1.	SC20180243	SOUTH LAKE TAHOE PROPERTY OWNERS v. CITY OF SOUTH LAKE TAHOE
Motion to Tax Costs		

On May 22, 2025, the Court granted Tahoe Neighborhoods Group, LLC's Motion for Leave to Intervene, indicating that their intent was likely to file an appeal. Given the likelihood of an appeal, which may affect the identification of the prevailing party and therefore, the entitlement to costs, the matter is continued to Friday, July 25, 2025, at 8:30 AM in Department Nine. Provided an appeal has been filed, the court is inclined to continue the hearing on costs until after the appeal is resolved.

TENTATIVE RULING #1:

HEARING CONTINUED TO FRIDAY, JULY 25, 2025, AT 8:30 AM IN DEPARTMENT NINE.

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

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.

2.	24CV0837	McCARTHY v. BAIR	
Motion to Compel			

Plaintiff filed a Motion to Compel Production of Documents and Backpack, Response to Form Interrogatory 4.1 and 15.1, Production of Verifications, and Request for Sanctions on January 9, 2025. <u>That Motion was heard and **denied** on April 11, 2025.</u> Plaintiff nor her counsel appeared at that hearing.

Plaintiff now files a "Revised" Motion which is identical to the initial Motion which was already denied by the Court. As the motion is duplicative of the prior motion which was already denied, the court denies this motion.

The court shall impose monetary sanctions against the moving party if the motion is unsuccessful. (§ 2031.300(c) /§ 2030.290(c).) Therefore, the Court hereby orders that Plaintiff pay sanctions in the amount of \$1,000 for bringing a duplicative Motion, when the first was unsuccessful. The amount of sanctions is based on the reasonable minimal cost in responding to this duplicative motion, taking into consideration the declaration of Defendant's counsel.

TENTATIVE RULING #2:

- 1. MOTION DENIED WITH PREJUDICE.
- 2. SANCTIONS IN THE AMOUNT OF \$1,000 ORDERED AGAINST PLAINTIFF, PAYABLE BEFORE FRIDAY, JUNE 27, 2025.

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.	25CV0172	AUSTIN et al v. HANSEN et al
Compliance with Subpoena		

The Notice does not comply with Local Rule 7.10.05. <u>Another violation will be grounds</u> for sanctions pursuant to Local Rule 7.12.13. <u>The Court also notes that the Notice/Motion is not</u> <u>signed</u>.

Defendant Greg Hansen moves for an order compelling compliance with two subpoenas issued to third-party agencies – El Dorado County Child Protective Services and El Dorado County Code Enforcement. Defendant alleges that the subpoenas were served, with a responsive deadline of May 7, 2025, but that the two agencies have not complied. <u>Defendant does not cite</u> to any statute or case law and does not provide a copy of the relevant subpoenas.

The County files a Response, stating that the County issued a written objection on May 2, 2025. The County argues its written objection is authorized by Code of Civil Procedure §§ 1985.3(g) and 1985.4. Further, in *Monarch Healthcare v. Superior Court* (2000) 78 Cal.App.4th 1282, the court held that a nonparty "was not required to move to quash the subpoena; rather, its simple objection was adequate to preserve the issue by making its position known to the court. Code of Civil Procedure section 1987.1 contains permissive, not mandatory, language regarding motions to quash."

The Court finds that the County's objection was proper and meets the requirements outlined under Code of Civil Procedure §§ 1985.3(g) and 1985.4.

TENTATIVE RULING #3:

MOTION DENIED.

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

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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.

4.	22CV0137	NEFF v. ROSEN et al
Motion for Judgment on the Pleadings		

Plaintiff Scott Neff moves the Court for Judgment on the Pleadings. Plaintiff alleges that he and Defendant were co-owners of certain real property commonly known as 3136 Baco Drive. Despite being co-owners, Plaintiff alleges he has been solely responsible for paying the mortgage on the property and seeks partition.

California courts have long recognized a party's ability to bring a motion for judgment on the pleadings and that it functions as a general demurrer. (See *Colberg, Inc. v. State ex rel. Dept. of Public Works* (1967) 67 Cal.2d 408, 411-412; *Donohue v. State of California* (1986) 178 Cal.App.3d 795, 800-802; *Ion Equipment Corp. v. Nelson* (1980) 110 Cal.App.3d 868, 877.) Pursuant to section 438 of the California Code of Civil Procedure, a plaintiff may move for, or the trial court may grant on its own motion, judgment on the pleadings if an answer does not state facts sufficient to constitute a defense to the complaint. (Code of Civil Proc., § 438, subd. (b), (c)(1)(A).)

