

**1. VAN T. VU ET. AL. v. PAUL FEITSER ET. AL.**

**PC20180223**

**Cross-Defendant Crossroad Venture Group, Inc.'s Demurrer to the Third Amended Cross-Complaint**

Cross-Defendant Crossroad Venture Group, Inc. (hereinafter "Crossroad") filed its demurrer to the Third Amended Cross-Complaint on September 22, 2022. Concurrently therewith, Defendant filed Cross-Defendant Crossroad Ventures Group, Inc.'s Memorandum of Points and Authorities in Support of Its Demurrer to the Third Amended Cross-Complaint, a Declaration of Timothy S. Lam in Support of Cross-Defendant Crossroad Ventures Group, Inc.'s Demurrer to the Third Amended Cross-Complaint, and a Request for Judicial Notice in Support of Cross-Defendant's Demurrer to the Third Amended Cross-Complaint. All documents were served by mail on September 20<sup>th</sup>.

Cross-Complainants filed their Points and Authorities by Cross-Complainants Paul Feitser and Stix Development in Opposition to Demurrer by Cross-Defendant Crossroad Ventures Group, Inc. to Third Amended Cross-Complaint; Request for Leave to Amend if Demurrer Sustained; Statement of Proposed Amendment, Declaration of Mark A. Pruner in Opposition to Demurrer by Cross-Defendant Crossroad Ventures Group, Inc. to Third Amended Cross-Complaint by Stix Development and Paul Feitser and a Request for Judicial Notice. The aforementioned documents were filed on October 7<sup>th</sup> and served the same day.

Crossroads filed and served its Reply to Cross-Complainants Paul Feitser's and Stix Development's Opposition to the Demurrer to the Third Amended Cross-Complaint on October 14<sup>th</sup>.

Requests for Judicial Notice

Crossroad asks the court to take judicial notice of the following: (1) Plaintiffs Verified First Amended Complaint filed on August 15, 2020; (2) Cross-Complainants Paul Feitser's and Stix Development's Third Amended Cross-Complaint deemed filed and served on July 29, 2022; and (3) The court's September 24, 2021 Ruling on Cross-Defendants James Esway's and Crossroad Venture Group, Inc.'s Demurrer to the First Amended Cross-Complaint.

Cross-Complainants ask the court to take judicial notice of the Verified First Amended Complaint filed on August 17, 2022 and the Third Amended Cross-Complaint filed on August 11, 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 "[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." Cal. Ev. Code § 452.

12-23-22  
Tentative Rulings  
Dept. 9

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.

The requests of both parties seek judicial notice of documents that are part of the court’s file. The parties each timely filed their requests for judicial notice. Copies of the documents at issue were attached and served on the court and all other parties. Accordingly, all requests for judicial notice by both parties are granted.

Demurrer

A demurrer raises only issues of law, not fact, regarding the form and content of the pleadings of the opposing party. Cal. Civ. Pro. §§ 422.10 and 589. It is not the function of the demurrer to challenge the truthfulness of the complaint; instead, for the purposes of testing the sufficiency of the cause of action, the demurrer admits the truth of all material facts in the pleading. Aubry v. Tri-City Hosp. Dist., 2 Cal. 4<sup>th</sup> 962, 966-967 (1992); Serrano v. Priest, 5 Cal. 3d 584 (1971); Adelman v. Associated Int’l Ins. Co., 90 Cal. App. 4<sup>th</sup> 352, 359 (2001). Notwithstanding the foregoing, “contentions, deductions, or conclusions of fact or law....” are not to be taken as true. People ex rel. Harris v. Pac Anchor Transp., Inc., (2014) 59 Cal.4th 772, 777.

A demurrer can only challenge defects that appear on the face of the pleading and other matters that are judicially noticeable; the challenging party cannot make allegations of fact to the contrary. Blank v. Kirwan, 39 Cal. 3d 311, 318 (1985); Donabedian v. Mercury Ins. Co., 116 Cal. App. 4<sup>th</sup> 968 (2004); Harboring Villas Homeowners Assn. v. Sup. Ct., 63 Cal. App. 4<sup>th</sup> 426 (1998). Failure to plead the ultimate facts supporting a cause of action subjects the complaint to a demurrer. Cal. Civ. Pro. § 430.10(e); Berger v. Cal. Ins. Guar. Ass’n, 128 Cal. App. 4<sup>th</sup> 989, 1006 (2005).

Crossroad argues that the first and second causes of action in the Third Amended Cross-Complaint fail to state facts sufficient to constitute a cause of action on the basis that equitable indemnity claims are only viable between joint and several tortfeasors who are responsible for the Plaintiff’s damages. Crossroad admits the Third Amended Cross-Complaint does contain new factual allegations; however, those allegations fail to provide any basis on which Crossroad is jointly and severally liable with Cross-Complainants for the damages suffered by Plaintiff. Crossroad asks that its demurrer be sustained without leave to amend as this is Cross-Complainant’s third attempt to sufficiently assert its causes of action and it has failed to do so.

Cross-Complainants note that, while the pleading attacked is the Third Amended Cross-Complaint, only one other demurrer was previously filed. Cross-Complainants argue that the First Amended Complaint does allege claims sounding in tort, not solely breach of contract. Even if the First Amended Complaint were to allege only breach of contract claims, that does not bar Cross-Complainant’s claims for indemnity. According to Cross-Complainants, Crossroad has admitted

12-23-22  
Tentative Rulings  
Dept. 9

that it owed duties to Plaintiffs arising out of the transaction alleged in the First Amended Complaint. Cross-Complainants assert that defendant misread *BFGC Architects Planners, Inc. v. Forcum/Mackey Construction, Inc., et al*, 119 Cal. App. 4<sup>th</sup> 848 (2004). Finally, if the demurrer is sustained, Cross-Complainants ask that they be granted leave to amend.

