January 2, 2026
Dept. 9
Tentative Rulings

1.	22CV1378	T.C. v. DOE 1
Judgment on the Pleadings		

Before the court is defendant County of Yolo's ("defendant" or "County of Yolo") motion for judgment on the pleadings, specifically, plaintiff T.C.'s ("plaintiff") second amended complaint ("SAC"). Defense counsel declares he sent plaintiff a meet-and-confer letter prior to filing the motion. (Code Civ. Proc., § 439, subd. (a).)

On November 7, 2025, plaintiff filed a timely opposition to the motion. On November 20, 2025, defendant filed a timely reply.

1. Background

This is a revival action filed pursuant to Code of Civil Procedure section 340.1. From approximately 1986 through 1988, when plaintiff was about six to eight years old, plaintiff was sexually abused in two separate foster homes. In the SAC, plaintiff claims negligent acts and/or omissions of five different counties, including defendant County of Yolo, proximately caused the childhood sexual abuse that resulted in plaintiff's injuries. The relevant allegations of the SAC are summarized below.

Plaintiff was originally placed under defendant County of Sacramento's custody and care. (SAC, ¶ 7.) Thereafter, County of Sacramento either transferred and/or shared legal custody of plaintiff with County of Yolo. (SAC, ¶ 7.) Thereafter, County of Sacramento and County of Yolo either transferred and/or shared legal custody of plaintiff with defendant County of El Dorado. (SAC, ¶ 7.) Thereafter, County of Sacramento, County of Yolo, and County of El Dorado either transferred and/or shared legal custody of plaintiff with defendant County of Placer and defendant County of Nevada. (SAC, ¶ 7.)

In approximately 1986 or 1987, defendants (the SAC does not specify which defendants) placed plaintiff in the first foster home ("Foster Home 1"), located in Davis, California. (SAC, ¶¶ 30, 32.) The foster mother in Foster Home 1 was Kathy. (SAC, ¶ 30.) Plaintiff also had a foster brother ("Perpetrator 1")[1] in Foster Home 1. (SAC, ¶ 31.) In approximately 1986, Perpetrator 1 sexually abused and assaulted plaintiff in Foster Home 1 approximately daily for approximately several months while plaintiff resided in Foster Home 1. (SAC, ¶ 32.) The

In approximately 1987, defendants (the SAC does not specify which defendants) placed plaintiff in the second foster home ("Foster Home 2"), located in Pollock Pines, California. (SAC, ¶ 35.) The foster mother in Foster Home 2 was Diane ("Perpetrator 2"). From approximately 1987 to 1988, Perpetrator 2 sexually abused and assaulted plaintiff in Foster Home 2 approximately several times per month for approximately one year while plaintiff resided in Foster Home 2. (SAC, ¶ 37.) Perpetrator 2's son ("Perpetrator 3") also sexually abused and

[1] The SAC makes no mention of Perpetrator 1's age.

assaulted plaintiff in Foster Home 2 several times while plaintiff resided in Foster Home 2. (SAC, ¶ 39.)

While plaintiff resided in Foster Home 1, her unidentified social worker did not conduct any evaluations or personal visits (SAC, ¶ 42.) Additionally, while plaintiff's mother was conducting visitation, she noticed plaintiff was not wearing any underwear; this was because plaintiff was sexually abused that day. (SAC, ¶ 42.) Plaintiff informed her foster mother at Foster Home 1 that she was being sexually abused by Perpetrator 1. (SAC, ¶ 42.) There is no allegation in the SAC that the foster mother at Foster Home 1 communicated plaintiff's report of sexual abuse to any defendant.

Plaintiff reported that she was being sexually abused and/or assaulted at Foster Home 2 to an unidentified social worker who was allegedly an employee and/or agent of defendants (the SAC does not specify which defendants). (SAC, ¶ 43.)

"Despite disclosures to Defendants and/or Defendants' actual and/or constructive knowledge of the sexual assault and abuse at issue, no action was taken, no investigation was completed, and Plaintiff remained in Foster Home 1 and Foster Home 2 where Perpetrators continued sexually assaulting and abusing her even after Plaintiff disclosed that she was being sexually assaulted and/or abused to Defendants." (SAC, ¶ 44.)

2. Request for Judicial Notice

Pursuant to Evidence Code section 452, subdivision (d), the court grants plaintiff's unopposed request to take judicial notice of plaintiff's SAC (filed Jan. 9, 2023).

3. Legal Principles

A motion for judgment on the pleadings serves the same function as a general demurrer. (*Smiley v. Citibank* (1995) 11 Cal.4th 138, 145–146.) A motion may be brought where "the complaint states facts sufficient to constitute a cause or causes of action against the defendant and the answer does not state facts sufficient to constitute a defense to the complaint." (Code Civ. Proc., § 438, subd. (c)(1)(B)(ii); see also *Adjustment Corp. v. Hollywood Hardware & Paint Co.* (1939) 35 Cal.App.2d 566, 569–570 [judgment on the pleadings is proper where the answer "fails to deny any of the material allegations of the complaint"].) The grounds for a motion for judgment on the pleadings must appear on the face of the challenged pleading or be based on facts the court may judicially notice. (Code Civ. Proc., § 438, subd. (d); *Tung v. Chicago Title Co.* (2021) 63 Cal.App.5th 734, 758–759.)

