanctions, starting with monetary sanctions and ending with the ultimate sanction of termination. "Discovery sanctions 'should be appropriate to the dereliction, and should not exceed that which is required to protect the interests of the party entitled to but denied discovery.' " (*Laguna Auto Body v. Farmers Ins. Exchange, supra,* 231 Cal.App.3d at p. 487, 282 Cal.Rptr. 530.) If a lesser sanction fails to curb misuse, a greater sanction is warranted: continuing misuses of the discovery process warrant incrementally harsher sanctions until the sanction is reached that will curb the abuse. "A decision to order terminating sanctions should not be made lightly. But where a violation is willful, preceded by a history of abuse, and the evidence shows that less severe sanctions would not produce compliance with the discovery rules, the trial court is justified in imposing the ultimate sanction." (*Mileikowsky v. Tenet Healthsystem* (2005) 128 Cal.App.4th 262, 279–280, 26 Cal.Rptr.3d 831) *Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967, 992 [94 Cal.Rptr.3d 802, 823]

The trial court should tailor the sanction for such conduct to "fit the crime." (*Reedy v. Bussell* (2007) 148 Cal.App.4th 1272, 1293.) The court cannot impose sanctions as punishment; the choice of sanctions should not give the moving party more than it would have gotten had the discovery been responded to. (*Doppes v. Bentley Motors, Inc.* (2009) 174 Cal.App.4th 967, 992; *Caryl Richards, Inc. v. Superior Court*, 188 Cal.App.2d 300, 303.) Before issuing terminating sanctions, the court should usually grant lesser sanctions…."(*Doppes*, supra, 174 Cal.App.4th at 99.) It is only when a party persists in disobeying the court's orders that the ultimate sanctions of dismissing the action or entering default judgment, etc. are justified. *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771.

The Court does not find terminating sanctions, issue sanctions or an adverse-inference instruction are warranted at this time, as lesser sanctions have not yet been attempted aside from the Court's July 31, 2026, monetary sanction award. Plaintiff's requested relief would give him more than he would have gotten had the discovery been responded to. The Court recognizes the lesser sanctions of evidentiary and monetary sanctions are presently warranted due to Defendant's decision to disregard this litigation altogether since at least July 31, 2025. Plaintiff's request for evidentiary sanctions is granted as follows:

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Defendant shall be precluded from:

1. Introducing or relying upon any document responsive to Plaintiffs Requests for Production, Set One, that was not produced on or before the date of the hearing on this Motion, whether to support any affirmative defense or in opposition to Plaintiff's claims; and
2. Offering the testimony of any witness identified for the first time in a response to Form Interrogatories, Set One, served after the date of the hearing on this Motion.

Plaintiff's request for monetary sanctions in the amount of $1,500.00, plus additional fees incurred for preparing for and attending the hearing subject to verification, is granted which shall be payable by Defendant within thirty (30) days of the Court's order in addition to the outstanding July 31, 2026, sanction award.

In the interest of judicial economy, the Court sets a review hearing for February 5, 2027. Defendant's counsel shall file a Status Report with the Court by January 29, 2027, advising whether she has been able to locate Defendant and whether Defendant has complied with the Court's Orders. The Court reserves jurisdiction over Plaintiff's remaining requests for terminating sanctions, issue sanctions, evidentiary sanctions, an adverse-inference instruction, and additional monetary sanctions. In the event Defendant has failed to comply with the Court's Orders, the Court is inclined to grant further sanctions.

TENTATIVE RULING #1:

PLAINTIFF'S REQUEST FOR EVIDENTIARY SANCTIONS IS GRANTED AS OUTLINED IN THE TENTATIVE RULING. PLAINTIFF'S REQUEST FOR MONETARY SANCTIONS IN THE AMOUNT OF $1,500.00, PLUS ADDITIONAL FEES INCURRED FOR PREPARING FOR AND ATTENDING THE HEARING SUBJECT TO VERIFICATION, IS GRANTED, WHICH SHALL BE PAYABLE BY DEFENDANT WITHIN THIRTY (30) DAYS OF THE COURT'S ORDER IN ADDITION TO THE OUTSTANDING JULY 31, 2026, SANCTION AWARD.

A REVIEW HEARING IS SET FOR FEBRUARY 5, 2027, AT 8:30 A.M. IN DEPARTMENT NINE. DEFENDANT'S COUNSEL IS ORDERED TO FILE A STATUS REPORT BY JANUARY 29, 2027, ADVISING THE COURT WHETHER SHE HAS BEEN ABLE TO LOCATE DEFENDANT AND WHETHER DEFENDANT HAS COMPLIED WITH THE COURT'S ORDERS. THE COURT RESERVES JURISDICTION OVER PLAINTIFF'S REMAINING REQUESTS FOR TERMINATING SANCTIONS, ISSUE SANCTIONS, EVIDENTIARY SANCTIONS, AN ADVERSE-INFERENCE INSTRUCTION, AND ADDITIONAL MONETARY SANCTIONS.

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2.	**25CV2982**	**CHRISTINA I. ANDERSON VS. EL DORADO HILLS BOAT, WINE & SELF STORAGE, LLC ET AL**
MOTION TO COMPEL ARBITRATION AND STAY CIVIL ACTION		

On September 18, 2026, the Court continued Defendants' Motion to Compel Arbitration and ordered the Parties to file a Joint Status Report upon the completion of mediation to inform the Court as to whether Defendants intend to further pursue the motion or whether the motion is vacated. To date, the Court has not received the Joint Status Report.

The hearing on Defendant's Motion to Compel Arbitration is continued to December 4, 2026. The Court orders the Joint Status Report be filed by Wednesday, November 25, 2026, to inform the Court as to whether Defendants intend to further pursue the underlying motion, or the motion will be dropped from calendar.

TENTATIVE RULING #2:

DEFENDANTS' MOTION TO COMPEL ARBITRATION IS CONTINUED TO DECEMBER 4, 2026, AT 8:30 A.M. IN DEPARTMENT NINE. THE PARTIES ARE ORDERED TO FILE THE JOINT STATUS REPORT BY NOVEMBER 25, 2026, OR THE MOTION WILL BE DROPPED FROM CALENDAR.

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

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3.	**26CV0723**	**JONATHAN EFRIN GALLEGOS VS. PARK PLACE FINANCE, LLC ET AL**
SET ASIDE DEFAULT / DEMURRER		

Before the Court are the following matters: 1) Demurrer; and 2) Motion to Vacate Entry of Default.

DEMURRER

This matter was continued from October 23, 2026. The tentative ruling issued on October 23, 2026, remains in effect.

VACATE DEFAULT

On August 5, 2026, Defendant, RJ Realty Investments, LLC ("Defendant"), filed a Motion to Vacate Entry of Default Pursuant to Code of Civil Procedure Sections 473, Subdivisions (b) and (d). Plaintiff, Jonathan Efrin Gallegos ("Plaintiff"), filed an Opposition on August 18, 2026. Defendant's Reply was filed on September 11, 2026.

Request for Judicial Notice

Defendant seeks judicial notice of the following: 1) Plaintiff's Proof of Service of Summons filed on July 2, 2026.

Plaintiff seeks judicial notice of the following: 1) Defendant's Contra Costa Complaint filed on June 1, 2026; 2) Wisconsin DFI entity record and California Secretary of State foreign-LLC registration filed in Contra Costa; 3) Plaintiff's Contra Costa Notice of Demurrer filed July 29, 2026; 4) Plaintiff's filed Memorandum of Points and Authorities; 5) Plaintiff's Request for Judicial Notice and Declaration; and 6) Griffin Declaration, Brown Declaration and proposed Answer pages from Defendant's El Dorado County motion.

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 requests made the Parties fall within the purview of Section 452, matters which *may* be judicially noticed, the Court does find that the Parties provided each other and the Court sufficient notice of the request and copies of the documents requested to be noticed. As such, the Parties have satisfied the requirements of Evidence Code § 453 and their respective requests for judicial notice is granted.

Legal Principles

[B]ecause the law strongly favors trial and disposition on the merits, any doubts in applying section 473 must be resolved in favor of the party seeking relief from default (*Waite v. Southern Pacific Co.* (1923) 192 Cal. 467, 470-471 [221 P. 204]; *Carli v. Superior Court* (1984) 152 Cal.App.3d 1095, 1099 [199 Cal.Rptr. 583] [in the context of deemed admissions § 473 should be applied liberally "so cases can be tried on the merits"]; *Flores v. Board of Supervisors*, supra, 13 Cal.App.3d at p. 483.)... A motion seeking such relief lies within the sound discretion of the trial court, and the trial court's decision will not be overturned absent an abuse of discretion. (*Weitz v. Yankosky* (1966) 63 Cal.2d 849, 854 [48 Cal.Rptr. 620, 409 P.2d 700]; Martin v. Cook (1977) 68 Cal.App.3d 799, 807 [137 Cal.Rptr. 434].) *Elston v. City of Turlock*, 38 Cal. 3d 227, 233, 695 P.2d 713 (1985).

Code of Civil Procedure § 473(b) provides, in part:

> (b) The court may, upon any terms as may be just, relieve a party or the party's legal representative from a judgment, dismissal, order, or other proceeding taken against the party through the party's mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken… Notwithstanding any other requirements of this section, the court shall, whenever an application for relief is made no more than six months after entry of judgment, is in proper form, and is accompanied by an attorney's sworn affidavit attesting to the attorney's mistake, inadvertence, surprise, or neglect, vacate any (1) resulting default entered by the clerk against the attorney's client, and which will result in entry of a default judgment, or (2) resulting default judgment or dismissal entered against the attorney's client, unless the court finds that the default or dismissal was not in fact caused by the attorney's mistake, inadvertence, surprise, or neglect. The court shall, whenever relief is granted based on an attorney's affidavit of fault, direct the attorney to pay reasonable compensatory legal fees and costs to opposing counsel or parties. However, this section shall not lengthen the time within which an action shall be brought to trial pursuant to Section 583.310.

Discussion

Defendant argues the default entered on July 2, 2026, is void and must be vacated because Plaintiff did not effectuate valid service of process. On May 21, 2026, Plaintiff filed a Doe Amendment substituting RJ Realty for DOE 1 and then mailed the Summons, Complaint, Doe Amendment, and related pleadings to a private mailbox maintained at a commercial shipping facility in Wisconsin. The Proof of Service filed by Plaintiff identifies Timothy Griffin, Owner/Authorized Agent, as the person purportedly served, therefore acknowledging he was the individual authorized to accept service on behalf of Defendant. However, Mr. Griffin was never served. The return receipt filed by Plaintiff does not identify Mr. Griffin as the person served and Plaintiff has produced no evidence that the unidentified signer, "Hill", possessed authority to accept service on behalf of Mr. Griffin or Defendant. Plaintiff's attempted service fails to satisfy Code of Civil Procedure §§ 415.40 and 417.220.

Mr. Griffin attests the address where Plaintiff mailed the Summons, Complaint, Doe Amendment, and related pleadings is not his residence, office, or a business location operated by Defendant, but rather the address of a commercial package-and-shipping business which he has never authorized the business or any of its employees, agents, representatives, or other individuals working there to accept service of process on behalf of Defendant.

Plaintiff argues the out-of-state service method was authorized by Code of Civil Procedure § 415.40 and the Wisconsin Department of Financial Institutions currently lists the address wherein the Summons, Complaint, and related pleadings were filed as Defendant's Registered Agent Office for Mr. Griffin. Plaintiff acknowledges the USPS return receipt reflects the signer as "Hill" and the receipt marks the recipient as "Agent."