Crossroad, in its reply, reiterates its argument that Cross-Complainants fail to establish any way in which Crossroad is a joint tortfeasor. Crossroad submits that, even if there was some duty owed by them as an agent of Plaintiffs, Cross-Complainants still fail to allege there was any breach of that duty. According to Crossroad, Plaintiffs are seeking damages such as money spent for fees and expenses associated with the failed sale of the project, money spent to purchase materials, equipment and supplies, loss of business income from the business that Plaintiffs intended to start, and money spent for architectural services and construction services. These damages, according to Crossroad, are predicated on Cross-Complainants fraudulent representations to Plaintiffs regarding their contractor's license.

It is a well-settled principle of the law that equitable indemnity is *only* available among tortfeasors who are jointly and severally liable for the plaintiff's indivisible injury. Fremont Reorganizing Corp. v. Faigin, 198 Cal. App. 4<sup>th</sup> 1153; Leko v. Cornerstone Bldg. Inspection Service, 86 Cal.App.4<sup>th</sup> 1109, 1115 (2001); Munoz v. Davis, 141 Cal.App.3d 420, 425 (1983). Thus, "[t]he elements of a cause of action for indemnity are (1) a showing of fault on the part of the indemnitor and (2) resulting damages to the indemnitee for which the indemnitor is contractually or equitably responsible." Bailey v. Safeway, Inc., 199 Cal. App. 4<sup>th</sup> 206, 217 (2011). In other words, "...there must be some basis for tort liability against the proposed indemnitor," and the resulting damage to Plaintiff must have been jointly caused by both tortfeasors. *Munoz, supra*, 141 Cal.App.3d at p. 425.

With the facts of the Third Amended Cross-Complaint taken as true, Cross-Complainants have established, at most, that there was a duty owed by Crossroad to Plaintiffs. What they fail to establish is that there was any breach of that duty. There are no facts in the pleading to show in what way the duty was breached. Further, there are no facts to support a causal connection between the alleged breach, whatever it may be, and any damages suffered by Plaintiffs. Much less, there are no facts to show that any alleged breach by Cross-Complainants caused the same damages for which Cross-Complainants are being sued. Without a showing of breach, without a showing of causation, and without a showing of joint liability for the same damages, no claim of equitable indemnity can be made.

While it is true that Cross-Complainants added additional information to the third amended cross complaint, only some of that information is factual while much of it remains conclusory statements without any factual explanation or support. For example, paragraph 15 of the third amended cross complaint states in pertinent part:

Such negligent and careless advice, guidance and services are exemplified the [sic] August 15 to 21, 2017 communications relative to advising plaintiffs to end their due diligence period, the August 7, 2017 email and communications on the subject of construction plans and performance under the purchase and sale agreement, the various meetings with Cross-Complainants at the Property to give direction on the

12-23-22  
Tentative Rulings  
Dept. 9

construction, input into the November 12, 2017 responses to a letter from Cemo in relation to performance under the purchase and sale agreement, and input into the November 29, 2017 construction progress memo, among other negligent and careless actions with caused plaintiffs to suffer damages. 3<sup>rd</sup> Am. Cross Compl., 6:25-7:7.

Cross-Complainants provide the conclusory statement “among other negligent and careless actions” but they don’t explain how any of the actions in the preceding list were negligent or careless. Further, there is no explanation as to how any of these actions had a causal connection with the damages suffered by Plaintiffs such that the injury is indivisible and Crossroad therefore needs to contribute to the payment of those damages. The same goes for the allegations added to paragraph 14 which state that Crossroad provided Cross-Complainants instruction and guidance on their work and then goes on to conclude that the advice was negligent and careless as seen in a list of referenced documents. Once again, though, there is no explanation as to how the advice in those documents was either negligent or careless and how such advice caused damage to Plaintiffs.

Cross-Complainants were correct when they stated a pleading “...is primarily a notice document.” Opp. to Demurrer, pg. 11:10. As written, the court cannot surmise, and presumably nor can Crossroad, what about the actions of Crossroad was negligent and how, if at all, that negligence resulted in the damages sought by Plaintiffs in the underlying action. Therefore, Crossroad’s demurrer to the first and second causes of action to the Third Amended Cross-Complaint is sustained.

When a complaint fails to state facts sufficient to constitute a cause of action, and where there is no reasonable possibility that the defect can be cured by amendment, the demurrer should be sustained without leave to amend. Blank, *supra* 39 Cal. 3d at 318. The party defending its pleading against demurrer bears the burden of proving a reasonable possibility exists that the pleading can be amended in such a way as to remedy its defects. *Goodman v. Kennedy*, 18 Cal. 3d 335, 349 (1976); *See also Blank v. Kirwan*, 39 Cal. 3d 311 at 318 (1985).

In support of their request for the court to deny leave to amend, Crossroad relies on Civil Procedure Section 430.41(e)(1) which states in pertinent part, “[i]n response to a demurrer...a cross complaint shall not be amended more than three times, absent an offer to the trial court as to such additional facts to be pleaded that there is a reasonable possibility the defect can be cured to state a cause of action.” Cal. Civ. Pro. § 430.41(e)(1). However, the court finds this section to be inapplicable as the pleading has only been amended twice, even taken into account the amendment resulting from the meet and confer efforts of the parties.

Ultimately, the Second Amended Cross-Complaint was filed in response to the court’s order sustaining the demurrer to the First Amended Cross Complaint; then the Third Amended Cross-Complaint was filed in response to Cross-Defendants’ meet and confer efforts in preparation for the filing of their demurrer. Thus, only two rounds of amendments have occurred in the face of a demurrer. None of the parties have addressed the reason the First Amended Cross-Complaint was filed. If was not an amendment done in an attempt to cure its failure to state facts sufficient to constitute a cause of action then it is not an amendment within the purview of Section 430(e)(1).