4. Discussion

The California Tort Claims Act (also referred to as the Government Claims Act), Government Code section 810, et seq., clearly differentiates between entity liability (Gov. Code,

§ 815, et seq.) and employee liability (Gov. Code, § 820, et seq.). Government Code section 815 states that there is no liability for a public entity unless it is established by statute. It goes on to say that entity liability is subject to any immunity "of the public entity" provided by statute.[1] "[I]n general, an immunity provision need not even be considered until it is determined that a cause of action would otherwise lie against the public employee or entity." (*Caldwell v. Montoya* (1995) 10 Cal.4th 972, 985.)

Defendant's motion for judgment on the pleadings argues that the SAC fails to state a cause of action against defendant.

The SAC sets forth three statutory bases for holding defendant liable for negligence under the California Tort Claims Act. (SAC, ¶ 65.) First, plaintiff seeks to hold defendant derivatively liable for the alleged acts or omissions of its employees under Government Code section 815.2. Second, plaintiff seeks to hold defendant derivatively liable for the alleged acts or omissions of its independent contractors under Government Code section 815.4. Third, plaintiff seeks to hold defendant directly liable for alleged acts or omissions under Government Code section 815.6.

For the reasons discussed below, the court finds the SAC states a cause of action against defendant based on derivative liability under Government Code sections 815.2 and 815.4. As such, the court does not reach the issue of direct liability under Government Code section 815.6.

4.1. Derivative Liability for Defendant's Employees (Gov. Code, §§ 815.2)

"A public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee or his personal representative." (Gov. Code, § 815.2, subd. (a).) "Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability." (Gov. Code, § 815.2, subd. (b).)

Plaintiff's opposition brief argues: "Plaintiff's County social worker failed to, *inter alia*: investigate whether Plaintiff was safe and free from maltreatment and adequately monitor and supervise Plaintiff while she was in foster care. (RFJN, Exhibit A, ¶¶ 58-59.) It was thus foreseeable that the County's failure to properly supervise Plaintiff and/or implement

[1] Government Code section 815 reads as follows: "Except as otherwise provided by statute: [¶] (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person. [¶] (b) The liability of a public entity established by this part (commencing with Section 814) is subject to any immunity of the public entity provided by statute, including this part, and is subject to any defenses that would be available to the public entity if it were a private person." (Gov. Code, § 815.)

safeguards would provide Plaintiff's adult foster bother the opportunity to continue to sexually assault and/or abuse Plaintiff in the Yolo foster home. (*Id.*)" (Opp. at 3:26–4:2.)

Defendant's briefing does not specifically address the threshold issue of whether the allegations in the SAC would, apart from Government Code section 815.2, have given rise to a cause of action against the unidentified social worker who allegedly worked for defendant. Instead, defendant argues it "has no derivative liability to the acts of its employees because all the acts of its employees which are pled in the complaint are subject to discretionary immunity or are not specifically a result of malfeasance of the public employee." (Reply at 9:15–19.)

Generally, a court initially determines whether a defendant owes a duty to a plaintiff before it determines whether the former is immune. (*Caldwell v. Montoya* (1995) 10 Cal.4th 972, 978, fn. 3 [" 'duty before immunity' " doctrine].) However, the court may elect to proceed directly to the immunity issue on the grounds of expediency and judicial economy. (*Cruz v. Briseno* (2000) 22 Cal.4th 568, 572; *Caldwell*, *supra*, at p. 978, fn. 3; *Kisbey v. State of California* (1984) 36 Cal.3d 415, 418.)

Government Code section 820.2, which provides for discretionary immunity, states: "[e]xcept as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused." (Gov. Code, § 820.2.) The decision to apply discretionary act immunity requires a two-part analysis. First, the court decides whether the decision at issue is a discretionary, as opposed to a ministerial one. (*D.G. v. Orange County Social Services Agency* (2025) 108 Cal.App.5th 465, 473.) The second part of the discretionary act immunity analysis is whether the employee who made the decision at issue "actually reached a considered decision knowingly and deliberately encountering the risks that give rise to plaintiffs complaint…. [¶] [T]o be entitled to immunity the state must make a showing that such a policy decision, consciously balancing risks and advantages, took place. The fact that an employee normally engages in 'discretionary activity' is irrelevant if, in a given case, the employee did not render a considered decision." (*Johnson v. State of California* (1968) 69 Cal.2d 782, 794, fn. 8.)