In reply, Defendant argues Plaintiff offers no evidence identifying Hill, explaining Hill's relationship to Defendant or Mr. Griffin, or establishing Mr. Griffin authorized Hill to receive mail or accept service on his behalf. Additionally, the Wisconsin DFI records establish Defendant used the address for corporate mailing purposes, not to establish who was legally authorized to accept service. The Wisconsin record identifies Tim Griffin as Defendant's registered agent, not Hill or the Ship N Go Facility.

Code of Civil Procedure § 415.40 provides:

> A summons may be served on a person outside this state in any manner provided by this article or by sending a copy of the summons and of the complaint to the person to be served by first-class mail, postage prepaid, requiring a return receipt. Service of a summons by this form of mail is deemed complete on the 10th day after such mailing.

Pursuant to Code of Civil Procedure § 417.20 (emphasis added):

> Proof that a summons was served on a person outside this state shall be made:

> (a) If served in a manner specified in a statute of this state, as prescribed by Section 417.10, and if service is made by mail pursuant to Section 415.40, **proof of service shall include evidence satisfactory to the court establishing actual delivery to the person to be served, by a signed return receipt or other evidence**;
>
> (b) In the manner prescribed by the court order pursuant to which the service is made;
>
> (c) Subject to any additional requirements that may be imposed by the court in which the action is pending, in the manner prescribed by the law of the place where the person is served for proof of service in an action in its courts of general jurisdiction; or
>
> (d) By the written admission of the party.
>
> (e) If served by posting pursuant to Section 415.45, by the affidavit of the person who posted the premises, showing the time and place of posting, and an affidavit showing the time and place copies of the summons and of the complaint were mailed to the party to be served, if in fact mailed.

An extrajudicial statement of a person that he or she is the agent of another is not admissible to prove the fact of agency unless the statement is either made in the presence of or communicated to the principal and the principal acquiesces in that statement. (*Union Const. Co. v. Western Union Tel. Co.* (1912) 163 Cal. 298, 305, 125 P. 242; *LeMire v. Queirolo* (1967) 250 Cal.App.2d 799, 805, 58 Cal.Rptr. 804; and see generally 2 Witkin, Summary of Cal.Law (9th ed. 1987) Agency & Employment, § 38, p. 51.) *Dill v. Berquist Construction Co.* (1994) 24 Cal.App.4th 1426, 1437 [29 Cal.Rptr.2d 746, 752], as modified on denial of reh'g (May 26, 1994).

Agents are not fungible. A person who is authorized to perform one function on behalf of a principal may have no authority at all regarding a different function. In particular, **the fact that a person is authorized to receive mail on behalf of a corporation and to sign receipts acknowledging the delivery of that mail does not mean that the same person is authorized by the corporation to accept service of process**. *Id*. at 1438. (emphasis added).

In the absence of a voluntary submission to the authority of the court, compliance with the statutes governing service of process is essential to establish that court's personal jurisdiction over a defendant. (§ 410.50.) **When a defendant challenges that jurisdiction by bringing a motion to quash, the burden is on the plaintiff to prove the existence of jurisdiction by proving, inter alia, the facts requisite to an effective service**. (*Taylor–Rush v. Multitech Corp.* (1990) 217 Cal.App.3d 103, 110, 265 Cal.Rptr. 672; *Sheard v. Superior Court* (1974) 40 Cal.App.3d 207, 211, 114 Cal.Rptr. 743; *Coulston v. Cooper* (1966) 245 Cal.App.2d 866, 868, 54 Cal.Rptr. 302.) *Id*. at 1439—1440. (emphasis added).

The Court does not find proper service was effectuated on Defendant. Plaintiff has not met the burden of establishing the facts requisite to an effective service. As such, the default entered on July 2, 2026, is void. Defendant's request to vacate the default under Code of Civil Procedure § 473(d) is granted.

TENTATIVE RULING #3:

1. DEMURRER

THE TENTATIVE RULING ISSUED ON OCTOBER 23, 2026, REMAINS IN EFFECT.

2. VACATE DEFAULT

DEFENANT'S MOTION TO VACATE ENTRY OF DEFAULT IS GRANTED.

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

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4.	**26CV2466**	**IN THE MATTER OF CBC SETTLEMENT FUNDING, LLC**
PETITION FOR APPROVAL OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS		

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

1. The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents. This finding is supported by Exhibit C to the Petition.
2. The payee has been advised in writing by the transferee to seek independent professional advice regarding the transfer and has either received that advice or knowingly waived, in writing, the opportunity to receive the advice. This finding is supported by Exhibits A, B and E to the Petition. *See also,* Petition 9:26-28.
3. The transferee has complied with the notification requirements pursuant to paragraph (2) of subdivision (f), the transferee has provided the payee with a disclosure form that complies with Section 10136, and the transfer agreement complies with Sections 10136 and 10138. This finding is supported by Exhibit A, B, C and F to the Petition.
4. The transfer does not contravene any applicable statute or the order of any court or other government authority. This finding is supported by Exhibit C to the Petition.
5. The payee understands the terms of the transfer agreement, including the terms set forth in the disclosure statement required by Section 10136. This finding is supported by Exhibit C to the Petition.
6. The payee understands and does not wish to exercise the payee's right to cancel the transfer agreement. This finding is supported by Exhibit C to the Petition.

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

The Petition submitted generally contains the information required by the Insurance Code for Court approval of this transaction. However, some information required by the statutes is missing, such as:

1. The places of residence of the payee's minor children; and
2. The amounts and sources of the monthly income and financial resources of the payee's spouse.

This Court cannot grant this Petition in compliance with the applicable statutes, without more information as described above, either through submittal of a declaration of the Payee, or by appearance and testimony.

TENTATIVE RULING #4:

APPEARANCES ARE REQUIRED FRIDAY, NOVEMBER 6, 2026, AT 8:30 A.M. IN DEPARTMENT NINE.

GENERAL REMOTE APPEARANCE INFORMATION DISCLAIMER:

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5.	**PC20170113**	**DEAN GETZ V SERRANO EL DORADO OWNER'S**
ATTORNEY'S FEES / CLASS ACTION CONFERENCE		

Before the Court are the following matters: 1) Request for Setting of Class Action Conference; and 2) Motion for Attorney's Fees on Appeal.

CLASS ACTION CONFERENCE

On September 17, 2026, Defendant, Serrano Owners' Association filed a Request for Setting of Class Action Conference.

All Parties are ordered to appear on November 6, 2026, at 8:30 a.m. in department nine.

ATTORNEY'S FEES

On August 26, 2026, Plaintiff, Dean Getz ("Plaintiff"), filed a Motion for Attorney's Fees on Appeal. Defendant, Serrano Owners' Association ("Defendant HOA"), filed an Opposition on October 26, 2026. Defendant, Serrano Associates, LLC ("Defendant LLC"), filed an Opposition on the same date. On October 29, 2026, Plaintiff filed a Reply.

Request for Judicial Notice

Plaintiff seeks judicial notice of the following: 1) Judgment entered against Plaintiff on April 9, 2024; 2) Stipulation and Order Regarding Defendants' Attorneys' Fees and Costs, entered on June 26, 2024; 3) Plaintiff's Notice of Appeal filed June 21, 2024; 4) Third District Court of Appeal's Decision filed April 30, 2026; 5) Relevant Excerpts of the CC&Rs (Exhibit 1 to Plaintiff's operative Third Amended Complaint); and 6) Declaration filed by counsel for Serrano Associates, LLC, Dale C. Campbell, on a different matter in Placer County Superior Court on September 21, 2021.

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 Defendants 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.

Background

In March 2017, Plaintiff brought forth the underlying action against Defendants. The operative (third amended) Complaint asserts causes of action for Declaratory Relief, Breach of Fiduciary Duty, and Breach of the CC&Rs. Plaintiff's cause of action for Declaratory Relief seeks a declaratory judgment that, until the Property is fully developed, the HOA must calculate developed Property assessments by applying the CPI Rate and assessing undeveloped Property for any shortfall in the HOA's annual budget.

On July 8, 2022, this Court granted Summary Adjudication in Defendants' favor on Plaintiff's First Cause of Action for Declaratory Relief. In September 2023, Plaintiff moved for Summary Adjudication on the cause of action for Breach of Fiduciary Duty. Defendants also moved for Summary Judgment, asserting Plaintiff's claims were barred by the statute of limitations. On March 4, 2024, the Court granted Defendants' Motion for Summary Judgment and rendered Plaintiff's Motion for Summary Adjudication moot.

Plaintiff thereafter appealed to the Third Appellate District. Plaintiff argued that the trial court erred in granting Defendants' Motions for Summary Adjudication of the first cause of action for Declaratory Relief because the court misconstrued the language in the CC&Rs related to Common Assessments, which the appellate court agreed. Plaintiff further argued that the trial court erred in granting Defendants' Motions for Summary Judgment, as his claims were not barred by the statute of limitations. The appellate court agreed that the trial court erred in refusing to apply the continuous accrual doctrine, and while portions of his action may be time-barred, his action is timely as to the breaches occurring within the four-year limitations period preceding the filing of his lawsuit.

On April 30, 2026, the Third Appellate District reversed the trial court's granting of Defendants' Motions for Summary Judgment. The case was remanded with directions to 1) deny Defendants' Motions for Summary Adjudication of the First Cause of Action for Declaratory Relief; 2) rule on the merits of Plaintiff's Motion for Summary Adjudication on the issue of whether the HOA had a duty to demand that Serrano Associates pay its "fair share of the costs for maintaining improvements to public property"; and 3) conduct further proceedings as are appropriate and not inconsistent with the opinion. Additionally, the Appellate Court ordered Plaintiff shall recover his costs on appeal (Cal. Rules of Court, rule 8.278(a)(1) & (2).) Remittitur was issued on August 14, 2026.

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Discussion

Plaintiff argues he is entitled to an interim award of attorney's fees because he is the "prevailing party" on appeal as defined by Rule of Court 8.278 and is entitled to prejudgment costs pursuant to Code of Civil Procedure § 1034, including attorney's fees, as well as under Civil Code § 5975(c). The underlying CC&Rs further provide for attorneys' fees under section 9.05, which states:

> Enforcement. … If any legal proceeding is initiated to enforce any of the provisions provision hereof the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding…

Additionally, Plaintiff asserts attorneys' fees are warranted pursuant to Code of Civil Procedure § 1021.5, as his successful appeal determined the application of CC&Rs to cap assessments so long as undeveloped property exists in the HOA, to the pecuniary benefit of thousands of homeowners. The financial burden of private enforcement is self-evident, as Plaintiff's attorneys have taken on the contingent risk of the litigation for nearly a decade. Plaintiff contends that in the interests of justice, fees for the successful appeal should not be paid out of the recovery.

Plaintiff seeks attorneys' fees with a 2.5 multiplier in the amount of $609,325.00 ($243,730.00 without multiplier) for the time spent on the successful appeal, $900.00 for the time spent on the Memorandum of Costs on Appeal, and $24,130.00 for the time spent on the underlying motion for attorneys' fees, for a total of $634,355.

Defendant LLC argues Plaintiff is not entitled to an interim award of attorneys' fees because the Court of Appeal ordered costs alone. Additionally, Plaintiff cannot be considered the prevailing party for purposes of attorneys' fees because that requires winning the case as a whole, whereas here, Plaintiff's success on appeal returned the case for a trial on the merits. Plaintiff lacks standing to seek declaratory relief against Defendant LLC, as he is no longer a member of the HOA and no longer a party to the CC&Rs, rendering no current or active controversy between Plaintiff and Defendant LLC for which a judicial declaration is necessary or warranted.