12-23-22  
Tentative Rulings  
Dept. 9

Nonetheless, even without Section 430(e)(1), Cross-Complainants bear the burden of showing that the pleading can be amended to state facts sufficient to constitute a cause of action. Cross-Complainants have indicated that they can amend the complaint to be “clearer and more specific as to the ultimate facts” but again, this is a conclusory statement and Cross-Complainants have not provided the facts themselves which could be plead to cure the defect. While only two rounds of amendments have occurred, this is the third time Cross-Complainants have attempted to plead their case against Cross-Defendants and failed to adequately do so. Further, it has been over a year since the demurrer to the First Amended Cross-Complaint was sustained. Cross-Complainants have had an abundance of time to conduct discovery in the underlying action and provide a factual basis for their claims against Cross-Defendants, yet they have failed to do so. Accordingly, leave to amend is denied.

**Demurrer of Omni Structures & Management, Inc.**

On September 27, 2022, Cross-Defendant Omni Structures & Management, Inc. (hereinafter “Omni”) filed and served the following documents: Omni Structures & Management, Inc.’s Notice of Demurrer to Third Amended Cross-Complaint of Paul Feitser and Stix Development; Demurrer to Third Amended-Cross Complaint; Memorandum of Points and Authorities in Support of Omni Structures & Management, Inc.’s Demurrer to Third Amended Cross-Complaint of Paul Feitser and Stix Development; and Declaration of Anthony P.J. Valenti in Support of Omni Structures & Management, Inc.’s Demurrer to Third Amended Cross-Complaint of Paul Feitser and Stix Development.

In response to Omni’s moving papers, Cross-Complainants filed their Memorandum of Points and Authorities in Opposition to Demurrer by Cross-Defendant Omni Structures & Management, Inc. to Third Amended Cross-Complaint; Request for Leave to Amend if Demurrer Sustained; Statement of Proposed Amendment; Declaration of Mark A. Pruner in Opposition to Demurrer, and Request for Judicial Notice. All responsive documents were filed and served on October 7, 2022.

On October 14<sup>th</sup> Omni filed and served its Reply to Paul Feitser’s and Stix Development’s Opposition to Demurrer to Third Amended Cross-Complaint of Paul Feitser and Stix Development, and their Notice of Errata.

Request for Judicial Notice

Cross-Complainants ask the court to take judicial notice of the Verified First Amended Complaint filed on August 17, 2022, and the Third Amended Cross-Complaint filed on August 11, 2022. Utilizing the same analysis as stated above, the court grants Cross-Complainants’ Request for Judicial Notice.

Demurrer

Omni demurrers to the first and second causes of action of the Third Amended Cross-Complaint. As stated previously, a demurrer raises only issues of law, not fact, regarding the form and content of the pleadings of the opposing party. Cal. Civ. Pro. §§ 422.10 and 589. It is not the function of the demurrer to challenge the truthfulness of the complaint, instead, for the

12-23-22  
Tentative Rulings  
Dept. 9

purposes of testing the sufficiency of the cause of action, the demurrer admits the truth of all material facts in the pleading. Aubry v. Tri-City Hosp. Dist., 2 Cal. 4<sup>th</sup> 962, 966-967 (1992); Serrano v. Priest, 5 Cal. 3d 584 (1971); Adelman v. Associated Int'l Ins. Co., 90 Cal. App. 4<sup>th</sup> 352, 359 (2001). Notwithstanding the foregoing, "contentions, deductions, or conclusions of fact or law...." are not to be taken as true. People ex rel. Harris v. Pac Anchor Transp., Inc., (2014) 59 Cal.4th 772, 777.

A demurrer can only challenge defects that appear on the face of the pleading and other matters that are judicially noticeable, the challenging party cannot make allegations of fact to the contrary. Blank v. Kirwan, 39 Cal. 3d 311, 318 (1985); Donabedian v. Mercury Ins. Co., 116 Cal. App. 4<sup>th</sup> 968 (2004); Harboring Villas Homeowners Assn. v. Sup. Ct., 63 Cal. App. 4<sup>th</sup> 426 (1998). Failure to plead the ultimate facts supporting a cause of action subjects the complaint to a demurrer. Cal. Civ. Pro. § 430.10(e); Berger v. Cal. Ins. Guar. Ass'n, 128 Cal. App. 4<sup>th</sup> 989, 1006 (2005).

As with Crossroad, Omni demurs to the allegations of "comparative indemnity and declaratory relief" and "total equitable indemnity and declaratory relief." Both of which are essentially claims for equitable indemnity. Omni argues the Third Amended Cross Complaint provides only conclusory statements as to Omni's alleged negligence and it fails to establish Omni as a joint and several tortfeasor. Further, Omni points out that Plaintiffs are asserting claims for breach of contract against Cross-Complainants, such claims would preclude Cross-Complainants from recovering against them in tort as California law does not permit apportionment for damages for breach of contract. Omni points to their meet and confer efforts with Cross-Complainants and notes that even at that point, Cross-Complainants could not explain the basis for their claim against Omni other than pointing to Exhibit C of the Third Amended Cross-Complaint, though there is no Exhibit C to the Third Amended Cross-Complaint and, if counsel is referring to Exhibit C of the Purchase and Sale Agreement, the Exhibit does not support any claim against Omni.

In response to Omni's Demurrer, Cross-Complainants rely on largely the same arguments that they did in response to the Demurrer of Crossroad. Cross-Complainants point to the fact that although this is the third amended filing, this is only the second attack by demurrer. Cross-Complainants point to the redline draft of the Third Amended Cross-Complaint to highlight the facts added to the most recent draft of the document, namely in paragraphs 15, 16 and 18. They ask that if the demurrer is sustained, they be given leave to amend to clarify the pleading.