Here, existing caselaw supports a finding that the first prong of the discretionary immunity analysis would be satisfied here because the decisions of child welfare agency employees–regarding determinations of child abuse, the potential risk to a child, placement of a child, removal of a child, and other resultant actions–are subjective discretionary ones that are incidental to the employees' investigations." (*B.H. v. County of San Bernardino* (2015) 62 Cal.4th 168, 191–192.)

But plaintiff argues that the second prong of the discretionary immunity analysis is not satisfied where the SAC specifically alleges that "no action was taken, no investigation was completed" by defendant's employee. (SAC, ¶ 44.)

Defendant claims this same argument was raised in *K.C. v. County of Merced* (2025) 109 Cal.App.5th 606. In *K.C.*, a fair reading of the operative complaint revealed plaintiff "essentially alleged [her] social worker[] w[as] confronted with reports of sexual abuse that should have

prompted investigative or corrective action, but [she] failed to *properly* exercise [her] discretion to do so." (*Id.* at pp. 619–620 [emphasis added], rev. granted.) "The complaint admit[ted] of no theory that the [social worker] acted unconsciously" (*Caldwell*, *supra*, 10 Cal.4th at p. 984), signifying her inaction was volitional. (See *In re Social Services Payment Cases* (2008) 166 Cal.App.4th 1249, 1263 [appellate courts "assume the truth of" "facts that can be reasonably inferred from those pleaded"].)

But the court finds the instant case to be distinguishable. The operative complaint in *K.C.* alleged that, in response to K.C.'s complaints, "no corrective action was taken." (*K.C.*, *supra*, 109 Cal.App.5th at pp. 614–615.) By contrast, the SAC in this case alleges that, in response to plaintiff's report of sexual abuse, "no action was taken, no investigation was completed" by the social worker. A reasonable inference from this allegation is that the social worker in this case acted unconsciously and failed to weigh any pros or cons. Accordingly, the court finds that the SAC sufficiently *alleges* discretionary use immunity does not apply.

4.2. Derivative Liability for Defendant's Independent Contractors (Gov. Code, § 815.4)

"A public entity is liable for injury proximately caused by a tortious act or omission of an independent contractor of the public entity to the same extent that the public entity would be subject to such liability if it were a private person. Nothing in this section subjects a public entity to liability for the act or omission of an independent contractor if the public entity would not have been liable for the injury had the act or omission been that of an employee of the public entity." (Gov. Code, § 815.4.)

To the extent that the SAC alleges defendant hired any independent contractors, the court concludes the SAC sufficiently alleges discretionary use immunity does not apply for the same reasons as discussed in the previous section.

TENTATIVE RULING #1: DEFENDANT COUNTY OF YOLO'S MOTION FOR JUDGMENT ON THE PLEADINGS IS DENIED.

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

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

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

IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

2.	**23CV0670**	**LUCAS ET AL v. BEEF N' BREW, INC. ET AL**
Attorney Withdrawal		

Counsel for the Defendants has filed a motion to be relieved as counsel pursuant to Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362.

A declaration on Judicial Council Form MC-052 accompanies the motion, as required by California Rules of Court, Rule 3.1362, stating that the attorney-client relationship has completely broken down and cannot be re-established.

Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362 allow an attorney to withdraw after notice to the client. Proof of service of the motion on the Defendants at their last known address and on counsel for Plaintiff was filed on November 17, 2025.

A Case Management Conference is currently scheduled on April 7, 2026, which is not listed in the proposed Order, as required by California Rules of Court, Rule 3.1362(e).

TENTATIVE RULING #2: ABSENT OBJECTION, THE MOTION IS GRANTED, CONDITIONAL ON COUNSEL'S SUBMITTAL OF A REVISED PROPOSED ORDER WITH THE UPCOMING CASE MANAGEMENT CONFERENCE DATE. ONCE FILED AND SIGNED BY THE COURT, COUNSEL IS DIRECTED TO SERVE A COPY OF THE SIGNED ORDER (FORM MC-053) ON THE CLIENT AND ALL PARTIES THAT HAVE APPEARED IN THE CASE IN ACCORDANCE WITH CALIFORNIA RULES OF COURT, RULE 3.1362(e). ORDER IS EFFECTIVE UPON FILING OF THE PROOF OF SERVICE INDICATING SERIVCE OF THE SIGNED ORDER ON THE CLIENT.

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.	**PC20150072**	**SPEEGLE v. MOTHER LODE, LLC**
Motion to Compel / Sanctions		

On September 17, 2025, this Court entered an Order compelling Autozoners, LLC, to remit $375.00 of the salary of Michale Adams to judgment creditor George Sommers as garnishment to satisfy a judgment. Code of Civil Procedure § 1209(a)(5) provides:

> (a) The following acts or omissions in respect to a court of justice, or proceedings therein, are contempts of the authority of the court:
>
> * * *
>
> (5) Disobedience of any lawful judgment, order, or process of the court.