Defendant LLC further contends that Plaintiff has also failed to prove causation or damages for the breach of contract claim, therefore rendering him not a prevailing party. Lastly, Plaintiff does not qualify for attorneys' fees under the private attorney general statute because he has not secured a public benefit. Should the Court find Plaintiff could be awarded fees at this state, Defendant LLC argues he is not entitled to a multiplier.

Defendant HOA argues because the Parties' substantive dispute remains wholly unresolved and no final judgment has been entered, Plaintiff cannot yet satisfy the threshold requirement for a prevailing-party fee award. The Court of Appeal did not award Plaintiff

attorneys' fees, adjudicate the merits of his claims, or declare Plaintiff the prevailing party. Section 9.05 of the HOA's CC&Rs and Civil Code § 5975 expressly condition a fee award on a determination of prevailing party in the action as a whole, not a single favorable ruling at an intermediate stage.

Defendant HOA asserts that Plaintiff's request is premature because the reversal and remand did nothing more than return the Parties to the trial court for further proceedings and no final judgment has been entered, rendering no prevailing party. Code of Civil Procedure § 1021.5 does not support an interim fee award, as the Court of Appeal's reversal restored the status quo it occupied before summary judgment. Plaintiff also failed to demonstrate enforcement of an important right affecting the public interest or a significant benefit to the general public or a large class of persons.

In reply, Plaintiff argues that the benefit of the proper interpretation of the CC&Rs that Plaintiff has obtained for the homeowners of the HOA is "secure," which was recognized by this Court, the Court has discretion to award Plaintiff interim attorney's fees and a multiplier. Plaintiff asserts it is undisputed that Plaintiff won the appeal as to the interpretation of the CC&Rs, which is now binding upon the lower Court, that Plaintiff's counsel has undertaken contingent risk for over nine years, of which the time spent on appeal was reasonable, and that Plaintiff's win on appeal confers a significant benefit on a large class of persons including thousands of homeowners paying assessments for owning their homes.

California Rules of Court, Rule 8.278(a)(1) & (2) entitles a party prevailing in the Court of Appeal in a civil case to costs on appeal. The prevailing party is the appellant if the court reverses the judgment in its entirety. Rule 8.278(d)(2) expressly excludes an award of attorney's fees on appeal unless the court otherwise provides; however, a party is not precluded from seeking them under rule 3.1702.

California Rules of Court, Rule 3.1702(a) applies in civil cases to claims for statutory attorney's fees and claims for attorney's fees provided for in a contract. Subdivisions (b) and (c) apply when the court determines entitlement to the fees, the amount of the fees, or both, whether the court makes that determination because the statute or contract refers to "reasonable" fees, because it requires a determination of the prevailing party, or for other reasons.

Section 1717, subdivision (a) states, in pertinent part, "In any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce that contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the party prevailing on the contract, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees *in addition to other costs*." (Italics added.) The same subdivision later declares, "Reasonable attorney's fees shall be fixed by the court, and shall be an *element of the costs of suit*." (Italics added.) The

inclusion of section 1717 fees as an element of costs is significant because costs are awarded at the end of an action. *Chen v. Valstock Ventures, LLC* (2022) 81 Cal.App.5th 957, 970 [297 Cal.Rptr.3d 666, 674], as modified (Aug. 24, 2022) (holding that section 1717 does not permit interim fee awards).

In an action to enforce the governing documents, the prevailing party shall be awarded reasonable attorney's fees and costs. Civil Code § 5975(c).

[N]either the language of the Davis-Stirling Act, nor the legislative history of the fee provision Artus invokes, evidences any intent on the part of the Legislature to depart from well-established principles that fees and costs are ordinarily not granted for interim success, and that the prevailing party is determined, and fees and costs awarded, at the conclusion of the litigation. *Artus v. Gramercy Towers Condominium Assn.* (2018) 19 Cal.App.5th 923, 926–927 [228 Cal.Rptr.3d 496, 498].

The Court finds the Court of Appeal did not order an award of attorneys' fees pursuant to Rule 8.278 and Plaintiff's request for attorneys' fees to Rule 3.1702 is premature under Civil Code § 1717, which does not permit interim fee awards. Additionally, Plaintiff's request for attorneys' fees pursuant to Civil Code § 5975 seeks interim relief which is premature at this stage.

Code of Civil Procedure § 1021.5 provides, in part:

> Upon motion, a court may award attorneys' fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest if: **(a) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, (b) the necessity and financial burden of private enforcement, or of enforcement by one public entity against another public entity, are such as to make the award appropriate, and (c) such fees should not in the interest of justice be paid out of the recovery, if any**…(emphasis added).

Although a case need not be completely final prior to an award of section 1021.5 fees, the benefit obtained must be "secure" before the fees may be awarded. (*Folsom v. Butte County Assn. of Governments, supra,* 32 Cal.3d at p. 679, 186 Cal.Rptr. 589, 652 P.2d 437.) *Urbaniak v. Newton* (1993) 19 Cal.App.4th 1837, 1844 [24 Cal.Rptr.2d 333, 336], as modified on denial of reh'g (Dec. 13, 1993).

Reversal of a summary judgment leaves the parties " 'in a position no different from that they would have occupied if they had simply defeated the defendants' motion ... in the trial court.' [Citation.]" (*Miller v. California Com. on Status of Women* (1985) 176 Cal.App.3d 454, 458, 222 Cal.Rptr. 225.) Merely reversing a summary judgment and remanding a matter for trial does

not establish the showing necessary to support an award of attorney fees under section 1021.5. *Id*. at, 1844 [24 Cal.Rptr.2d 333, 336–337], as modified on denial of reh'g (Dec. 13, 1993).

As has been observed, the necessity and financial burden requirement " 'really examines two issues: whether private enforcement was necessary and whether the financial burden of private enforcement warrants subsidizing the successful party's attorneys.' " (*Lyons v. Chinese Hosp. Assn.* (2006) 136 Cal.App.4th 1331, 1348, 39 Cal.Rptr.3d 550 (*Lyons*), quoting Pearl, Cal. Attorney Fee Awards (Cont. Ed. Bar 2d ed. 2005) § 4.31, p. 117.) The "necessity" of private enforcement " ' " 'looks to the adequacy of public enforcement and seeks economic equalization of representation in cases where private enforcement is necessary.' " [Citations.]' " (*Lyons, supra,* 136 Cal.App.4th at p. 1348, 39 Cal.Rptr.3d 550.) Thus in *Woodland Hills,* in which a citizens' group challenged a city's approval of a subdivision map as unlawful, the court stated that "[i]nasmuch as the present action proceeded against the only governmental agencies that bear responsibility for the subdivision approval process, the necessity of private, as compared to public, enforcement becomes clear." (*Woodland Hills, supra,* 23 Cal.3d at p. 941, 154 Cal.Rptr. 503, 593 P.2d 200.) On the other hand, the award of attorney fees is not appropriate when the public rights in question were adequately vindicated by governmental action. (See, e.g., *Ciani v. San Diego Trust & Sav. Bank* (1994) 25 Cal.App.4th 563, 573, 30 Cal.Rptr.2d 581.)

The second prong of the inquiry addresses the "financial burden of private enforcement." In determining the financial burden on litigants, courts have quite logically focused not only on the costs of the litigation but also any offsetting financial benefits that the litigation yields or reasonably could have been expected to yield. " 'An award on the "private attorney general" theory is appropriate when the cost of the claimant's legal victory transcends his personal interest, that is, when the necessity for pursuing the lawsuit placed a burden on the plaintiff "out of proportion to his individual stake in the matter." [Citation.]' " (*Woodland Hills, supra,* 23 Cal.3d at p. 941, 154 Cal.Rptr. 503, 593 P.2d 200.) "This requirement focuses on the financial burdens and incentives involved in bringing the lawsuit." (*Press v. Lucky Stores, Inc.* (1983) 34 Cal.3d 311, 321, 193 Cal.Rptr. 900, 667 P.2d 704 (*Press*).) *Conservatorship of Whitley* (2010) 50 Cal.4th 1206, 1214–1215 [117 Cal.Rptr.3d 342, 348–349, 241 P.3d 840, 846].

The Court finds that although the Court of Appeal reversed Defendants' summary judgment and remanded with directions, the Court of Appeal also provided a secure benefit to Plaintiff by finding his interpretation of the CC&Rs was correct, which this Court is bound to follow. Such an interpretation is at the crux of Plaintiff's causes of action. Plaintiff's interpretation of the CC&Rs is a pecuniary benefit for a large class of persons, i.e., thousands of homeowners. Additionally, Plaintiff's fees incurred on appeal were necessary and greater than the underlying relief sought, which is limited to declaratory relief, injunctive relief, repayment of assessments paid by Plaintiffs and owners of developed property, attorney's fees and interest. In the interests of justice, the Court finds such fees should not be paid out of the recovery, if any.

Accordingly, the Court finds Plaintiff is entitled to attorneys' fees pursuant to Code of Civil Procedure § 1021.5.

Reasonable Rate

The Declaration of Daniel V. Kohls provides he was admitted to the California State Bar in 1993 and had an hourly rate on appeal of $700 per hour. The Declaration of Glen A. Van Dyke provides he was admitted to the California State Bar in 1996 and had an hourly rate on appeal of $600 per hour. The Declaration of Megan DeHerrera provides she was admitted to the California State Bar in 2015 and had an hourly rate of $500 per hour.

The Court finds that the hourly fee rates are reasonable.

Multiplier

Plaintiff seeks a two and a half (2.5) times multiplier of the time spent on appeal. Plaintiff asserts his attorneys have not received any compensation in this matter, have taken enormous risk litigating this case for almost a decade, losing at the trial court level, and taking even more risk to undertake an appeal. The case involved the complex interpretation of CC&Rs and Plaintiff's attorneys took on the challenge of overcoming the trial court's interpretation of these CC&Rs with a known low percentage at the appellate court level of winning on any issue, let alone all issues. Plaintiff won at the appellate level on all issues and established an interpretation of CC&Rs in Plaintiff's and class members' favor. Counsel's excellent work on appeal, undertaken without any payment, justifies a multiplier.

Defendant LLC argues Plaintiff's counsel's skill and the difficulty of issues is already priced into the lodestar rates and Plaintiff made no showing that the appeal precluded other employment.

Defendant HOA argues request for a multiplier based on a contingency risk is premature because Plaintiff has not obtained a final judgment or otherwise succeeded in the action. Additionally, Plaintiff's hours claimed are a gross misuse of time and well in excess of a reasonable and necessary amount of time to brief the issues on appeal and fee motion. Plaintiff does not explain the exorbitant amount of time needed to appeal the summary judgment motion and the billing invoices contain clear duplication of efforts relating to brief drafting and preparation for oral argument.

Of course, the trial court is not *required* to include a fee enhancement to the basic lodestar figure for contingent risk, exceptional skill, or other factors, although it retains discretion to do so in the appropriate case; moreover, the party seeking a fee enhancement bears the burden of proof. In each case, the trial court should consider whether, and to what extent, the attorney and client have been able to mitigate the risk of nonpayment, e.g., because the client has agreed to pay some portion of the lodestar amount regardless of outcome. It should also consider the degree to which the relevant market compensates for contingency risk,

extraordinary skill, or other factors under *Serrano III.* We emphasize that when determining the appropriate enhancement, a trial court should not consider these factors to the extent they are already encompassed within the lodestar. The factor of extraordinary skill, in particular, appears susceptible to improper double counting; for the most part, the difficulty of a legal question and the quality of representation are already encompassed in the lodestar. A more difficult legal question typically requires more attorney hours, and a more skillful and experienced attorney will command a higher hourly rate. (See *Margolin v. Regional Planning Com.* (1982) 134 Cal.App.3d 999, 1004, 185 Cal.Rptr. 145.) Indeed, the " 'reasonable hourly rate [used to calculate the lodestar] is the product of a multiplicity of factors ... the level of skill necessary, time limitations, the amount to be obtained in the litigation, the attorney's reputation, and the undesirability of the case.' " (*Ibid.*) Thus, a trial court should award a multiplier for exceptional representation only when the quality of representation far exceeds the quality of representation that would have been provided by an attorney of comparable skill and experience billing at the hourly rate used in the lodestar calculation. Otherwise, the fee award will result in unfair double counting and be unreasonable. Nor should a fee enhancement be imposed for the purpose of punishing the losing party. *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1138–1139 [104 Cal.Rptr.2d 377, 389, 17 P.3d 735, 746].