Omni's reply to the opposition reiterates their position that Cross-Complainants have failed to allege ultimate facts which would give rise to their liability. They argue that even the opposition fails to provide such facts. Further, Omni notes that it is true this is the second demurrer, but it is still the third amended pleading because the second one was amended as a result of extensive meet and confer efforts between the parties.

The causes of action at issue here are the same as those above. The court reiterates the law regarding equitable indemnity is as follows: Equitable indemnity is only available among tortfeasors who are jointly and severally liable for the plaintiff's indivisible injury. Fremont

12-23-22  
Tentative Rulings  
Dept. 9

Reorganizing Corp. v. Faigin, 198 Cal. App. 4<sup>th</sup> 1153; Leko v. Cornerstone Bldg. Inspection Service, 86 Cal.App.4<sup>th</sup> 1109, 1115 (2001); Munoz v. Davis, 141 Cal.App.3d 420, 425 (1983). Thus, “[t]he elements of a cause of action for indemnity are (1) a showing of fault on the part of the indemnitor and (2) resulting damages to the indemnitee for which the indemnitor is contractually or equitably responsible.” Bailey v. Safeway, Inc., 199 Cal. App. 4<sup>th</sup> 206, 217 (2011). In other words, “...there must be some basis for tort liability against the proposed indemnitor,” and the resulting damage to Plaintiff must have been jointly caused by both tortfeasors. *Munoz, supra*, 141 Cal.App.3d at p. 425.

The allegations against Omni are virtually identical to those against Crossroad. According to the Third Amended Cross-Complaint, “...plaintiffs sought out and obtained real estate, construction, planning, floor plan and layout, development, business, and other professional advice, guidance and services from cross-defendant Omni...” and Omni “...communicated and engaged with Cross-Complainants, or one of the, as representatives and agents of plaintiffs in directing, and providing input into, the work of Cross-Complainants in developing and constructing the Property. In so acting, cross-defendants Omni communicated, coordinated, and acted in concert with cross-defendant Crossroad...” 3<sup>rd</sup> Am. Cross Cmplnt. Pg. 6:12-25. The pleading goes on to state that Omni’s “negligent and careless advice, guidance and services” are exemplified in certain referenced documents. However, there are no facts to bridge the gap from the assertion that Omni gave advice and services, to the assertion that the advice and services were negligent and careless. Moreover, the cross-complaint is wholly devoid of any facts to support a claim that Omni’s actions gave rise to a single, indivisible injury suffered by Plaintiffs as a result of the actions of *both* Omni and Cross-Complainants. The factual basis establishing breach and causation are necessary to make a prima facie case of equitable indemnity. Without facts to support either of those elements, Omni’s Demurrer to the Third-Amended Cross-Complaint must be sustained.

Once again, as stated above, when a complaint fails to state facts sufficient to constitute a cause of action, and where there is no reasonable possibility that the defect can be cured by amendment, the demurrer should be sustained without leave to amend. Blank, supra 39 Cal. 3d at 318. The party defending its pleading against demurrer bears the burden of proving a reasonable possibility exists that the pleading can be amended in such a way as to remedy its defects. Goodman v. Kennedy, 18 Cal. 3d 335, 349 (1976); *See also* Blank v. Kirwan, 39 Cal. 3d 311 at 318 (1985).

Here, Cross-Complainants have filed three separate pleadings (the first amended, the second amended and now the third amended) and they have yet to provide any facts supporting their allegations against Omni. The burden of proof rests with them to show how the pleading can be amended to survive any future attack by demurrer. Cross-Complainants have not met that burden. Neither their opposition nor the meet and confer excerpts provided by Omni show any real clarification regarding the allegations against Omni. Accordingly, leave to amend is denied.

**TENTATIVE RULING #1: ALL REQUESTS FOR JUDICIAL NOTICE ARE GRANTED. CROSS-DEFENDANT CROSSROAD VENTURES GROUP, INC.’S DEMURRER TO THE THIRD AMENDED CROSS-COMPLAINT IS**

12-23-22  
Tentative Rulings  
Dept. 9

**SUSTAINED WITHOUT LEAVE TO AMEND. CROSS-DEFENDANT OMNI STRUCTURES & MANAGEMENT, INC.'S DEMURRER TO THIRD AMENDED CROSS-COMPLAINT IS SUSTAINED WITHOUT LEAVE TO AMEND. NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL. RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999). 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 REMOTELY, CONTACT THE CLERK'S OFFICE AT (530) 621-5867 FOR ZOOM LOGIN INFORMATION.**



**Defendants Jamil Nouhi and Sepideh Ghobadian's Demurrer to Plaintiffs' Complaint**

On August 26, 2022, Defendants Jamil Nouhi and Sepideh Ghobadian (herein "Defendants") filed and served their Demurrer to Plaintiffs' Complaint, Memorandum of Points and Authorities in Support of Defendants' Demurrer, Notice of Demurrer and Demurrer to Plaintiffs' Complaint, and Declaration of Demurring or Moving Party Regarding Meet and Confer.

Plaintiffs oppose the demurrer by filing Plaintiffs' Opposition to Defendants' Demurrer to Complaint, Declaration of Cruz Rocha in Support of Plaintiffs' Oppositions to Defendants' (1) Motion to Strike Portions of the Complaint, and (2) Demurrer to Plaintiffs' Complaint, and an Appendix of Exhibits in Support of Plaintiffs' Oppositions to Defendants' (1) Motion to Strike Portions of the Complaint, and (2) Demurrer to Plaintiffs' Complaint. All opposition documents were filed and served on September 15<sup>th</sup>.