The instant motion alleges that Autozoners has refused to comply with the Court's Order. With respect to the availability of sanction s for non-compliance with the Order, the movant cites Code of Civil Procedure § 177.5:

> A judicial officer shall have the power to impose reasonable money sanctions, not to exceed fifteen hundred dollars ($1,500), notwithstanding any other provision of law, payable to the court, for any violation of a lawful court order by a person, done without good cause or substantial justification. . . .
>
> Sanctions pursuant to this section shall not be imposed except on notice contained in a party's moving or responding papers; or on the court's own motion, after notice and opportunity to be heard. An order imposing sanctions shall be in writing and shall recite in detail the conduct or circumstances justifying the order.

Proof of service of notice of the motion was filed on December 22, 2025, and served by mail on December 5, 2025.

Movant requests sanctions in the amount of $1,500, as well as $110 for costs of filing and service, as well as $750 per month for three months that payments were due and unpaid since the date of the Court's Order, reflecting two pay periods per month between October and December, 2025.

The court finds that sanctions are appropriate under these circumstances and finds that $750 is an appropriate sanction to impose.

TENTATIVE RULING #3: THE MOTION IS GRANTED. AUTOZONE IS ORDERED TO PAY JUDGMENT CREDIT SOMMERS $750 AS A SANCTION WITHIN 30 DAYS OF SERVICE OF THE SIGNED ORDER. THE COURT IS INCLIINED TO INCREASE THE AMOUNT OF SANCTIONS IF A SIMILAR MOTION IS BROUGHT IN THE FUTURE DUE TO AUTOZONE'S NONCOMPLIANCE WITH THE ORDER.

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

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4.	**23CV1387**	**DEITZ TRUST V. CURTIS ET AL**
Leave to File Late Documents		

A default judgment was vacated by the Court following hearing on November 21, 2025. This motion pertains to Defendants' request to file a late pleading leading up to that hearing, which has already been decided by the Court's November 26, 2025, Order.

TENTATIVE RULING #4: THIS MOTION IS DISMISSED AS MOOT.

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

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5.	**24CV0717**	**AMERICAN EXPRESS NATIONAL BANK v. DEVORSS ET AL**
Entry of Judgment per Code of Civil Procedure § 664.6		

The parties to this collection action have executed a settlement agreement pursuant to Code of Civil Procedure § 664.6 and filed it with the Court on August 28, 2025. Declaration of Jane Brown, dated November 6, 2025, Exhibit A. The settlement agreement specified that the Court would retain jurisdiction over the matter. Id. at para. 6. The settlement agreement required Defendant to make specified payments which were not made. Id. at para. 7. Plaintiff now requests the Court to reduce the settlement agreement to a judgment, as authorized by Code of Civil Procedure § 664.6.

Code of Civil Procedure § 664.6 provides, in pertinent part:

> (a) If parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If the parties to the settlement agreement or their counsel stipulate in writing or orally before the court, the court may dismiss the case as to the settling parties without prejudice and retain jurisdiction over the parties to enforce the settlement until performance in full of the terms of the settlement.

Proof of service of notice of the hearing was filed on November 13, 2025.

There is no opposition to the motion in the Court's file.

TENTATIVE RULING #5: THE MOTION 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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6.	24CV2778	JEFFERSON CAPITAL SYSTEMS LLC v. HILDEBRAND
Motion to Deem Matters Admitted		

In this case involving collection on a loan, the Plaintiff served discovery on Defendant in the form of Requests for Admissions on June 2, 2025, with a July 7, 2025, deadline for a response. Declaration of Eric Marquez, dated November 13, 2025, ("Marquez Declaration"), para. 3. Defendant has not responded to Plaintiff's August 25, 2025, meet and confer letter or the discovery requests as of the time of the filing of this Motion. Marquez Declaration, para. 4.[1]

Code of Civil Procedure § 2033.280 addresses the failure to respond to requests for admissions:

> If a party to whom requests for admission are directed fails to serve a timely response, the following rules apply:
> (a) The party to whom the requests for admission are directed waives any objection to the requests, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:
> (1) The party has subsequently served a response that is in substantial compliance with Sections 2033.210, 2033.220, and 2033.230.
> (2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.
> (b) The requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction under Chapter 7 (commencing with Section 2023.010).
> (c) The court shall make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.220. It is mandatory that the court impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion.

Plaintiff further requests sanctions in the amount of $60 pursuant to Code of Civil Procedure section 2023.010 ("Misuses of the discovery processes include, but are not limited to ... (d) failing to respond or submit to an authorized method of discovery ... ") and Code of Civil Procedure § 2023.030. ("To the extent authorized by the Chapter governing any particular

[1] Plaintiff references the Requests for Admissions and the meet and confer letter as attachments to the Marquez Declaration; however, there are no attachments to the Declaration as filed with the Court. The Marquez Declaration recites the facts supporting the Motion and there is no opposition on file. Accordingly, the statements of counsel are sufficient for evidentiary purposes.

discovery method or any other provision of this title, the Court, after notice to any affected party, person or attorney, and after opportunity for hearing, may impose ... sanctions against anyone engaging in conduct that is a misuse of the discovery process ... "). In addition to these provisions, Code of Civil Procedure § 2033.280(c) makes it mandatory that the court impose a monetary sanction on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated a motion under that statute.