The Court finds that Plaintiff's counsel's skill and the difficulty of the issues were included in counsel's hourly rate. However, the Court recognizes a multiplier is warranted due to the contingent nature of the fee award, particularly in light of losing at the trial court level and taking on the risk of appeal. The Court therefore grants a 1.5 multiplier for time spent on appellate work.

Number of Hours Claimed

The Declaration of Daniel V. Kohls provides he spent 260.7 hours on appeal. The Declaration of Glen A. Van Dyke provides he spent 70.4 hours on appeal. The Declaration of Megan DeHerrera provides she spent 38 hours on appeal.

The Court finds the numbers of hours claimed for the work on appeal is reasonable.

The Declaration of Megan DeHerrera provides she spent 1.8 hours preparing the Memorandum of Costs on Appeal and 34.7 hours preparing the underlying motion for attorneys' fees. The Declaration of Glen A. Van Dyke provides he spent 11.3 hours preparing the underlying motion for attorneys' fees.

The Court finds the time spent preparing the Memorandum of Costs on Appeal is reasonable. The Court finds the time spent preparing the underlying motion for attorneys' fees is unreasonable and reduces Ms. DeHerrera's hours to 17.35 and Mr. Van Dyke's hours to 5.65.

Plaintiff's Motion for Attorney's Fees on Appeal is granted in the amount of $378,560.00, comprised of the following:

1. A total of $365,595.00 for the time spent on appeal, comprised of:
   - Daniel Kohls: 260.7 hours; $700/hour rate; 1.5 multiplier = $273,735.00
   - Glen A. Van Dyke: 70.4 hours; $600/hour rate; 1.5 multiplier = $63,360.00
   - Megan DeHerrera: 38 hours; $500/hour rate; 1.5 multiplier = $28,500.00
2. A total of $900 for time spent on the Memorandum of Costs on Appeals, comprised of:
   - Megan DeHerrera: 1.8 hours; $500/hour rate = $900.00
3. A total of $12,065.00 for time spent preparing the underlying motion, comprised of:
   - Megan DeHerrera: 17.35 hours; $500/hour rate = $8,675.00
   - Glen A. Van Dyke: 5.65 hours; $600/hour rate = $3,390.00

Defendants LLC and HOA, jointly and severally, are ordered to pay to Plaintiff attorneys' fees in the amount of $378,560.00 within sixty (60) days of the Court's order.

TENTATIVE RULING #5:

1. CLASS ACTION CONFERENCE

APPEARANCES ARE REQUIRED ON NOVEMBER 6, 2026, AT 8:30 A.M. IN DEPARTMENT NINE.

2. ATTORNEY'S FEES

PLAINTIFF'S MOTION FOR ATTORNEY'S FEES ON APPEAL IS GRANTED. DEFENDANTS LLC AND HOA, JOINTLY AND SEVERALLY, ARE ORDERED TO PAY TO PLAINTIFF ATTORNEYS' FEES IN THE AMOUNT OF $378,560.00 WITHIN SIXTY (60) 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.

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IF YOU HAVE REGISTERED TO APPEAR REMOTELY FOR THIS HEARING, AND IT HAS BEEN CONTINUED, YOU WILL NEED TO VISIT THE COURT'S WEBSITE TO REVIEW THE GENERAL REMOTE APPEARANCE INFORMATION DISCLAIMER. PARTIES MUST CANCEL THEIR REMOTE APPEARANCE REGISTRATION THROUGH THE ONLINE SELF-REGISTRATION PLATFORM IF YOUR HEARING HAS BEEN CONTINUED. THE COURT CANNOT CANCEL A REMOTE APPEARANCE ON BEHALF OF A PARTY. IF A PARTY FAILS TO CANCEL THEIR REMOTE APPEARANCE REGISTRATION IN ACCORDANCE WITH THE COURT'S REMOTE APPEARANCE PROCEDURES, THE PARTY WILL NOT BE ISSUED A REFUND. PARTIES ARE REQUIRED TO REGISTER AGAIN FOR THE NEW HEARING DATE. INSTRUCTIONS FOR REMOTE APPEARANCE CAN BE FOUND ON THE COURT'S WEBSITE AT: https://www.eldorado.courts.ca.gov/online-services/remote-appearances.

6.	**PC20210419**	**JENNIFER MISZKEWYCZ V. COUNTY OF PLACER**
SUMMARY JUDGMENT		

Defendant, County of Placer ("Defendant"), moves for summary judgment pursuant to Code of Civil Procedure § 437(c). Plaintiff's, Jennifer Miszkewycz ("Plaintiff"), Opposition was filed on October 16, 2026. Defendant's Reply was filed on October 26, 2026.

Request for Judicial Notice

Defendant seeks judicial notice of 1) Plaintiff's First Amended Complaint for Damages, case no. PC20210419 (originally filed in Placer County Superior Court, case no. S-CV-0046401, on May 20, 2021), for Violation of Labor Code § 1102.5 (Whistleblower Retaliation) and the allegations therein; 2) Defendant's Answer to Plaintiff's First Amended Complaint for Damages, case no. PC20210419, filed on May 3, 2024, and the affirmative defenses therein.

Plaintiff seeks judicial notice of 1) Plaintiff's First Amended Complaint for Damages and Demand for Jury Trial, case no. PC20210419 (originally filed in Placer County Superior Court, case no. S-CV-0046401, on March 19, 2021), for Violation of Labor Code § 1102.5 (Whistleblower Retaliation) and the allegations therein; 2) Charles J. Wilson's First Amended Complaint for Damages and Demand for Jury Trial, case no. PC20210420 (originally filed in Placer County Superior Court, case no. S-CV-0046396, on May 20, 2021), for Violation of Labor Code § 1102.5 (Whistleblower Retaliation) and the allegations therein; and 3) Memorandum regarding Placer Administrative Manual Board of Supervisors Procedures Update - Threshold for Consent Items, dated November 8, 2022.

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 requests made by the Parties falls within the purview of Section 452, matters which *may* be judicially noticed, the Court does find that the Parties provided one another and

the Court sufficient notice of the requests and copies of the documents requested to be noticed. As such, the Parties have satisfied the requirements of Evidence Code § 453 and their respective requests 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.

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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 summary judgment on the following grounds: 1) Plaintiff cannot establish Labor Code § 1102.5 retaliation based on the FPPC Complaints/Investigation; 2) Plaintiff did not have a good faith belief that there was a Section 1090 violation (or suspected violation of law); 3) Plaintiff did not have a good faith belief that Ms. Uhler made a quid pro quo offer; 4) Plaintiff cannot establish constructive discharge; and 5) Plaintiff's "double demotion" is based on a false premise.

1. Labor Code § 1102.5 Retaliation Based on FPPC Complaints/Investigation

Defendant argues Plaintiff cannot establish a Labor Code § 1102.5 retaliation based on the Ordinance and FPPC Complaints/Investigation or based on the Tamara Uhler text message. Defendant asserts that Plaintiff did not report a violation of the law, which is a predicate to bringing a Labor Code § 1102.5 claim. Plaintiff only reported to the new District Attorney that there was an FPPC investigation and that she declined to have the DA's Office investigate because of a conflict of interest. Plaintiff's disclosures to (former) subordinates in the DA's Office is not the same thing as informing County Counsel, HR, or the CEO's Office, whom would investigate and take employment action.

Even if there was a protected disclosure, the claim fails because there are no facts connecting the District Attorney's decision as to who he selected for his Management Team and any disclosure by Plaintiff. The newly selected District Attorney had the right to choose his Management Team and when that decision was made, Plaintiff was returned to her prior non-management position, as directed by the County Ordinance, and not "double demoted" as alleged. It is undisputed the new DA had no concerns about the FPPC matter and agreed a

conflict existed and it was appropriate that the DA's Office not to be involved. Likewise, the County was not concerned about the FPPC complaints/investigation because there was never any actual exposure, as all 13 classifications received equity raises as a result of the Ordinance were treated as similarly situated classes, establishing there could not be a violation of Government Code § 1090 et seq. Additionally, the AG's Office refused to bring charges and as the FPPC was already looking into the complaints, the County already submitted its position to the FPPC on the matter, so there could be no cause for retaliation.

Defendant argues that Plaintiff's claim the County retaliated because she reported the existence of the text from Tamarah Uhler is factually unsupported, as the decision who was selected for the Management Team was solely that of the new DA, who had no knowledge of the text at the time of his decision. Additionally, the plain language of the text cannot be reasonably interpreted as a quid pro quo offer. Further, Defendant asserts that should it be found that Plaintiff engaged in a protected activity, the County took no action against Plaintiff because the new DA decided not to include her in his Management Team for legitimate, independent reasons, such as she did not have the attitude and demeanor befitting his vision.

Plaintiff argues the only predicate is that she must have reasonable cause to believe that the information discloses a violation of state statute or non-compliance with a local, state rule or regulation. As numerous County agents including County Counsel, Human Resources Director and the newly appointed DA were aware of Plaintiff's disclosures and contact with the State Attorney General, it is a reasonable inference that Defendant's agents believed Plaintiff may continue to disclose the unlawful and improper government activities going forward.

Plaintiff asserts she engaged in a number of protected activities, including a referral of the FPPC investigation to the AG's office, disclosing the FPPC investigation (and her referral of it to the AG's office) to the County, disclosing the text message to the County, disclosing the text message to Gire after his appointment, disclosing the FPPC investigation to Gire, disclosing to Gire that his appointment was the result of a corrupt conflict of interest, and disclosing the unlawful retaliation she suffered after supporting Mr. Wilson's opposition to the Uhler's corrupt conflict of interest. Despite Defendant acknowledging Plaintiff's complaint to the AG's office that there was an unlawful conflict of interest regarding asking the DA's office to investigate the County, Defendant fails to argue why this protected activity fails to satisfy the requirements of 1102.5(b).

Additionally, Plaintiff asserts her protected activities contributed to the adverse employment action. DA Gire learned of the existence of the text message from Tamara Uhler on March 19, 2020, after Plaintiff reported its existence to him. Plaintiff also reported her belief that Gire's appointment as DA was the product of an unlawfully corrupt conflict of interest in

Gire's first week as DA. A temporal proximity is present between these protected actions and the adverse employment action. Plaintiff argues that in addition to temporal proximity, a long pattern of conduct consistent with retaliatory intent is evident based upon Plaintiff being subjected to investigations, being the subject of malicious smears by Uhler's campaign manager, being double demoted, forced to move her office twice to a windowless closet, and given far less prestigious assignments once she began engaging in protected activities.

Plaintiff contends Defendant's "clear and convincing" burden is undermined by circumstantial evidence of pretext, including a departure from regular practice, lack of investigation, implausible justification for adverse action, animosity/lack of sympathy, the connection between Aaron Park and Uhlers, the Uhlers in favor of Wilson until he refuses the Quid Pro Quo, and the "Me Too" regarding treatment of Wilson.