The grounds for the motion must appear on the face of the pleading or from matters of which the trial court may take judicial notice. (Id., § 438, subd. (d).) A motion for judgment on the pleadings, therefore, is equivalent to a demurrer. (See *Kapsimallis v. Allstate Ins. Co.* (2002) 104 Cal.App.4th 667, 672.) Furthermore, a motion for judgment on the pleadings may be brought at any time, even during trial. (*Stoops v. Abbass* (2002) 100 Cal.App.4th 644, 650.)

Partition is the procedure for segregating and terminating common interests in the same parcel of property. (*Summers v. Superior Court* (2018) 24 Cal.App.5th 138, 142 [quotations omitted].) In an action for partition, the trial court determines the plaintiff's right to partition. (Code of Civ. Proc., § 872.710.) Partition is much favored by the law as it can resolve disputes between co-tenants and further the enjoyment of the property at issue. (*Summers*, supra, 24 Cal.App.5th at 142.)

In his Complaint, Plaintiff alleges that he initially purchased the property on his own, using funds from the sale of another residence to pay the down payment, obtained a loan, and has made all mortgage payments, property taxes, insurance, and utility payments. Approximately two years after purchasing the property, Plaintiff signed a Grant Deed, adding Defendant as a joint tenant. In her Answer, Defendant admits she has not paid any mortgage, property taxes, insurance, or utility payments, but seemingly disputes the amount of money she contributed to the purchase. Defendant prays that the property be appraised so that she can buy out Plaintiff's interest. However, in order to accomplish this, Plaintiff states the Court must order partition. The Court finds partition is proper in this case.

Citing CCP § 874.319 in her Opposition, Defendant argues that the Court must consider the financial contributions of the parties and other factors before determining the manner of

partition. The Court does not read the statute as requiring that determination prior to ordering partition, unless a party is seeking partition in kind which it does not appear either party is seeking.

The parties agree to the Court appointing a referee to facilitating the sale and holding the proceeds. As such, the court grants the motion for judgment on the pleadings to order partition by sale. To facilitate the sale, the court shall appoint a referee and orders the parties to meet and confer regarding an appropriate referee. The court orders the parties to appear at the hearing on June 13, 2025 to determine the process to appoint a referee as well as to discuss whether the court should vacate or reset the future dates set on calendar in this matter.

TENTATIVE RULING #4:

- 1. THE COURT GRANTS THE MOTION FOR JUDGMENT ON THE PLEADINGS TO ORDER PARTITION BY SALE.
- 2. TO FACILITATE THE SALE, THE COURT SHALL APPOINT A REFEREE AND ORDERS THE PARTIES TO MEET AND CONFER REGARDING AN APPROPRIATE REFEREE.
- 3. THE COURT ORDERS THE PARTIES TO APPEAR AT THE HEARING ON JUNE 13, 2025 TO DETERMINE THE PROCESS TO APPOINT A REFEREE AS WELL AS TO DISCUSS WHETHER THE COURT SHOULD VACATE OR RESET THE FUTURE DATES SET ON CALENDAR IN THIS MATTER.

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.		23CV1890	MURATORI et al v. TURNER et al
Mo	Motions to Quash (4)		

<u>All four Notices and Amended Notices fail to comply with Local Rule 7.10.05. Repeated</u> violations will be grounds for sanctions pursuant to Local Rule 7.12.13.

This case involves allegations of fraud by Plaintiffs against William James Turner, and additional Defendants including Matthew Langford ("Defendant"). Defendant argues that as evidenced in the Complaint, Defendant never exercised any meaningful control of Plaintiffs' allegedly misappropriated funds. Defendant further argues that his alleged liability is being actively litigated and therefore precludes any premature discovery into his assets. Defendant filed four separate Motions to Quash Third-Party Subpoena. <u>All four Motions are un-opposed.</u>