TENTATIVE RULING #6: THE MOTION IS GRANTED. DEFENDANT IS ORDERED TO PAY PLAINTIFF $60 AS A SANCTION WITHIN 30 DAYS OF SERVICE OF THE SIGNED ORDER.

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

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IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM, PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.

7.	**25CV1426**	**DRAEGER v. HOLGATE**
Change of Venue		

Defendant in this action for defamation and negligence is a resident of Amador County. This motion for change of venue was originally filed on June 24, 2025, but became moot when the matter was voluntarily dismissed without prejudice. Subsequently, the Court granted a motion to vacate the dismissal and Defendant now renews this motion for a change of venue.

The Motion is unopposed.

Code of Civil Procedure § 396b(a) requires this Court to transfer the action to the proper venue where the Defendant moves to transfer the action prior to filing a pleading responsive to the Complaint.

The court finds that Defendant is entitled to his reasonable attorney's fees and costs under Code of Civil Procedure § 396b, subdivision (b), particularly given Defendant's sought to stipulate to a change of venue to no avail and given that the facts appear to not be in reasonable dispute that Amador County is the proper venue.

Upon review of the declaration of Defendant's counsel, the court finds that 11 hours were reasonably expended by counsel at a reasonable billing rate of $495 per hour, totaling $5,445. Additionally, 5 hours were reasonably expended by counsel's paralegal at a reasonable average billing rate of $147.364, totaling $736.82. The court finds the claimed costs of $315.97 to be reasonable as well. Altogether, the court finds that Defendant is entitled to $6,497.79 in attorney's fees and costs.

TENTATIVE RULING #7: THE MOTION IS GRANTED. THE COURT AWARDS DEFENDANT $6,497.79 IN ATTORNEY'S FEES AND COSTS TO BE PAID WITHIN 30 DAYS OF SERVICE OF THE SIGNED ORDER.

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

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8.	**21CV0271**	**DEL ARROZ v. SHELDON, ET AL**
Motion to Dismiss		

The breach of contract Complaint in this action was filed on **August 10, 2020**. Defendant moved for a change of venue from Alameda County to El Dorado County, which was granted on **February 25, 2021**. Declaration of Karen Pine, dated December 21, 2025, ("Pine Reply Declaration"), Exhibit 2. The Answer was filed nearly a year later, on **January 5, 2022.**

Following the change of venue to El Dorado County, case management and settlement conferences were scheduled in El Dorado County Superior Court. On **March 8, 2022**, in Department 4, the Court set a trial date of **March 27, 2023**. A settlement conference on **February 15, 2023**, in Department 12 resulted in a **February 21, 2023**, Order in which the Court vacated the trial date, to be reset at the case management conference scheduled for **May 23, 2023**. At that **May 23, 2023**, in Department 4 the parties appeared and the Court continued the matter on its own motion. On **June 12, 2023**, in Department 4 there were no appearances, and the Court took a **July 17, 2023**, case management conference off calendar on its own motion, noting that there was an issue of venue between Cameron Park and South Lake Tahoe branches of the Court.

On **November 27, 2023**, a case management conference in Department 10 resulted in a settlement conference scheduled for **February 28, 2024**. That date was vacated due to the unavailability of the Court and the settlement conference was rescheduled to **June 6, 2024**. That date was vacated in an *ex parte* Minute Order dated **May 21, 2024**, "because the correct jurisdiction is the South Lake Tahoe Branch." The new settlement conference date was set for **July 17, 2024**, in Department 11.

That **July 17, 2024**, settlement conference was continued by stipulation. Plaintiff moved to change venue from South Lake Tahoe to Cameron Park in an *ex parte* motion on **July 11, 2024**. That motion was granted and a new case management conference date was set for **September 10, 2024**.

On **September 10, 2024**, in Department 10, the Court continued the case management conference to **December 3, 2024**. At that **December 3, 2024**, case management conference the parties represented that the case was close to settlement and requested a continuance, which was granted. At the subsequent case management conference on **April 14, 2025**, the Court set a new trial date for **January 20, 2026**.

On **December 9, 2025**, the Court, Department 9, granted Defendant's motion for a stay of discovery pending the hearing on this motion to dismiss.

Code of Civil Procedure § 583.310 provides: "An action shall be brought to trial within five years after the action is commenced against the defendant."

Plaintiff argues that the delay is excusable where "[b]ringing the action to trial, for any other reason, was impossible, impracticable, or futile." Code of Civil Procedure § 583.340(c).