An employer, or any person acting on behalf of the employer, **shall not retaliate against an employee for disclosing information**, or because the **employer believes that the employee disclosed or may disclose information**, **to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance**, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, **if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation**, regardless of whether disclosing the information is part of the employee's job duties. Labor Code § 1102.5(b). (emphasis added).

By its terms, section 1102.6 describes the applicable substantive standards and burdens of proof for both parties in a section 1102.5 retaliation case: **First, it must be "demonstrated by a preponderance of the evidence" that the employee's protected whistleblowing was a "contributing factor" to an adverse employment action. (§ 1102.6.) Then, once the employee has made that necessary threshold showing, the employer bears "the burden of proof to demonstrate by clear and convincing evidence" that the alleged adverse employment action would have occurred "for legitimate, independent reasons" even if the employee had not engaged in protected whistleblowing activities.** (*Ibid.*). *Lawson v. PPG Architectural Finishes, Inc.* (2022) 12 Cal.5th 703, 712 [289 Cal.Rptr.3d 572, 575, 503 P.3d 659, 661]. (emphasis added).

Section 1102.6 requires whistleblower plaintiffs to show that retaliation was a "contributing factor" in their termination, demotion, or other adverse action. This means plaintiffs may satisfy their burden of proving unlawful retaliation even when other, legitimate factors also contributed to the adverse action. (See, e.g., *State Comp. Ins. Fund v. Ind. Acc. Com.* (1959) 176 Cal.App.2d 10, 17, 1 Cal.Rptr. 73 (*State Comp. Ins. Fund*) [describing a contributing

factor standard as one in which the conduct at issue need not be the "exclusive cause" of the plaintiff's injuries]; *Rookaird v. BNSF Ry. Co.* (9th Cir. 2018) 908 F.3d 451, 461 (*Rookaird*) [" 'A "contributing factor" includes "any factor, which alone or in connection with other factors, tends to affect in any way the outcome of the decision" ' "].) *Id*. at 713-714.

The Court finds that a triable issue of material fact exists as to the extent of Plaintiff's involvement in protected activities beyond Defendant's proposition that it is strictly related to Plaintiff's disclosure of the FPPC investigation to DA Gire. *See* Exhs. 22, 23, 24, 27, 50, 57, A, E, H, D, K, HHHH, FFFF. Defendant's argument that the disclosures to Plaintiff's (former) subordinates because they are not County Counsel, HR, or the CEO's Office is unavailing, as the statute expressly covers disclosures to another employee who has the authority to investigate, discover, or correct the violation or noncompliance. The question of whether the individual recipients possessed sufficient authority presents a factual issue that cannot be resolved on summary judgment.

The Court further finds that triable issues of material fact exist as to whether Plaintiff's protected activities were a contributing factor in her subsequent adverse employment action, and whether Defendant had legitimate, independent reasons for the adverse employment action. Despite DA Gire's ability to select his own Management Team, evidence exists as to his knowledge of Plaintiff's involvement in protected activities and whether the adverse employment actions would have occurred for legitimate, independent reasons. *See* Exhs. A, U, JJJJ, W.

2. Good Faith Belief of Section 1090 Violation/Quid Pro Quo Offer

Defendant argues that there was no Section 1090 violation as the equity raise was applied equally to management positions, of which the County knew to be the case, and the AG's Office reached the same conclusion as it did not press charges. As a prosecuting attorney, Plaintiff should have reached the same conclusion, and she therefore cannot establish that she reasonably believed there was a violation of statute.

Defendant asserts there is no evidence that Tamara Uhler had the authority of any Board member, never mind the entire Board, to make a quid pro quo offer of the District Attorney appointment in exchange for a job in the DA's Office. The fact that Plaintiff never provided a copy of the text to the County belies her unsupported argument that she believed the text to be a quid pro quo offer. Additionally, Plaintiff cannot establish a financial interest in each of the Board members who appointed Mr. Gire as the new District Attorney. As no evidence exists supporting authority granted to Mrs. Uhler or financial interest in the outcome of the appointment of the District Attorney to the entire Board, there can be no quid pro quo.

Plaintiff argues that she has identified a good faith belief of at least three violations of law, namely the corrupt 30% increase in Mrs. Uhler's pay, and the violation of Penal Code § 67, as well as the conflict of interest by having the DA's office investigate the corrupt increase in Mrs. Uhler's pay. Plaintiff believed Mrs. Uhler's text was an unlawful attempt at a quid pro quo, which was supported by Special Agent Vignau telling Wilson he believed her text was illegal, the AG's office belief the behavior was sufficiently suspicious as to undertake an investigation, and County Counsel's acknowledgment that the text may create a conflict of interest issue as to one Board member.

Plaintiff's subjective belief that the text and pay increase constituted a violation of law is evidenced by her continued participation in the AG's investigation, following up the report to FPCC, and the AG's office, and her informing Mr. Gire about it after he had been appointed. Defendant cannot reasonably assert that Plaintiff's disclosure to Gire that his appointment was unlawful, and her complaints that she was subjected to retaliation for supporting Mr. Wilson's refusal to engage in a corrupt scheme were made in anything but good faith.

The Court finds triable issues of material fact exists as to Plaintiff's good faith belief of the Section 1090 violation and the text message from Tamara Uhler. *See* Exhs. A, EEEE, HHHH, FFFF, D, E, H, 22, 23.

3. Constructive Discharge

Defendant argues Plaintiff chose to leave her job after she was not selected for the Management Team, which she did not have an inalienable right to be appointed. Defendant asserts a reasonable person would recognize a reasonable alternative to quitting and Plaintiff's choice to quit was not the result of unlawful or intolerable conduct of the County. The new DA had sole discretion to appoint his Management Team, so the claim of constructive discharge makes no sense considering he had no involvement in the FPPC complaints/investigation or the Tamara Uhler text.

Plaintiff argues she is not asserting constructive discharge as a cause of action, although any reasonable person subjected to the conditions Plaintiff experienced with the prospective loss of salary and retirement benefits would have found continued employment intolerable. Plaintiff contends she resigned after being subjected to multiple adverse employment actions and is entitled to recover ongoing damages for those adverse actions.

As Plaintiff is not asserting constructive discharge and constructive discharge is not required in a cause of action under Labor Code § 1102.5, the Court finds this issue moot.

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4. Double Demotion

Defendant argues that to the extent Plaintiff suggests she was "double demoted" and that was a condition which made her working conditions intolerable, her claim fails. Plaintiff was undisputably an unclassified employee while on the Management Team pursuant to the Placer County Code of Ordinances. It is also undisputed the Management Teams for the DA's Office are selected at the sole discretion of the District Attorney; therefore, Plaintiff could be removed from the Management Team without cause but had the right to fall back to her highest classified position. Plaintiff's claim of double demotion does not account for the fact that the only position to which Plaintiff had a right was her highest classified position, which the County did not take away from Plaintiff.

Plaintiff argues that demotion, whether double or single, is an adverse employment action which Defendant does not dispute. Plaintiff maintains that she was the only manager at the DA's Office to be ousted from management to a subordinate non-managerial position, which was typically reserved for the lowest performing and least valuable members of the DA's Office. Plaintiff further asserts that in addition, she was also subjected to an investigation and false assessment of her performance, smeared on a blog operated by Uhler's paid campaign consultant, her home address was released to the public, she was forced to repeatedly move offices, stripped of managerial authority and prestigious assignments, and barred from certain facilities, all of which occurred after engaging in protected activities.

The Court finds there is no dispute that Plaintiff returned to her highest priority "classified" service position pursuant to the County Ordinance when she was not selected for the Management Team which would not constitute a "double demotion." However, the Court finds that triable issues of material fact exist as to the adverse employment actions Plaintiff was subjected to as a result of her involvement in protected activities including, but not limited to, Plaintiff's demotion, and whether these would have occurred for legitimate reasons had Plaintiff not engaged in these activities. *See* Exhs. W, Z, II, NN.

Defendant's Motion for Summary Judgment is denied.

TENTATIVE RULING #6:

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT 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.

GENERAL REMOTE APPEARANCE INFORMATION DISCLAIMER:

IF A PARTY WISHES TO APPEAR REMOTELY, INSTRUCTIONS FOR REMOTE APPEARANCE CAN BE FOUND ON THE COURT'S WEBSITE AT: https://www.eldorado.courts.ca.gov/online-services/remote-appearances.

IF A PARTY PREVIOUSLY REGISTERED TO APPEAR REMOTELY FOR THE HEARING BUT ORAL ARGUMENT IS NOT REQUESTED AND THE PARTY DOES NOT INTEND TO APPEAR AT THE HEARING, THE PARTY MUST CANCEL THEIR REMOTE APPEARANCE REGISTRATION. THE COURT CANNOT CANCEL A REMOTE APPEARANCE ON BEHALF OF A PARTY. IF A PARTY FAILS TO CANCEL THEIR REMOTE APPEARANCE REGISTRATION IN ACCORDANCE WITH THE COURT'S REMOTE APPEARANCE PROCEDURES, THE PARTY WILL NOT BE ISSUED A REFUND. TO CANCEL A REMOTE APPEARANCE REGISTRATION, VISIT: https://register.eldorado.courtroom.tech/login

IF YOU HAVE REGISTERED TO APPEAR REMOTELY FOR THIS HEARING, AND IT HAS BEEN CONTINUED, YOU WILL NEED TO VISIT THE COURT'S WEBSITE TO REVIEW THE GENERAL REMOTE APPEARANCE INFORMATION DISCLAIMER. PARTIES MUST CANCEL THEIR REMOTE APPEARANCE REGISTRATION THROUGH THE ONLINE SELF-REGISTRATION PLATFORM IF YOUR HEARING HAS BEEN CONTINUED. THE COURT CANNOT CANCEL A REMOTE APPEARANCE ON BEHALF OF A PARTY. IF A PARTY FAILS TO CANCEL THEIR REMOTE APPEARANCE REGISTRATION IN ACCORDANCE WITH THE COURT'S REMOTE APPEARANCE PROCEDURES, THE PARTY WILL NOT BE ISSUED A REFUND. PARTIES ARE REQUIRED TO REGISTER AGAIN FOR THE NEW HEARING DATE. INSTRUCTIONS FOR REMOTE APPEARANCE CAN BE FOUND ON THE COURT'S WEBSITE AT: https://www.eldorado.courts.ca.gov/online-services/remote-appearances.

7.	PC20210420	CHARLES WILSON V. COUNTY OF PLACER
SUMMARY JUDGMENT / PROTECTIVE ORDER		

Before the Court are the following matters: 1) Protective Order; and 2) Motion for Summary Judgment.

PROTECTIVE ORDER

This matter was continued from October 23, 2026. The tentative ruling issued on October 23, 2026, remains in effect.

MOTION FOR SUMMARY JUDGMENT

Defendant, County of Placer ("Defendant"), moves for summary judgment pursuant to Code of Civil Procedure § 437(c). Plaintiff's, Charles J. Wilson ("Plaintiff"), Opposition was filed on October 16, 2026. Defendant's Reply was filed on October 26, 2026.

Request for Judicial Notice

Defendant seeks judicial notice of 1) Plaintiff's First Amended Complaint for Damages, case no. PC20210420 (originally filed in Placer County Superior Court, case no. S-CV-0046396, on May 20, 2021), for Violation of Labor Code § 1102.5 (Whistleblower Retaliation) and the allegations therein; 2) Defendant's Answer to Plaintiff's First Amended Complaint for Damages, case no. PC20210420, filed on May 3, 2024, and the affirmative defenses therein.