Defendants' Reply to Plaintiffs' Opposition to Defendants' Demurrer and Declaration of Vilma Lopez in Support of Defendants' Reply, were both served on September 21<sup>st</sup> and filed a day later on the 22<sup>nd</sup>.

Defendants generally demurrer to the entire complaint on the basis that it fails to state facts sufficient to constitute a cause of action. In addition, they specifically demurrer to the fourth cause of action for Failure to Disclose Material Facts, and the fifth cause of action for Concealment Against Sellers. Both special demurrers are made on the basis that causes of action four and five fail to state facts sufficient to constitute a cause of action and are uncertain.

According to the complaint, this matter stems from Plaintiffs' purchase of a residence in El Dorado Hills that occurred in November of 2019. Comp.¶ 10, 14. The complaint states that Defendants disclosed that rainwater had seeped through the backyard door and damaged the wood floor. It also states that tile had been replaced in the master bathroom and kitchen. Comp.¶ 12-13. The complaint alleges it did not disclose any other instances of water intrusion. *Id.* In February of 2021, Plaintiffs discovered that all of the windows on the second floor allowed for water intrusion and repairs had been made to the window in the family room which had leaked during a heavy rainstorm. Comp.¶ 15. Plaintiffs list a multitude of repairs to the home that they claim would have put Defendants on notice of the leaks. Comp.¶ 17. The complaint asserts the following claims as to Defendants: Breach of Written Contract, Failure to Disclose Material Facts, and Concealment.

Defendants argue the facts as stated in the complaint cannot establish actionable misrepresentation, which is an element of a claim for fraud. Defendants note that the complaint does allege Sellers knew of the water intrusion and failed to disclose it; however they argue, this is a conclusory statement based only on the fact that repairs had been made prior to Plaintiffs' purchase of the home.

Defendants argue the complaint fails to establish facts that show justifiable reliance, another element of a fraud claim. Defendants cite Civil Code § 2079.5 which vests prospective buyers with a duty to exercise reasonable care to protect him or herself. The complaint states that Plaintiffs say they relied on the disclosure statement; however, Defendants point to "multiple sections" within the inspections of the property that indicate water intrusion.

12-23-22  
Tentative Rulings  
Dept. 9

Defendants claim the Plaintiffs have not plead fraud with the requisite specificity as a claim for fraud is subject to a heightened pleading requirement. Again, the complaint points to the repairs and states that such repairs would have put Defendants on notice of the issue, but not that Defendants actually had notice of the water intrusion and failed to disclose it.

Finally, Defendants argue that the complaint is vague and ambiguous and does not comply with California Rule of Court Rule 2.112 as it fails to specifically state the nature of each cause of action.

Plaintiffs oppose the demurrer stating that the complaint identifies (1) the duties to disclose impressed upon Defendants, (2) the who, what, when, where, why and how of the Defendants' false, incomplete, or omitted statements, and (3) the scope of the active concealment on the part of the Defendants. Plaintiffs point to Civil Code § 1102.1 which requires parties to a real estate contract to disclose any fact which may materially affect the value of the property. Finally, Plaintiffs request leave to amend if the demurrer is granted. They note that Defendants make no argument that an amendment would be futile or that they would be prejudiced in any way if Plaintiffs were allowed to amend.

In reply to Plaintiffs' opposition, Defendants argue that observations of the repairs do not support a reasonable inference that Defendants acted fraudulently in failing to disclose the water damage. Defendants conclude their reply with a statement that the deficiencies of the complaint cannot be cured by amendment because the complaint as is fails to assert the requisite level of specificity.

A demurrer raises only issues of law, not fact, regarding the form and content of the pleadings of the opposing party. Cal. Civ. Pro. §§ 422.10 and 589. It is not the function of the demurrer to challenge the truthfulness of the complaint, instead, for the purposes of testing the sufficiency of the cause of action, the demurrer admits the truth of all material facts in the pleading. Aubry v. Tri-City Hosp. Dist., 2 Cal. 4<sup>th</sup> 962, 966-967 (1992); Serrano v. Priest, 5 Cal. 3d 584 (1971); Adelman v. Associated Int'l Ins. Co., 90 Cal. App. 4<sup>th</sup> 352, 359 (2001). Notwithstanding the foregoing, "contentions, deductions, or conclusions of fact or law..." are not to be taken as true. People ex rel. Harris v. Pac Anchor Transp., Inc., (2014) 59 Cal.4th 772, 777.

A demurrer can only challenge defects that appear on the face of the pleading and other matters that are judicially noticeable, the challenging party cannot make allegations of fact to the contrary. Blank v. Kirwan, 39 Cal. 3d 311, 318 (1985); Donabedian v. Mercury Ins. Co., 116 Cal. App. 4<sup>th</sup> 968 (2004); Harboring Villas Homeowners Assn. v. Sup. Ct., 63 Cal. App. 4<sup>th</sup> 426 (1998). Failure to plead the ultimate facts supporting a cause of action subjects the complaint to a demurrer. Cal. Civ. Pro. § 430.10(e); Berger v. Cal. Ins. Guar. Ass'n, 128 Cal. App. 4<sup>th</sup> 989, 1006 (2005). Thus, in order to make a determination on Defendants' demurrer, the court must determine whether the facts in the complaint, taken as true, are clearly and sufficiently plead to establish causes of action for Failure to Disclose Material Facts and Concealment.