> In deciding whether these exceptions are met, the court must consider "'all the circumstances in the individual case, including the acts and conduct of the parties and the nature of the proceedings themselves. [Citations.] The critical factor in applying these exceptions to a given factual situation is whether the plaintiff exercised reasonable diligence in prosecuting his or her case.' " (*Bruns,* at p. 730, 122 Cal.Rptr.3d 331, 248 P.3d 1185, quoting *Moran v. Superior Court* (1983) 35 Cal.3d 229, 238, 197 Cal.Rptr. 546, 673 P.2d 216.)
>
> The Law Revision Commission comment to section 583.340 states: "Under Section 583.340 the time within which an action must be brought to trial is tolled for the period of the excuse, regardless whether a reasonable time remained at the end of the period of the excuse to bring the action to trial.

Gaines v. Fid. Nat'l Title Ins. Co., 62 Cal. 4th 1081, 1100-1101 (2016).

Plaintiff argues that there has been consistent movement forward despite circumstances outside of Plaintiff's control that excuse **the 160-day overage between the five-year statute (August 10, 2025) and the trial date in January 2026**. Declaration of Greg Betchart, dated December 16, 2025 ("Betchart Declaration"). The Betchart Declaration, Exhibit A includes a detailed chart of chronological events in support of Plaintiff's Opposition.

First, Plaintiff cites the a "surplus of tolling days" in a chart on page 5 of Plaintiff's Opposition to this motion, which includes circumstances outside of Plaintiff's control.[1] This includes COVID (196 days) and the *ex parte* stay sought by Defendants between December 9, 2025, and the instant hearing date of January 2, 2026 (24 days).

Plaintiff further lists circumstances of "impossibility, impracticability, or futility", which includes May, 2022 through December, 2022, (210 days) while counsel for Plaintiff was unable to work due to a serious injury and Jeffrey Workman took over as counsel. Jeffery Workman became unavailable between January 2023-January 2024 (365 days) because of his mother's death and the hospitalization of his father in another state.

Plaintiff also argues that Defendants' motion to change venue to El Dorado County was unnecessary and contributed to the delay.

[1] COVID (196 days) and the *ex parte* stay sought by Defendants between December 9, 2025, and the instant hearing date of January 2, 2026 (24 days).

Finally, Plaintiff cites a litany of cases favoring a policy to allow cases to be determined on their merits. Opposition at pp.7-10; Code of Civil Procedure § 583.130 ("[T]he policy favoring trial or other disposition of an action on the merits are generally to be preferred over the policy that requires dismissal for failure to proceed with reasonable diligence in the prosecution of an action in construing the provisions of this chapter.")

Defendants take issue with Plaintiff's reliance on Code of Civil Procedure § 583.340, citing Gaines v. Fid. Nat'l Title Ins. Co., 62 Cal. 4th 1081 (2016), which discussed the standards for application of that statute:

> The plaintiff bears the burden of proving that the circumstances warrant application of the ... exception. [Citation.] ... The trial court has discretion to determine whether that exception applies, and its decision will be upheld unless the plaintiff has proved that the trial court abused its discretion. [Citations.]" (*Bruns, supra,* 51 Cal.4th at p. 731, 122 Cal.Rptr.3d 331, 248 P.3d 1185.)

Gaines v. Fid. Nat'l Title Ins. Co., 62 Cal. 4th 1081, 1100 (2016).

In Gaines, the central issue was whether a partial stay of the proceedings to allow time for mediation was effective to toll the statute, and whether, apart from the stay, any additional circumstances constituted sufficient "impossibility, impracticability, or futility" to prevent dismissal of the case. As in this case, there was extensive pre-trial activity that prolonged the action. The Plaintiff in that case cited various circumstances supporting the application of Section 583.340.

Following are the principles enunciated by the Court in the Gaines case that should guide a trial court' analysis:

1. Plaintiff's lack of control over the circumstances.

> [C]ase law . . . has long held that "[f]or the tolling provision of section 583.340(c) to apply, there must be 'a period of impossibility, impracticability or futility, *over which plaintiff had no control,*' " because the statute is designed to prevent *avoidable* delay. (*Sanchez v. City of Los Angeles, supra,* 109 Cal.App.4th at p. 1273, 135 Cal.Rptr.2d 869, quoting *New West Fed. Savings & Loan Assn. v. Superior Court* (1990) 223 Cal.App.3d 1145, 1155, 273 Cal.Rptr. 37; accord, *Bruns, supra,* 51 Cal.4th at p. 731, 122 Cal.Rptr.3d 331, 248 P.3d 1185; *Christin v. Superior Court* (1937) 9 Cal.2d 526, 532, 71 P.2d 205; *Tamburina, supra,* 147 Cal.App.4th at p. 328, 54 Cal.Rptr.3d 175.)

Gaines at 1102. *See also*, Revised Recommendation Relating to Dismissal for Lack of Prosecution, 17 Cal. Law Revision Com. Rep. (1984) at pp. 935-936.