Plaintiff seeks judicial notice of 1) Jennifer Miszkewycz's First Amended Complaint for Damages and Demand for Jury Trial, case no. PC20210419 (originally filed in Placer County Superior Court, case no. S-CV-0046401, on March 19, 2021), for Violation of Labor Code § 1102.5 (Whistleblower Retaliation) and the allegations therein; 2) Plaintiff's First Amended Complaint for Damages and Demand for Jury Trial, case no. PC20210420 (originally filed in Placer County Superior Court, case no. S-CV-0046396, on May 20, 2021), for Violation of Labor Code § 1102.5 (Whistleblower Retaliation) and the allegations therein; and 3) Memorandum regarding Placer Administrative Manual Board of Supervisors Procedures Update - Threshold for Consent Items, dated November 8, 2022.

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 requests made by the Parties falls within the purview of Section 452, matters which *may* be judicially noticed, the Court does find that the Parties provided one another and the Court sufficient notice of the requests and copies of the documents requested to be noticed. As such, the Parties have satisfied the requirements of Evidence Code § 453 and their respective requests 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.

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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 summary judgment on the following grounds: 1) Plaintiff cannot establish Labor Code § 1102.5 retaliation based on the FPPC Complaints/Investigation; 2) Plaintiff did not have a good faith belief that there was a Section 1090 violation (or suspected violation of law); 3) Plaintiff did not have a good faith belief that Ms. Uhler made a quid pro quo offer; 4) Plaintiff cannot establish constructive discharge; and 5) Plaintiff's "double demotion" is based on a false premise.

1. Labor Code § 1102.5 Retaliation Based on FPPC Complaints/Investigation

Defendant argues Plaintiff cannot establish a Labor Code § 1102.5 retaliation based on the Ordinance and FPPC Complaints/Investigation or based on the Tamara Uhler text message. Defendant asserts that Plaintiff never disclosed to the County he communicated with the FPPC or AG's Office regarding the FPPC Complaints/Investigation. The County was not informed the DA's Office had communicated with the FPPC or AG's Office until March 11, 2020, which was after Plaintiff was placed on Administrative Time Off ("ATO"). Additionally, the County did not become aware of the text from Tamara Uhler until after Plaintiff was placed on ATO. Plaintiff

therefore cannot contend that the text message was a contributing factor to him being placed on leave, nor can the plain language of the text be reasonably inferred to be a quid pro quo offer.

Even if there was a protected disclosure, the claim fails because the County had received complaints against Plaintiff following the former DA's retirement, which included allegations of discrimination, harassment, and retaliation at the DA's Office. Plaintiff was thereafter placed on administrative time off pending investigation, at which time the County was unaware the DA's Office had received an email from the FPPC, or Tamara Uhler's text.

Plaintiff asserts he engaged in a number of protected activities, including his refusal to participate in a violation of the penal code under 1102.5(c), which Defendant has not addressed. Additionally, Plaintiff made protected disclosures and was perceived as if he had or might make protected disclosures, such as the following: 1) he informed three members of the DA's officer regarding Ms. Uhler's attempt to corruptly influence the DA's office; 2) Plaintiff drafted a response to the FPPC, but was placed on ATO before he could transmit the letter; 3) Plaintiff began participating in the FPPC/AG's investigation; 4) Plaintiff confirmed to County Counsel he received the text from Ms. Uhler; and 5) Plaintiff submitted a letter to County Counsel and Acting DA Miszkewycz disclosing retaliation and anticipated future retaliation. At the time Plaintiff was placed on ATO, the County and the Uhlers were aware the DA's office could investigate the Uhler's corruption on behalf of the FPPC, and his transmission of a letter to the FPPC would constitute a protected disclosure of a conflict of interest.

Additionally, Plaintiff asserts his protected activities contributed to the adverse employment action, which is supported by a temporal nexus. For example, Kirk Uhler voted to open the DA appointment process less than 2 weeks after Ms. Uhler's text with Plaintiff and Aaron Park's attacks and request for Plaintiff's personal information beginning around the same time. Plaintiff contends that prior to Ms. Uhler's message, Mr. Uhler supported Plaintiff for DA but lost his support after, which establishes a causal nexus alongside Park's smear campaign. Plaintiff's ATO also began shortly thereafter, which even if the decision to investigate was legitimately motivated by anonymous complaints, the sharing of such with Aaron Park evidences they were part of a campaign to discredit Plaintiff for his protected activity.

Plaintiff contends Defendant's "clear and convincing" burden is undermined by circumstantial evidence of pretext, including a departure from regular practice, lack of adequate investigation, the connection between Aaron Park and Uhlers, the Uhlers in favor of Wilson until he refuses the Quid Pro Quo, and the "Me Too" regarding treatment of Wilson.

An employer, or any person acting on behalf of the employer, **shall not retaliate against an employee for disclosing information**, or because the **employer believes that the employee**

disclosed or may disclose information, **to a government or law enforcement agency, to a person with authority over the employee or another employee who has the authority to investigate, discover, or correct the violation or noncompliance**, or for providing information to, or testifying before, any public body conducting an investigation, hearing, or inquiry, **if the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation**, regardless of whether disclosing the information is part of the employee's job duties. Labor Code § 1102.5(b). (emphasis added).

An employer, or any person acting on behalf of the employer, **shall not retaliate against an employee for refusing to participate in an activity that would result in a violation of state or federal statute**, **or a violation of or noncompliance with a local, state, or federal rule or regulation**. Labor Code § 1102.5(c). (emphasis added).

By its terms, section 1102.6 describes the applicable substantive standards and burdens of proof for both parties in a section 1102.5 retaliation case: **First, it must be "demonstrated by a preponderance of the evidence" that the employee's protected whistleblowing was a "contributing factor" to an adverse employment action. (§ 1102.6.) Then, once the employee has made that necessary threshold showing, the employer bears "the burden of proof to demonstrate by clear and convincing evidence" that the alleged adverse employment action would have occurred "for legitimate, independent reasons" even if the employee had not engaged in protected whistleblowing activities.** (*Ibid.*). *Lawson v. PPG Architectural Finishes, Inc.* (2022) 12 Cal.5th 703, 712 [289 Cal.Rptr.3d 572, 575, 503 P.3d 659, 661]. (emphasis added).

Section 1102.6 requires whistleblower plaintiffs to show that retaliation was a "contributing factor" in their termination, demotion, or other adverse action. This means plaintiffs may satisfy their burden of proving unlawful retaliation even when other, legitimate factors also contributed to the adverse action. (See, e.g., *State Comp. Ins. Fund v. Ind. Acc. Com.* (1959) 176 Cal.App.2d 10, 17, 1 Cal.Rptr. 73 (*State Comp. Ins. Fund*) [describing a contributing factor standard as one in which the conduct at issue need not be the "exclusive cause" of the plaintiff's injuries]; *Rookaird v. BNSF Ry. Co.* (9th Cir. 2018) 908 F.3d 451, 461 (*Rookaird*) [" 'A "contributing factor" includes "any factor, which alone or in connection with other factors, tends to affect in any way the outcome of the decision" ' "].) *Id*. at 713-714.

The Court finds that a triable issue of material fact exists as to the extent of Plaintiff's involvement in protected activities beyond Defendant's proposition that it is strictly related to Plaintiff's disclosure of the FPPC Investigation or Tamara Uhler text message after he was placed on ATO, including Plaintiff's refusal to engage in illegal behavior, his disclosure of the text

message, which he understood to be a quid pro quo, to County agents, Plaintiff's preparation of a letter to the FPPC and participation in their investigation. *See* Exhs. A, C, J, N, O, T, HHHH, FFFF.

The Court further finds that triable issues of material fact exist as to whether Plaintiff's protected activities were a contributing factor in his subsequent adverse employment action, and whether Defendant had legitimate, independent reasons for the adverse employment action. Despite Defendant's receipt of complaints regarding Plaintiff, circumstantial evidence exists as to whether Plaintiff's involvement in protected activities contributed to the subsequent adverse employment actions, and whether the adverse employment actions would have occurred for legitimate, independent reasons. *See* Exhs. A, K, N, O, P, Q, R, S, QQ, RR, IIII, JJJJ, LLLL.

2. Good Faith Belief of Section 1090 Violation/Quid Pro Quo Offer

Defendant argues that there was no Section 1090 violation as the equity raise was applied equally to management positions, of which the County knew to be the case, and the AG's Office reached the same conclusion as it did not press charges. As a prosecuting attorney, Plaintiff should have reached the same conclusion, and he therefore cannot establish that she reasonably believed there was a violation of statute.

Defendant asserts there is no evidence that Tamara Uhler had the authority of any Board member, never mind the entire Board, to make a quid pro quo offer of the District Attorney appointment in exchange for a job in the DA's Office. The fact that Plaintiff never reported the text to the County or took any action on the text, belies his argument he believed the text to be a quid pro quo offer. Additionally, Plaintiff cannot establish a financial interest in each of the Board members who appointed Mr. Gire as the new District Attorney. As no evidence exists supporting authority granted to Mrs. Uhler or financial interest in the outcome of the appointment of the District Attorney to the entire Board, there can be no quid pro quo.

Plaintiff argues that he has identified a good faith belief of at least three violations of law, namely the corrupt 30% increase in Mrs. Uhler's pay, and the violation of Penal Code § 67, as well as the conflict of interest by having the DA's office investigate the corrupt increase in Mrs. Uhler's pay. Plaintiff believed Mrs. Uhler's text was an unlawful attempt at a quid pro quo, which was supported by Special Agent Vignau telling him that he believed her text was illegal, the AG's office belief the behavior was sufficiently suspicious as to undertake an investigation, and County Counsel's acknowledgment that the text may create a conflict of interest issue as to one Board member. Plaintiff asserts the text message plainly violated Penal Code § 67 and had he have participated and his disclosure to members of the DA's office, the AG's office, and County Counsel, was made in objective good faith.

The Court finds triable issues of material fact exists as to Plaintiff's good faith belief of the Section 1090 violation and the text message from Tamara Uhler. *See* Exhs. A, M, N, P, EEEE, GGGG, HHHH.

3. Constructive Discharge

Defendant argues Plaintiff chose to retire to preserve his management benefits, evidenced by his repeated statements to the County he would retire if not selected as the new DA, which were made prior to the Count's selection of the new DA. Plaintiff had fallback rights to his highest classified position and he did not have an inalienable right to be appointed as the new DA but Plaintiff's constructive discharge claim is predicated on the fact that having to accept any position below DA was intolerable. Defendant asserts a reasonable person would recognize a reasonable alternative to quitting and Plaintiff's choice to retire was not the result of unlawful or intolerable conduct of the County. The new DA had sole discretion to appoint his Management Team, so the claim of constructive discharge makes no sense considering Plaintiff never allowed the new DA the opportunity to make any decision regarding Plaintiff's employment.

Plaintiff argues he was subjected to adverse employment action, which would lead any reasonable person subjected to these conditions with the prospective loss of salary and retirement benefits to have found employment intolerable. Plaintiff argues the adverse employment actions he was subjected to included being placed on ATO, being subjected to repeated bogus complaints, the public disclosure of personal information, and repeated derogatory blog posts by an agent of Mr. Uhler. Additionally, the decision to appoint DA Gire resulted in a demotion from Plaintiff's position as acting DA and resulted in his replacement as Chief Assistant DA. Plaintiff retired rather than suffer a demotion, which was motivated by unlawful animus.

The Court finds triable issues of material fact exists as to whether Plaintiff's involvement in protected activities led to his constructive discharge and other adverse employment actions. *See* Exhs. A, K, L, N, P, UUU, VVV, WWW.