On April 2, 2025, Plaintiffs propounded four subpoenas to financial institutions: BMO Bank, N.A.; Webull Financial LLC; Robinhood Markets, Inc.; and E*Trade Securities LLC, a subsidiary of Morgan Stanley. (Declaration of Matthew J. Weber in Support of Motion ("Weber Decl."), ¶ 2.) In each of these four subpoenas, Plaintiffs seek all documents relating to "any account or accounts of every kind and nature whatsoever in which [Mr. Langford] holds in his name or has an interest in," including such accounts as IRAs, 401(k) accounts, money market accounts, brokerage accounts, savings accounts, and lines of credit. (*Id*. at ¶ 3.) The subpoena to BMO Bank, N.A. is phrased identically, but asks for Krossline records instead of those belonging to Mr. Langford specifically. To this end, Defendant argues he has already provided Plaintiffs with all relevant Krossline documents, and now only opposes any attempt to retrieve his personal financial information through the BMO Bank, N.A. subpoena. (Weber Decl., ¶ 4.) Plaintiffs further seek "all financial statements or records containing financial information of any nature relating to [Mr. Langford] for the time period of January 1, 2018 to the present date," along with records of all communications between Mr. Langford and the respective subpoenaed third-parties. (*Id*.)

Under Code of Civil Procedure section 1987.1, a party may file a motion to quash a deposition subpoena. The court "may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders." (Code Civ. Proc., § 1987.1, subd. (b); see also *City of Los Angeles v. Super. Ct.* (2003) 111 Cal.App.4th 883, 888 [procedural remedy for a defective subpoena is generally a motion to quash under section 1987.1], disapproved on other grounds in *Internat. Federation of Prof. & Technical Engineers, Local 21, AFL-CIO v. Super. Ct.* (2007) 42 Cal.4th 319.)

Defendant argues the subpoenas must be quashed because they invade Defendant's right to privacy and there is no justification for such an invasion. A right of privacy exists as to a party's confidential financial affairs, even if the information sought is relevant to the litigation. (*Fortunato v. Super. Ct.* (2003) 114 Cal.App.4th 475, 480-481 ["there is a right to privacy in

confidential customer information whatever form it takes, whether that form be tax returns, checks, statements, or other account information"]; *Cobb v. Super. Ct.* (1979) 99 Cal.App.3d 543, 550 [privacy as a limit on discovery on defendant's net worth].) In discovery, a litigant's right to discover relevant facts must be balanced against an individual's right to maintain reasonable privacy regarding their financial affairs. (*Fortunato*, supra, 114 Cal.App.4th at p. 481.) <u>Here, due to the lack of Opposition, Plaintiffs have not established how or why their right to discover relevant facts outweighs Defendant's right to privacy.</u>

Defendant further argues that the subpoenas are overbroad. A deposition subpoena for business records must designate the records to be produced either by: "specifically describing each individual item" or "reasonably particularizing each category." (Civ. Proc. Code, § 2020.410, subd. (a).) Determining what is "reasonably particularized" must be done from the standpoint of the party on whom the demand is made. (See *Calcor Space Facility, Inc., v. Super. Ct.* (1997) 53 Cal.App.4th 216, 222.) If the categories are overly broad, the subpoena is unduly burdensome and unenforceable. (*Id.* at p. 223.) The subpoenas request records starting January 1, 2018, but Defendant argues the operative allegations of the Complaint do not start until at least June 2022. <u>Again, without an Opposition, the Court finds there is no reason the subpoenas should start in January 2018 instead of June 2022.</u>

Lastly, Defendant argues that the requested information can be obtained through less intrusive means. In evaluating the propriety of a subpoena for confidential financial information, the Court needs to consider if the information can be obtained through a less intrusive means. (See *Allen v. Superior Court* (1984) 151 Cal.App.3d 447, 449 [holding that discovery regarding a witness' financial wherewithal was unnecessary and "a court must not generously order disclosure of the private financial affairs of nonparties without a careful scrutiny of the real needs of the litigant who seeks discovery"]; see also *Grafilo v. Cohanshohet* (2019) 32 Cal.App.5th 428, 437 [holding that a party may "identify feasible alternatives that serve the same interests or protective measures that would diminish the loss of privacy" in response to a potential invasion of its privacy].) Defendant argues that the only potential rationalization of the subpoenas could be to attempt to trace how their funds were allegedly misappropriated, which can—and should—be sought through an analysis of Mr. Turner's accounts, not Defendant's. <u>The Court agrees.</u>

Defendant requests sanctions in an outrageous amount of \$5,450.00, considering all four Motions are identical, aside from the bank name being substituted. Pursuant to the Declaration of Matthew J. Weber, his associate spent 8 hours on these identical Motions, at a rate of \$400 per hour, plus Mr. Weber's 2 hours of reviewing the Motions at \$525.00 per hour. The requested amount also includes 3 hours for review of Opposition (none of which has been filed), drafting a Reply (is not necessary at this time), and appearance at a hearing (not being required). These Motions are standard, template Motions to Quash, that do not involve any nuances areas of the

law requiring 3 hours of legal research. The Court hereby awards sanctions for 3 hours of attorney time at \$400 per hour, for a total of \$1,200.