The Court noted that the Plaintiff could have withdrawn from voluntary mediation, requested that the stay be vacated, and/or could have requested reinstatement of the original trial date or priority for a new trial date.

2. Procedural delays

As in this case, the Gaines court noted that there had been a series of judicial reassignments that delayed the proceedings.

> "A plaintiff has an obligation to monitor the case in the trial court, to keep track of relevant dates, and to determine whether any filing, scheduling, or calendaring errors have occurred." (*Jordan, supra,* 182 Cal.App.4th at p. 1422, 107 Cal.Rptr.3d 5.) After mediation concluded, it was Gaines's duty to seek an order from the trial court lifting the stay, if necessary, and rescheduling the trial date. (Cf. *Howard, supra,* 10 Cal.4th at p. 434, 41 Cal.Rptr.2d 362, 895 P.2d 469.) There is no evidence that Gaines attempted to do either . . . . Although there were a series of judicial reassignments, Gaines appeared before Judge Kalin, sitting temporarily for Judge Lee, on July 16, 2008. There is no reason apparent from the record why Judge Kalin could not have handled these requests.

Gaines v. Fid. Nat'l Title Ins. Co., 62 Cal. 4th 1081, 1103–04 (2016).

> In short, the trial court was within its discretion to find that the conduct of mediation and partial stay of proceedings were not so exceptional, extenuated, or beyond Gaines's control as to qualify as a circumstance of impossibility, impracticability, or futility under section 583.340(c). Accordingly, the case was properly dismissed under the mandatory provisions of section 583.360.

Id. at 1105.

Analysis

I. Change of Venue to El Dorado County / COVID-related Delays.

This case was not brought within the time frame that entitled cases filed before April, 6, 2020, to legislatively mandated extensions of time for bringing actions. Nevertheless, Plaintiffs claim 196 days of delay associated with COVID while the case was pending in Alameda County, particularly during the process of transferring the case to El Dorado County.

In December 2020, Defendants requested a stipulation to transfer the case to El Dorado County based on Code of Civil Procedure § 395(a), which states that: "Except as otherwise provided by law and subject to the power of the court to transfer actions or proceedings as provided in this title, the superior court in the county where the defendants or some of them reside at the commencement of the action is the proper court for the trial of the action." *See*

also, Brown v. Superior Ct., 37 Cal. 3d 477, 483 (1984). Pine Reply Declaration, Exhibit 1. In requesting a stipulation to transfer venue in 2020, Defendants noted that the matter was a "transitory" action for the purposes of venue,[1] and that neither of the individual Defendants, Tyler Sheldon and Michael Turner, resided in Alameda County, and that El Dorado County is the principal place of business for corporate Defendants ProEquity Realty Partners 2013 and the principal office of Venezia Blvd LLC.

Plaintiffs resisted the change of venue because the transactions that were the subject of the litigation occurred in Alameda County and because it would be inconvenient for Plaintiffs to litigate the matter in El Dorado County, but the Alameda County Superior Court ultimately sided with Defendants in its February 2021 Minute Order. Pine Reply Declaration, Exhibit 2.

On March 9, 2021, Defendants transmitted the proposed Order to Plaintiffs for review and approval. No response was received from Plaintiffs' attorneys, so on March 23, 2021, Defendants transmitted the draft Order to the Court to be entered. Pine Reply Declaration, para. 5, Exhibit 3. The Order was not entered by the Court until September 9, 2021. Id. at para. 8, Exhibits 5 and 6. According to Plaintiffs, the Court lost the proposed Order and it was not signed by the Court until September, 2021, notwithstanding Plaintiff's counsels' regular attempts to locate a final transfer Order in the Court clerk's office. Betchart Declaration, Exhibit A.

The Court declines to count this time against the statutory period. Plaintiff's counsel claims to have repeatedly communicated with the Court about the missing Order for transfer beginning at the end of March, 2021, but did not provide the Court with a new Order to sign until September, 2021.

II. Pre-Trial Procedures

As noted above, there were multiple pre-trial conferences scheduled which included requests for continuances by the parties. In July, 2024, the parties stipulated to continue the case management conference and to re-open discovery. The Plaintiff did not attempt to toll the five-year period.

Plaintiff did not commence discovery until September, 2024. Pine Reply Declaration, para. 9; Betchart Declaration, Exhibit A. Discovery as continuing as of April, 2025, according to Plaintiffs' April 15, 2025, Case Management Statement.

[1] Defendants noted the distinction between a "transitory action", where the man relief sought in the action is personal and venue could be located anywhere the cause of action arises or the defendants reside, and "local action", where the main relief relates to real property interests and is necessarily limited to the location of the real property for purposes of venue.

At no time during the pendency of the action in El Dorado County did plaintiff attempt to advance the trial date or stipulate to toll the five-year statute.