4. Double Demotion

Defendant argues that it is undisputed that Plaintiff was an unclassified employee while on the Management Team pursuant to the Placer County Code of Ordinances and that Management Teams are selected at the sole discretion of the DA. Plaintiff could be removed from the Management Team without cause but afforded the right to fall back to the highest classified position. Plaintiff was not removed by the DA from his Management Team but instead retired on the first day the new DA was in office. Plaintiff's purported double demotion does not

account for the fact that the only position which Plaintiff had a right to was his highest classified position, which was not taken away by Defendant or the new DA.

Plaintiff does not address Defendant's "double demotion" argument but rather asserts the refusal to promote Plaintiff resulted in a demotion. Defendant's Separate Statement of Undisputed Material Facts likewise does not address this issue The Court does not find that Plaintiff has alleged double demotion as an adverse employment action, but rather that Defendant announced Plaintiff would be demoted, the refusal to promote Plaintiff resulted in a demotion, and thereafter Plaintiff suffered from constructive termination. The Court accordingly finds this issue moot.

Defendant's Motion for Summary Judgment is denied.

TENTATIVE RULING #7:

1. PROTECTIVE ORDER

THE TENTATIVE RULING ISSUED ON OCTOBER 23, 2026, REMAINS IN EFFECT.

2. MOTION FOR SUMMARY JUDGMENT

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT 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.

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8.	**25CV1097**	**PHILLIP LIIMATTA ET AL VS. JOHN WILLIAM EVANS ET AL**
MOTION TO COMPEL		

On September 11, 2026, Defendants, John William Evans, Jared Evans, and Classic Concrete (collectively "Defendants"), filed a Motion to Compel Plaintiffs Phillipp Liimatta and Lauren Liimatta's Responses to Written Discovery. On October 26, 2026, Plaintiffs, Phillip Liimatta and Lauren Liimatta (collectively "Plaintiffs"), filed an Opposition. Defendants' Reply was filed on October 30, 2026.

Defendants argue that on March 6, 2026, Defendants served each Plaintiff with Special Interrogatories, Set Two, and Requests for Production, Set Two (collectively the "Written Discovery"). On April 7, 2026, Plaintiffs served objections-only responses to the Written Discovery Requests. Despite multiple good faith attempts to meet and confer, Plaintiffs failed to provide verified, code-compliant responses to the Written Discovery to date. Defendants request the Court order Plaintiffs to serve full, complete and verified responses to the Written Discovery, absent any objections, and to award monetary sanctions in Defendants' favor in the amount of $1,260.00.

Plaintiffs argue Defendants failed to serve the underlying motion within 45 days of service of the discovery responses and therefore the Court lacks jurisdiction to adjudicate its merits. Plaintiffs assert that the April 7, 2026, response contained general and request-specific objections which do not constitute a waiver of objections.

Code of Civil Procedure §§ 2030.300 and 2031.310 requires notice of a motion compelling further response within 45 days of the service of the **verified response**, or any **supplemental verified response,** or on or before any specific later date to which the propounding party and the responding party have agreed in writing. (emphasis added).

In this case, the language is clear that the clock on a motion to compel begins to run once "verified response[s]" or "supplemental verified response[s]" are served. (§ 2030.300, subd. (c).) Under the canon *expressio unius est exclusio alterius*, the insertion of the word "verified" before the word "response[s]" necessarily requires us to exclude from the provision what it does not mention—*un*verified responses. (See *Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1391, fn. 13, 241 Cal.Rptr. 67, 743 P.2d 1323.) **Thus, if responses are not verified, the clock cannot begin to run**. *Golf & Tennis Pro Shop, Inc. v. Superior Court* (2022) 84 Cal.App.5th 127, 135 [300 Cal.Rptr.3d 225, 230–231].

Code of Civil Procedure §§ 2031.300 and 2030.290 provide that a party waives any objection to the demand for production of documents or interrogatories if they fail to serve a timely response. However, where a party timely raises unverified objections to a discovery demand, they do not waive its legal objections to the production request. *Blue Ridge Ins. Co. v. Superior Court* (1988) 202 Cal.App.3d 339, 345 [248 Cal.Rptr. 346, 350], modified (July 19, 1988).

The Court finds that each response to the Written Discovery, containing only objections without verification, is not code compliant and accordingly tantamount to no response. *Appleton v. Superior Court* (1988) 206 Cal.App.3d 632, 636 [253 Cal.Rptr. 762, 764]. As such, the 45-day period in which to file a motion to compel is not triggered. However, as Plaintiffs served timely objections to the Written Discovery, Plaintiffs' objections are preserved. Defendants' motion to compel responses to Special Interrogatories, Set Two, and Requests for Production, Set Two is granted. Plaintiffs are ordered to serve verified, code-compliant responses within thirty (30) days of the Court's order.

Code of Civil Procedure § 2023.030 authorizes the Court to impose a monetary sanction against parties engaged in misuse of the discovery process, to pay the reasonable expenses including attorney's fees, incurred by anyone as a result of that conduct.

Code of Civil Procedure § 2023.010 defines "misuse of the discovery process" to include "failing to respond or to submit to an authorized method of discovery."

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. §2030.290 (interrogatories), § 2031.300(c) (requests for production) & § 2033.280(c)(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).

The Court finds that Plaintiffs' failure to provide substantive code-compliant verified responses constitutes a misuse of the discovery process. Defendants' request for sanctions is granted as requested in the amount of $1,260.00, which shall be payable by Plaintiffs to Defendants within thirty (30) days of the Court's order.

TENTATIVE RULING #8:

DEFENDANTS' MOTION TO COMPEL PLAINTIFFS PHILLIP LIIMATTA AND LAUREN LIIMATTA'S RESPONSES TO WRITTEN DISCOVERY IS GRANTED. PLAINTIFFS ARE ORDERED TO SERVE VERIFIED, CODE-COMPLIANT RESPONSES TO SPECIAL INTERROGATORIES, SET TWO, AND REQUESTS FOR PRODUCTION, SET TWO, WITHIN THIRTY (30) DAYS OF THE COURT'S ORDER. DEFENDANTS' REQUEST FOR SANCTIONS IS GRANTED IN THE AMOUNT OF $1,260.00, WHICH SHALL BE PAYABLE BY PLAINTIFFS TO DEFENDANTS WITHIN THIRTY (30) DAYS OF THE COURT'S ORDER.

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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.	25CV0172	DONALD L. AUSTIN ET AL VS. GREG HANSEN ET AL
MOTIONS TO COMPEL / DEEM REQUESTS FOR ADMISSION ADMITTED / GOOD FAITH SETTLEMENT / OSC / DEMURRER / MOTION TO STRIKE		

Before the Court are the following matters: 1) Motion to Compel Responses to Requests for Production and Form Interrogatories, and to Deem Requests for Admission Admitted; 2) Motion for Determination of Good Faith Settlement; 3) OSC hearing; 4) Demurrer; and 5) Motion to Strike.

OSC/DEMURRER/MOTION TO STRIKE

These matters were continued from October 23, 2026. The tentative ruling issued on October 23, 2026, remains in effect.

MOTIONS TO COMPEL/DEEM REQUESTS FOR ADMISSION ADMITTED

On September 11, 2026, Defendants, Greg and Janelle Hansen (collectively "Defendant Hansen"), filed a 1) Motion to Deem Requests for Admission Admitted as to Defendant Adam Paul Kovalevsky; 2) Motion to Deem Requests for Admission Admitted as to Defendant Sharon Kovalevsky; 3) Motion to Compel Responses to Requests for Production, Set One, as to Defendant Adam Paul Kovalevsky; 4) Motion to Compel Responses to Requests for Production, Set One, as to Defendant Sharon Kovalevsky; 5) Motion to Compel Responses to Form Interrogatories – General, Set One, as to Defendant Adam Paul Kovalevsky; and 6) Motion to Compel Responses to Form Interrogatories – General, Set One, as to Defendant Sharon Kovalevsky. No opposition has been filed by Defendants, Adam Paul Kovalevsky and Sharon Kovalevsky (collectively "Defendant Kovalevsky").

Defendant Hansen argues that Defendant Kovalevsky was served with Requests for Admission, Set One, Requests for Production, Set One, Form Interrogatories – General, Set One, as to Defendant Sharon Kovalevsky and Defendant Adam Paul Kovalevsky on August 5, 2026, with responses due on September 9, 2026. As of the time of filing the underlying motions, Defendant Kovalevsky has failed to serve a response.

Pursuant to Code of Civil Procedure § 2033.280, if a party to whom requests for admission are directed fails to serve a timely response, 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 monetary sanctions. Such an order is mandatory unless the court 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 § 2033.220.

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.

Code of Civil Procedure § 2031.300 provides if a party to whom a demand for inspection, copying, testing, or sampling is directed fails to serve a timely response to it, the following rules shall apply:

(a) 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 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 2031.210, 2031.220, 2031.230, 2031.240, and 2031.280.

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

The Court finds that Defendant Kovalevsky failed to provide a response to Requests for Admission, Set One, Requests for Production, Set One, Form Interrogatories – General, Set One, as to each Defendant Sharon Kovalevsky and Defendant Adam Paul Kovalevsky. Defendant Hansen's motion to deem requests for admission admitted is granted as to Requests for Admission, Set One, as to each Defendant Sharon Kovalevsky and Defendant Adam Paul Kovalevsky. Defendant Hansen's motion to compel responses as to Requests for Production, Set One, Form Interrogatories – General, Set One as to each Defendant Sharon Kovalevsky and Defendant Adam Paul Kovalevsky is granted. Defendant Kovalevsky is ordered to serve verified, code-compliant responses without objections to all requests, within thirty (30) days of the Court's order.

Code of Civil Procedure § 2023.030 authorizes the Court to impose a monetary sanction against parties engaged in misuse of the discovery process, to pay the reasonable expenses including attorney's fees, incurred by anyone as a result of that conduct.

Code of Civil Procedure § 2023.010 defines "misuse of the discovery process" to include "failing to respond or to submit to an authorized method of discovery."

Code of Civil Procedure § 2023.050 authorizes the Court to 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, the Court finds the party, person, or attorney did not respond in good faith to a request for the production of documents.

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. §2030.290 (interrogatories), § 2031.300(c) (requests for production) & § 2033.280(c)(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).

The Court finds that Defendant Kovalevsky failed to provide a response in good faith to Defendant Hansen's Requests for Admission, Set One, Requests for Production, Set One, Form Interrogatories – General, Set One, which constitutes a misuse of the discovery process. Defendant Hansen's request for sanctions is granted as requested, payable by Defendant Kovalevsky within thirty (30) days of the Court's order.

GOOD FAITH SETTLEMENT

On October 9, 2026, the Court continued Plaintiff's, Donald L. Austin ("Plaintiff"), Motion for Determination of Good Faith Settlement. Defendants, Greg and Janelle Hansen (collectively "Defendant Hansen"), opposed the motion, in part on the grounds that Defendants, Adam Paul Kovalevsky and Sharon Kovalevsky (collectively "Defendant Kovalevsky"), failed to provide discovery responses which are directly relevant to Plaintiff's underlying claims and the present settlement.

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.3rd 448, 499 (1985).

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-settlors 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].

As the Court has granted Defendant Hansen's motions to compel which could produce relevant evidence relating to the good faith settlement, Plaintiff's Motion for Determination of Good Faith Settlement is continued to January 22, 2027. Defendant Hansen may file any additional declarations and evidence by January 8, 2027. Plaintiff and Defendant Kovalevsky may file any counterdeclarations and evidence by January 15, 2027.