Fraud can occur either by way of an affirmative misrepresentation, or by the intentional concealment of material facts. See Jones v. ConocoPhillips Co., 198 Cal. App. 4<sup>th</sup> 1187 (2011). "[T]he elements of a cause of action for fraud based on concealment are: '(1) the defendant must have concealed or suppressed a material fact, (2) the defendant must have been under a duty to disclose the fact to the plaintiff, (3) the plaintiff must have been unaware of the fact and would not have acted as he did if he had known of the concealed or suppressed fact, and (5) as a result of the concealment or suppression of fact, the plaintiff must have sustained damage.'" "[citation]" *Id.* at 1198. "Every

12-23-22  
Tentative Rulings  
Dept. 9

element of the cause of action for fraud must be alleged with sufficient specificity to allow defendant to understand fully the nature of the charges made.' [citations]." *Tarmann v. State Farm Mut. Auto Ins. Co.*, 2 Cal. App. 4<sup>th</sup> 153, 157 (1991). "In California, fraud must be pled specifically; general and conclusory allegations do not suffice. [citations]...This particularity requirement necessitates pleading *facts* which show how, when, where, to whom, and by what means the representations were tendered. [citations]." *Lazar v. Sup. Ct.*, 12 Cal. 4<sup>th</sup> 631, 645 (1996).

In their moving papers Defendants make several factual allegations that are not contained in the complaint (e.g., the timing between when Defendants last lived in the home versus when it was sold and alleged inspections which showed water damage). Additionally, Defendants provided the court with a Property Inspection Report attached to the Declaration of Vilma Lopez. None of this can be, or has been, considered by the court as part of the demurrer. Moreover, the mere fact that Defendants feel the need to step outside of the pleadings to make their case is in and of itself an indication that a demurrer is not the proper mechanism to argue the Defendants' position.

The role of a demurrer is simply to address the sufficiency of the pleadings, taking the facts therein as true. Here, if we take the facts alleged as true, Plaintiffs have established (1) Plaintiffs purchased the home from Defendants (duty). Comp.¶ 10, 14. *See* *Calemine v. Samuelson*, 171 Cal. App. 4<sup>th</sup> 153 (2009)("A real estate seller has both a common law and statutory duty of disclosure.") (2) Defendants disclosed rainwater seeping through the backyard door, interior and exterior painting, and tile replacement in the kitchen and master bathroom, they did not disclose any additional occurrences of water intrusion. Comp.¶ 12-13. (3) Defendants had made significant repairs to the home that were not disclosed to Plaintiffs. Comp.¶ 17. (4) Each of the repairs/renovations were sufficient to put Defendants on notice of the water intrusion. Comp.¶ 18. (5) Defendants knew the property suffered from water intrusion. Comp.¶ 61. (6) Defendants chose to conceal the water intrusion (concealment). Comp.¶ 18. (7) Plaintiffs did not know and could not have reasonably discovered the water intrusion, and Defendants knew that Plaintiffs could not reasonably discover such information (Plaintiff's lack of knowledge). Comp.¶ 63-64. (8) The water intrusion significantly affected the value and desirability of the property which resulted in harm to Plaintiffs (damage). Comp.¶65-67. Plaintiffs' allegations, taken as true, establish all of the elements for a cause of action for fraud.

Defendants take issue with the use of the phrase "would have put them on notice," arguing that this does not show actual knowledge on the part of Defendants. Comp.¶ 18. However, Defendants fail to account for Paragraph 61 which states "Defendants knew that the Subject Property suffered from water intrusion..." Given the standard of review for a demurrer, all facts in the complaint are taken as true, then the element of knowledge has been satisfied by Paragraph 61. Plaintiffs' inclusion of Paragraph 18 is providing the basis for their belief that Defendants were aware of the water damage.

Defendants further argue that Plaintiffs have not established justifiable reliance, which is a necessary element of a fraud claim. However, their argument is based on the Property Inspection Report, which is outside the pleadings and cannot be considered. Instead, the complaint states that Plaintiffs did not know and could not reasonably have discovered the water damage, thus they relied on the representations of Defendants.

Regarding the general demurrer to the entire complaint on the basis that it does not comply with California Rule of Court 2.112, the court does not find this argument persuasive. Rule 2.112

12-23-22  
Tentative Rulings  
Dept. 9

requires each cause of action to be separately stated, numbered, and identify the party or parties asserting the cause of action, the party or parties against whom the cause of action is asserted and the nature of each cause of action. From a review of the complaint, it appears that all requirements of Rule 2.112 have been complied with.

In light of the foregoing, Defendants' demurrer is denied.

**Defendants Jamil Nouhi and Sepideh Ghobadian's Motion to Strike**

On August 26, 2022, in a filing concurrent with their demurrer, Defendants filed Defendants' Jamil Nouhi and Sepideh Ghobadian Notice of Motion and Motion to Strike Portions of the Complaint, Memorandum of Points and Authorities in Support of the Defendants' Motion to Strike, and a Proposed Order on the motion.

Plaintiffs Opposition to Defendants' Motion to Strike Portions of the Complaint was filed and served on September 15, 2022. Filed concurrently therewith were the Declaration of Cruz Rocha in Support of Plaintiffs' Opposition to Defendants' (1) Motion to Strike Portions of the Complaint, and (2) Demurrer to Plaintiffs' Complaint; and Appendix of Exhibits in Support of Plaintiffs' Oppositions to Defendants' (1) Motion to Strike Portions of the Complaint, and (2) Demurrer to Plaintiffs' Complaint.

In response to the opposition, Defendants' filed Defendants' Reply to Plaintiffs' Opposition to Defendants' Motion to Strike Portions of the Complaint, and Declaration of Vilma Lopez in Support of Defendants' Reply to Plaintiffs' Opposition to Defendants' Motion to Strike. Both documents were filed and served on September 22, 2022.