III. Unavailability of Counsel

Part of Plaintiff's calculation of excusable delays includes unavailability of counsel due to serious injury and death in the family. The Court declines to include this time in its analysis because the Plaintiff could have selected other counsel if current counsel was indisposed for such prolonged periods of time, and counsel for Plaintiff was bound to withdraw from representation "if the lawyer's mental or physical condition renders it unreasonably difficult to carry out the representation effectively; . . ." California Rules of Professional Conduct, Rule 1.16.

In conclusion, Code of Civil Procedure § 583.340(c) is only available to save Plaintiff's case from the five-year statue for circumstances that are excusable because "[b]ringing the action to trial, for any other reason, was impossible, impracticable, or futile." Plaintiff had multiple opportunities along the way to shorten the delays presented and did not act to do so.

TENTATIVE RULING #8: DEFENDANT'S MOTION TO DISMISS 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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9.	**22CV1459**	**SERRANO EL DORADO OWNERS' ASSOC. v. SOLOMON ET AL**
Petition for Judgment of Assignee		

This Petition was filed with the Court on December 18, 2025. The proof of service of notice of the Petition was filed on December 30, 2025, indicating that service of notice of the Petition was placed into the mail on December 29, 2025, from Petaluma, California. The caption on the proof of service indicates a January 2, 2026, hearing date, but the first paragraph of the notice states that the hearing will be held on January 23, 2026.

Serving notice of a hearing by depositing notice of the hearing date two business days before the hearing is not sufficient notice. Code of Civil Procedure § 1005(b). California Rules of Court, Rule 3.1300(a). Filing a proof of service with the Court one business day before the hearing date is similarly defective. California Rules of Court, Rule 3.1300(c). The notice itself is defective because the caption and the text of the notice bear two different dates. Local Rules of the Superior Court of El Dorado Count, Rule 4.00.06. Even if the notice was not defective, this timing does not afford the noticed parties an opportunity to file responsive pleadings.

TENTATIVE RULING #9: THE MATTER IS CONTINUED TO 8:30 A.M. ON FEBRUARY 13, 2026, IN DEPARTMENT NINE, TO ALLOW PETITIONER AN OPPORTUNITY TO SERVE NOTICE OF THE HEARING IN COMPLIANCE WITH APPLICABLE LAWS.

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.	**24CV2747**	**DEMEYER** v. **PALASHEWSKI**
Demurrer		

Plaintiff/Cross-Defendant demurs to the Cross-Complaint filed by Defendant/Cross-Complainant on July 24, 2025, based on Code of Civil Procedure § 430.10(e):

> The party against whom a complaint or cross-complaint has been filed may object, by demurrer . . . to the pleading on any one or more of the following grounds:
>
> * * *
>
> (e) The pleading does not state facts sufficient to constitute a cause of action.

Reading the Cross-Complaint in the most liberal manner in Cross-Complainant's favor, the pleading asserts causes of action described as Apportionment of Fault, Declaratory Relief, Indemnification and "Other".

As to Apportionment of Fault, there is only one Cross-Defendant named in the Cross-Complaint. As such, this assertion is not intelligible.

The Declaratory Relief portion of the Cross-Complaint addresses Defendant's arguments that the service of Summons was improper, an issue which was addressed in a separate motion and was resolved in Plaintiff's favor at the hearing of November 14, 2025. It further alleges that Plaintiff "caused all actions on herself with her wrong doings."

The box marked "Indemnification" in the caption portion of the pleading form is checked, but there are no other facts or legal arguments presented in the body of the document on this issue.

Cross-Complainant checked the box on the pleading form marked "Other" but did not specify any other cause of action in that space.

Standard of Review

> A demurrer tests the sufficiency of a complaint by raising questions of law. (*Rader Co. v. Stone* (1986) 178 Cal.App.3d 10, 20, 223 Cal.Rptr. 806.) In determining the merits of a demurrer, all material facts pleaded in the complaint and those that arise by reasonable implication, but not conclusions of fact or law, are deemed admitted by the demurring party. (*Moore v. Conliffe, supra,* 7 Cal.4th at p. 638, 29 Cal.Rptr.2d 152, 871 P.2d 204; *Interinsurance Exchange v. Narula, supra,* 33 Cal.App.4th at p. 1143, 39 Cal.Rptr.2d 752.) The complaint must be construed liberally by drawing reasonable inferences from the facts pleaded. (*Flynn v. Higham* (1983) 149 Cal.App.3d 677, 679, 197 Cal.Rptr. 145.)

Rodas v. Spiegel, 87 Cal. App. 4th 513, 517 (2001).

The Court finds that the Cross-Complaint does not state facts sufficient to constitute a cause of action. Code of Civil Procedure § 430.10(e).

TENTATIVE RULING #10: THE DEMURRER IS SUSTAINED WITH LEAVE TO AMEND WITHIN 10 DAYS OF SERVICE OF THE SIGNED ORDER.

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

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