TENTATIVE RULING #9:

1. OSC/DEMURRER/MOTION TO STRIKE

THE TENTATIVE RULING ISSUED ON OCTOBER 23, 2026, REMAINS IN EFFECT.

2. MOTIONS TO COMPEL/DEEM REQUESTS FOR ADMISSION ADMITTED

DEFENDANT HANSEN'S MOTIONS TO DEEM REQUESTS FOR ADMISSION ADMITTED IS GRANTED AS REQUESTED AS TO EACH DEFENDANT SHARON KOVALEVSKY AND DEFENDANT ADAM PAUL KOVALEVSKY. DEFENDANT HANSEN'S MOTIONS TO COMPEL RESPONSES TO REQUESTS FOR PRODUCTION, SET ONE, AND FORM INTERROGATORIES – GENERAL, SET ONE, IS GRANTED AS TO AS TO EACH DEFENDANT SHARON KOVALEVSKY AND DEFENDANT ADAM PAUL KOVALEVSKY. DEFENDANT KOVALEVSKY IS ORDERED TO SERVE VERIFIED, CODE-COMPLIANT RESPONSES WITHOUT OBJECTIONS TO ALL REQUESTS, WITHIN THIRTY (30) DAYS OF THE COURT'S ORDER.

DEFENDANT HANSEN'S REQUEST FOR SANCTIONS IS GRANTED AS REQUESTED. DEFENDANT KOVALEVSKY SHALL REMIT PAYMENT TO DEFENDANT HANSEN WITHIN THIRTY (30) DAYS OF THE COURT'S ORDER.

3. GOOD FAITH SETTLEMENT

PLAINTIFF'S MOTION FOR DETERMINATION OF GOOD FAITH SETTLEMENT IS CONTINUED TO JANUARY 22, 2027. DEFENDANT HANSEN MAY FILE ADDITIONAL DECLARATIONS AND EVIDENCE BY JANUARY 8, 2027. PLAINTIFF AND DEFENDANT KOVALEVSKY MAY FILE ANY COUNTERDECLARATIONS AND EVIDENCE BY JANUARY 15, 2027.

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

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10.	**26CV2899**	**JEFF RUSSELL, ET AL. V. COUNTY OF EL DORADO ET AL.**
OSC RE PRELIMINARY INJUNCTION		

On October 22, 2026, Petitioners, Jeff Russell, Julie Russell, James Stitt, Linda Stitt, Kenneth Hardy, and Shirley Hardy (collectively "Petitioners"), filed an Ex Parte Application for Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction, which the Court granted. The Court set an Order to Show Cause re: Preliminary Injunction hearing for November 6, 2026, and required service to be completed by October 27, 2026.

On October 30, 2026, Respondent, County of El Dorado, and Real Party in Interest, Valley View Improvement Company, LLC (collectively "Respondent"), filed a Notice of Special Appearance and Request to Dissolve Order for Failure to Timely Serve and Unavailability of Counsel for Hearing on Temporary Restraining Order and OSC Re: Preliminary Injunction. Respondent asserts Petitioners did not serve their Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief, or any pleading, as ordered by the Court's deadline. Respondent requests the Court dissolve its Order granting a temporary restraining order and Petitioners' ex parte application for failure to complete service. Respondent's counsel also advises they are unavailable to appear at the hearing on November 6, 2026, due to a set of long-scheduled hearings on two motions and a case management conference in Los Angeles Superior Court.

On November 2, 2026, Petitioners filed a request for the Court to continue the hearing and preserve the temporary restraining order to properly effectuate service after misunderstanding the service requirements.

The Court continues the hearing on Petitioner's preliminary injunction and extends the Temporary Restraining Order issued on October 22, 2026, to November 20, 2026, to allow for proper service. Service must be completed no later than November 11, 2026, with the opposition due by November 16, 2026, and reply due by November 18, 2026.

TENTATIVE RULING #10:

TEMPORARY RESTRAINING ORDER ISSUED ON OCTOBER 22, 2026, AND HEARING ON PRELIMINARY INJUNCTION IS CONTINUED TO NOVEMBER 20, 2026. THE PARTIES ARE ORDERED TO COMPLY WITH THE SERVICE AND FILING REQUIREMENTS OUTLINED IN THE TENTATIVE RULING.

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11.	26CV0799	MARY ASTOR SMITHE VS. EDIB ZILDZO ET AL
DEMURRER		

Defendant, Edib Zildzo ("Defendant"), demurs to Plaintiff's, Mary Astor Smithe ("Plaintiff"), Complaint for Damages and Equitable Relief. No opposition has been filed.

Request for Judicial Notice

Defendant seeks judicial notice of the following: 1) Warranty Deed Illinois, Tenancy by the Entirety recorded September 24, 1997; 2) Declaration of Mary Astor Smith and Supplemental Declaration of Mary Astore Smithe in Support of Renewed Motion for Preliminary Injunction filed on or about May 13, 2026; 3) Medical Certificate of Death issued by the State of Illinois, DuPage County Health Department, Aida Zildzo, Date of Death October 14, 2007; 4) Grant Deed recorded September 17, 2010; 5) Articles of Organization of a Limited Liability Company" filed June 27, 2013; and 6) Complaint for Damages and Equitable Relief" filed March 18, 2026 in Case No. 26CV0764 by Mary Astor Smithe.

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.

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.

Code of Civil Procedure §430.41(a)(4):

> A determination by the court that the meet and confer process was insufficient shall not be grounds to overrule or sustain a demurrer.

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 Bryan L. Phipps, counsel attempted to meet and confer with Plaintiff but learned a Mr. Time Smithe was improperly acting as an attorney in violation of Business & Professions Code § 6125 on her behalf. Mr. Smithe responded, stating all communications going forward would be in writing only. Accordingly, Counsel was unable to meet and confer regarding the demurrer with Plaintiff. Pursuant to Code of Civil Procedure §430.41(a)(4) and the Court's inherent discretion, the Court shall rule on Defendant's demurrer on the merits.

Background

On March 23, 2026, Plaintiff filed a Complaint for Damages and Equitable Relief asserting the following causes of action: 1) Breach of Fiduciary Duty; 2) Fraud and Concealment; 3) Conversion; 4) Imposition of Constructive Trust; and 5) Injunctive Relief. No Proof of Service of Summons has been filed.

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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

1. Case No. 26CV0764

Defendant argues the entire Complaint is subject to demurrer because there is another action pending between the same parties on the same cause of action in case no. 26CV0764, which contains identical factual allegations, causes of actions, and requests for relief.

On March 18, 2026, Plaintiff, Mary Astor Smithe (fka Merjem Zildzo), filed a Complaint for Damages and Equitable Relief against Edib Zildzo, Alma Trebincevic (aka Alma Zildzo), AEZ Enterprises LLC (dba Crepe Town European Café & Grill), and Does 1 through 20 in case no. 26CV0764. Thereafter, Plaintiff filed the underlying Complaint on March 23, 2026, in case no. 26CV0799 against the same defendants, asserting the same causes of action, and requesting the same relief. Plaintiff then filed a First Amended Complaint for Damages and Equitable Relief on March 26, 2026, in case no. 26CV0764.

Code of Civil Procedure § 430.10(c) provides:

> The party against whom a complaint or cross-complaint has been filed may object, by demurrer or answer as provided in Section 430.30, to the pleading on any one or more of the following grounds:
>
> (c) There is another action pending between the same parties on the same cause of action.

A plea in abatement pursuant to section 430.10, subdivision (c), may be made by demurrer or answer when there is another action pending between the *same parties* on the *same cause of action.* (*Lawyers Title, supra,* 151 Cal.App.3d at p. 459, 199 Cal.Rptr. 1; *Childs v. Eltinge, supra,* 29 Cal.App.3d at p. 848, 105 Cal.Rptr. 864.) In determining whether the causes of action are the same for purposes of pleas in abatement, the rule is that such a plea may be maintained only where a judgment in the first action would be a complete bar to the second action. (*Lord v. Garland* (1946) 27 Cal.2d 840, 848, 168 P.2d 5.)

The Court finds another action is pending between the same parties on the same cause of action in case no. 26CV0764. Defendant's demurrer is sustained without leave to amend.

2. Statute of Limitations

Defendant argues the entire Complaint is barred by the applicable statute of limitations. Plaintiff alleges that Defendant impermissibly inherited or retained assets from Aida Zildzo that allegedly should have gone to Plaintiff. This "primary right" is then asserted by Plaintiff through each of the five causes of action. Aida Zildzo died on October 14, 2007. Plaintiff alleges following her death, Defendant took control of estate assets, suppressed opening probate in Illinois and failed to distribute assets to Plaintiff. Defendant asserts Plaintiff was aware at the time whether or not assets were distributed to Plaintiff and she had the opportunity to open probate herself. Instead, Plaintiff waited approximately 19 years before filing the Complaint.

Generally speaking, a cause of action accrues at the time when the cause of action is complete with all of its elements. (*Fox v. Ethicon Endo-Surgery, Inc., supra,* 35 Cal.4th 797 at p.806, 27 Cal.Rptr.3d 661, 110 P.3d 914). The "discovery rule" is an exception to this general rule and postpones accrual of a cause of action until the plaintiff discovers, or has reason to discover, the cause of action. (*Id.* at p.807, 27 Cal.Rptr.3d 661, 110 P.3d 914.) To rely on the discovery rule for delayed accrual of a cause of action, a plaintiff whose complaint shows on its face that his claim would be barred without the benefit of the discovery rule must specifically plead facts to show (1) the time and manner of discovery and (2) the inability to have made earlier discovery despite reasonable diligence. (*Id.* at p.808, 27 Cal.Rptr.3d 661, 110 P.3d 914.) In assessing the sufficiency of the allegations of delayed discovery, the court places the burden on the plaintiff to show diligence. (*Ibid.*) Conclusory allegations will not withstand demurrer. (*Ibid.*) *Carrillo v. County of Santa Clara* (2023) 89 Cal.App.5th 227, 234 [305 Cal.Rptr.3d 701, 706], as modified (Mar. 14, 2023).

The statute of limitations for fraud and conversion is three years, while the statute of limitations for breach of fiduciary duty is four years. Plaintiff's allegations stem from the date of death in 2007, the purchase of the California home in 2010, and the sale of the Illinois home in 2016, all of which occurred between 10 and 19 years prior to filing the Complaint. On its face, each of Plaintiff's claims are time-barred. Plaintiff has failed to allege the time and manner of discovery and the inability to have made earlier discovery despite reasonable diligence.

The Court finds each of Plaintiff's causes of action barred by the statute of limitations. Defendant's demurrer is sustained without leave to amend.

TENTATIVE RULING #11:

DEFENDANT'S DEMURRER IS SUSTAINED WITHOUT LEAVE TO AMEND.

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12.	**26CV0764**	**MARY ASTOR SMITHE (FKA MERJEM ZILDZO) VS. EDIB ZILDZO ET AL**
DEMURRER		

On March 18, 2026, Plaintiff, Mary Astor Smithe (fka Merjem Zildzo), filed a Complaint for Damages and Equitable Relief. A First Amended Complaint for Damages and Equitable Relief was filed on March 26, 2026. The Court is not in receipt of Proof of Service of Summons for either complaint.

On July 24, 2026, Defendant, Edib Zildzo ("Defendant"), filed a Demurrer to Mary Astor Smithe's "Complaint for Damages and Equitable Relief" filed on March 18, 2026. As a First Amended Complaint was subsequently filed, Defendant's demurrer is rendered moot.

TENTATIVE RULING #12:

DEFENDANT'S DEMURRER TO PLAINTIFF'S COMPLAINT IS RENDERED MOOT. HEARING IS VACATED AND DROPPED FROM CALENDAR.

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