Defendants ask the court to strike the following from the complaint: (1) Paragraph 61, page 10, lines 7-8: "Sellers knew that the Subject Property suffered from water intrusion and/or there was resulting damage." (2) Paragraph 64, page 10, lines 13-14: "Sellers knew that Plaintiffs did not know and could not reasonably have discovered..." (3) Paragraph 70, page 10, line 16: "...intentionally..." (4) Paragraph 70, page 10, line 27-28: "...Sellers prevented Plaintiffs from discovering certain facts." (5) Paragraph 72, page 11, line 2: "...intended to deceive..." and (6) Prayer for Relief, page 12, line 4: "For punitive damages."

According to Defendants, any prayer for punitive damages carries with it the requirement to plead the corresponding cause of action with heightened specificity. Defendants note the standard to recover punitive damages is to make a showing of malice, oppression, or fraud by clear and convincing evidence. Defendants argue the complaint fails to plead the requisite facts to establish any malicious, oppressive, or fraudulent behavior on the part of Defendants and therefore any paragraphs or phrases throughout the complaint that are in support of Plaintiffs' prayer for punitive damages must be stricken.

Plaintiffs oppose the motion on the basis that the Complaint alleges causes of action for failure to disclose material facts and concealment. These claims are made on the basis that Defendants acted fraudulently and therefore a prayer for punitive damages is warranted. Plaintiffs point to the Disclosure Statement attached to the complaint which provides the specifics of who made the representations, what representations were made, or not made, to whom the representations were made, and how and when the representations were communicated. Further, paragraphs 15 through 18 show the repairs

12-23-22  
Tentative Rulings  
Dept. 9

done by Defendants which they claim show active concealment of the water damage. Plaintiffs argue that Defendants have failed to identify any “irrelevant, false, or improper matter” as required by Code of Civil Procedure Section 436(a), and therefore the Motion to Strike must be denied. Notwithstanding the foregoing, if the Motion to Strike is granted, Plaintiffs request leave to amend.

Defendants, in their reply, once again assert the need for clear and convincing evidence to recover punitive damages. Defendants step outside the pleadings by citing the Property Inspection Report which they claim put Plaintiffs on notice of the multiple areas of moisture intrusion and by claiming that Defendants have not resided at the property since 2007. Given the lapse in time and the notice Plaintiffs had of the water intrusion, Defendants argue that the facts do not give rise to intentional, despicable, and deceitful conduct as is necessary to recover punitive damages.

“The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper: ¶ (a) Strike out any irrelevant, false, or improper matter inserted in any pleading. ¶ (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court.” Cal. Civ. Pro. § 436. “The grounds for a motion to strike shall appear on the face of the challenged pleading” or from any matter of which the court may take judicial notice. Cal. Civ. Pro. § 437(a).

“A motion to strike, like a demurrer, challenges the legal sufficiency of the complaint's allegations, which are assumed to be true.” See *Clauson v. Superior Court*, 67 Cal.App.4th 1253, 1255 (1998); *Blakemore v. Superior Court*, 129 Cal.App.4th 36, 53 (2005). “In determining whether a complaint states facts sufficient to sustain punitive damages, the challenged allegations must be read in context with the other facts alleged in the complaint. Further, even though certain language pleads ultimate facts or conclusions of law, such language when read in context with the facts alleged as to defendants' conduct may adequately plead the evil motive requisite to the recovery of punitive damages. [citations]” *Monge v. Superior Court*, 176 Cal.App.3d 503, 510 (1986). “In the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties.” Cal. Civ. Pro. § 452.

Punitive damages are “available to a party who can plead and prove the facts and circumstances set forth in Civil Code section 3294.” *Hilliard v. A.H. Robins Co.*, 148 Cal.App.3d 374, 392 (1983). “To support punitive damages, the complaint ... must allege ultimate facts of the defendant's oppression, fraud, or malice.” *Cyrus v. Haveson*, 65 Cal.App.3d 306, 316–317 (1976). Pleading the language in section 3294 “is not objectionable when sufficient facts are alleged to support the allegation.” [citations].” *Altman v. PNC Mortg.*, 850 F.Supp.2d 1057, 1085 (2012).

Here, just as in the demurrer, our analysis is limited to the four corners of the complaint. Once again, Defendants have proffered information outside of the pleading. Such information cannot, and has not, been considered by the court in ruling on the Motion to Strike.

Defendants rely on the clear and convincing standard which is the burden of proof imposed on a party seeking to recover punitive damages. However, Defendants' use of a Motion to Strike to assert that Plaintiffs have not met their burden of proof to actually recover punitive damages is misplaced. The analysis is not whether Plaintiffs have shown by clear and convincing evidence that fraud did occur, but instead the analysis is whether or not the facts in the complaint, taken as true, are sufficient to support a cause of action for fraud, oppression, or malice. Applying the proper analysis, it is the opinion of the court that the facts alleged in the complaint are sufficient to support a claim for punitive damages.

12-23-22  
Tentative Rulings  
Dept. 9

As stated in the ruling on Defendants' demurrer, which is being heard concurrently with the present motion, the facts stated in the complaint are sufficient to establish a claim for fraud. Therefore, it follows that the request for punitive damages is properly made. It does not appear from the face of the complaint that the request for punitive damages, nor any of the other language Defendants are requesting to strike, is irrelevant, false, or improper. Defendants' Motion to Strike is denied.

**TENTATIVE RULING #2: DEFENDANTS' JAMIL NOUHI AND SEPIDEH GHOBADIAN DEMURRER TO PLAINTIFF'S COMPLAINT IS DENIED. DEFENDANTS' JAMIL NOUHI AND SEPIDEH GHOBADIAN MOTION TO STRIKE 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 REMOTELY, CONTACT THE CLERK'S OFFICE AT (530) 621-5867 FOR ZOOM LOGIN INFORMATION.**

**Motion To Be Relieved As Counsel**

On September 2, 2022, the court granted counsel's motion to be relieved as counsel of record for defendant. However, the papers did not specify which defendant. A renewed motion was filed to correct the error and indicate that the motion to be relieved applies only to Defendant Waldow.

A hearing on the renewed motion was conducted on November 4, 2022. The court noted at that time that the proposed order on the renewed motion was still defective as it failed to identify Waldow as the client whose counsel is being relieved. Defendant Waldow appeared at the hearing but defense counsel did not. The court ordered the hearing continued to December 2, 2022, directed defense counsel to appear for defendant unless and until she has been relieved as counsel.

A hearing was once again held on December 2, 2022. At that time the court confirmed the motion paperwork remained defective. The court once again continued the matter to December 23<sup>rd</sup>. The court is inclined to deny the motion; however, the parties are ordered to appear to discuss the reason a corrected order has not been filed with the court and provide the court with any reason why the motion should not be denied.

**Trial Setting**

The court set this matter for a trial setting conference on November 28, 2022. At the November hearing counsel for Plaintiff requested trial setting be continued to join with the December 2, 2022 hearing on the Motion to Be Relieved. The court granted the continuance. The parties are ordered to appear for trial setting.

**TENTATIVE RULING #3: THE PARTIES ARE ORDERED TO APPEAR AT 8:30 A.M. ON FRIDAY DECEMBER 23, 2022 IN DEPARTMENT NINE. IF A PARTY OR PARTIES WISH TO APPEAR BY ZOOM PLEASE CONTACT THE COURT AT (530) 621-5867 AND MEETING INFORMATION WILL BE PROVIDED.**

On October 26, 2022, Petitioner filed a Verified Petition for Approval for Transfer of Payment Rights [Pursuant to Cal. Ins. Code § 10134 et. seq.]. Thereafter, on November 28<sup>th</sup>, Petitioner filed an Amended Exhibit "A" to Petition for Approval for Transfer of Payment Rights. All documents were served on November 23<sup>rd</sup>.

The petition was originally set to be heard on January 27, 2023. Petitioners filed ex parte to have the hearing advanced to an earlier date. The court granted the ex parte application and the hearing on the petition was advanced to the present hearing date.

A Declaration of Payee in Support of Petitioner's Petition for Approval for Transfer of Payment Rights Pursuant to California Insurance Code § 10134, Et. Seq. was served on December 7<sup>th</sup> and filed the next day.

No opposition to the petition has been filed.

According to the petition, on or about May 24, 1993, Payee entered a structured settlement agreement which allows for 120 monthly Life Contingent payments of \$2,500 each, increasing at 3% annually. The Payee and the Petitioner have executed the proposed Purchase Agreement, which would allow the Payee to sell to Petitioner 120 of the Life Contingent payments.

Petitioner now seeks an order approving the transfer of the structured settlement payments pursuant to the provisions of Insurance Code, §§ 10134, et seq. on the ground that the transfer of the structured settlement payment rights is fair and reasonable and in the best interest of the Payee. Ins. Code § 10137(a). Payee is 47 years old, single, with no minor children. Payee is currently in need of funds to pay her day-to-day living expenses and the present transaction would afford her the money to do so. At the time of settlement, the funds were not intended to provide for future medical care and treatment.

Insurance Code Section 10136 states in no uncertain terms, that the provisions of the code are to be strictly followed prior to the transfer of any structured settlement payment rights. Ins. Code § 10136(a); *See also* Ins. Code § 10137(b). In addition to complying with the procedural requirements of the Code, the transfer of structured settlement payment rights must be "...fair and reasonable and in the best interest of the payee, taking into account the welfare and support of his or her dependents." Ins. Code § 10137(a). Insurance Code Section 10139.5(b) provides the court with a list of factors to consider in determining the best interest of the payee.

In order to approve the structured settlement transfer, the court must make the following express written findings "(1) The transfer is in the best interest of the payee, taking into account the welfare and support of the payee's dependents. (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 that advice in writing. (3) 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. (4) The transfer does not contravene any applicable statute or the order of any court or other government authority. (5) The payee reasonably understands the terms of the transfer agreement, including the terms set forth in the disclosure statement required by Section 10136. (6) The payee reasonably understands and does not wish to exercise the payee's right to cancel the transfer agreement." Ins. Code § 10139.5(a).

The court finds that the extensive notice requirements of Insurance Code Section 10139.5(f)(2) have been met. Further, Petitioner provided Payee with the proper notice of the Payee's right to seek



12-23-22  
Tentative Rulings  
Dept. 9

legal and financial advice pursuant to Section 10139.5(h). Written disclosure under Section 10136(b) has also been properly given to Payee.

It appears from the pleadings that the transfer is in the best interests of the Payee. She is unemployed and in need of money to cover her daily living expenses. It is certainly in her best interest to receive a lump sum of money now in order to pay for necessities. Payee's declaration sufficiently states the terms of the agreement which shows her reasonable understanding of it. She has also participated in several transfers of the like in the past, some of which she did cancel and withdraw, thus evidencing her understanding that she has the right to do so but has chosen not to exercise that right.

In light of the foregoing, the court finds good cause to approve the transfer. Petitioner's Verified Petition for Approval for Transfer of Payment Rights [Pursuant to Cal. Ins. Code §10134 et. seq.] is granted.

**TENTATIVE RULING #4: PETITIONER'S VERIFIED PETITION FOR APPROVAL FOR TRANSFER OF PAYMENT RIGHTS [PURSUANT TO CAL. INS. CODE §10134 ET. SEQ.] IS GRANTED. PETITIONER IS TO PREPARE AND SUBMIT A PROPOSED ORDER TO THE COURT FOR SIGNATURE. 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 REMOTELY, CONTACT THE CLERK'S OFFICE AT (530) 621-5867 FOR ZOOM LOGIN INFORMATION.**