TENTATIVE RULING #5:

- 1. ALL FOUR MOTIONS TO QUASH ARE GRANTED.
- 2. DEFENDANT LANGFORD AWARDED \$1,200.00 IN SANCTIONS, PAYABLE BY PLAINTIFFS PRIOR TO FRIDAY, JULY 11, 2025.
- 3. DEFENDANT WILLIAM TURNER IS ORDERED TO APPEAR IN PERSON AT THE JUNE 13, 2025 HEARING AT 8:30 A.M. IN DEPARTMENT 9 FOR THE ORDER ON EXAMINATION.

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.	23CV0345	WORKMAN v. MOUNTAIN F. ENTERPRISES et al
Motion for Summary Judgment		

On calendar this week is a Motion for Summary Judgment or, in the Alternative, Summary Adjudication filed by defendants Mountain F. Enterprises, Inc. and Anthony Fadota (collectively herein referred to as "Defendants"). The moving papers were filed and served on February 21, 2025. Plaintiff filed Plaintiff's Opposition to Defendant's Motion for Summary Judgment on May 22, 2025.

Despite the filing of Plaintiff's Opposition, Defendants maintain that they did not receive an Opposition to their motion. The Court not only has filed copies of the Opposition papers but also a Proof of Service indicating that all such documents were electronically served to the email listed on Defendants' pleadings, on May 22, 2025. Given this discrepancy, the Court is granting a short continuance to ensure that Defendant has time to review the opposition papers prior to the hearing date. With trial set to begin on August 19th, the court is granting only a short continuance. *See* Cal. Civ. Pro. § 437c (Absent good cause, the hearing of a summary judgment motion shall be held no later than 30 days prior to trial).

This matter is continued to July 11, 2025, at 8:31 am in Department 9. Plaintiff is ordered to re-serve its opposition papers on Defendant no later than June 16, 2025. Defendant is ordered to file and serve its Reply, if any, no later than June 25, 2025.

TENTATIVE RULING #6:

THIS MATTER IS CONTINUED TO JULY 11, 2025, AT 8:31 AM IN DEPARTMENT 9. PLAINTIFF IS ORDERED TO RE-SERVE ITS OPPOSITION PAPERS ON DEFENDANT NO LATER THAN JUNE 16, 2025. DEFENDANT IS ORDERED TO FILE AND SERVE ITS REPLY, IF ANY, NO LATER THAN JUNE 25, 2025.

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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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.

7.	23CV1906	PHOONG LAW CORP. v. MCKENZIE et al
Demurrer to Answer		

As the Court pointed out in the tentative ruling addressing the Motion for Leave to Demurrer, the present Notice also does not comply with Local Rule 7.10.05. <u>Another violation</u> will be grounds for sanctions pursuant to Local Rule 7.12.13.

Defendants Terra Spignesi, Andrea Spignesi, and Danielle Spignesi (collectively "Spignesi Defendants") demur to the Answer filed by Defendant Matthew McKenzie ("Defendant McKenzie" or "McKenzie") on the grounds that the Answer fails to state facts sufficient to constitute a valid defense or claim (Code of Civil Procedure ("CCP") § 430.10(e)) and the Answer is barred by the applicable statute of limitations (CCP § 366.2).¹

The Spignesi Defendants argue that McKenzie admits he was not married to or in a registered domestic partnership with Decedent and has not alleged any legally cognizable agreement or ownership interest in the disputed funds. The Spignesi Defendants argue that California does not recognize common-law marriage, and merely "holding themselves out as married" does not confer any legal entitlement to estate assets. See *Marvin v. Marvin* (1976) 18 Cal.3d 660.

Even in his Opposition, McKenzie admits he was not Decedent's spouse. He cites to *Whorton v. Dillingham* (1988) 202 Cal.App.3d 447, for the proposition that by caring for Decedent and providing "extraordinary services" that he should receive a portion of the settlement. However, that case is distinguishable because it involved homosexual adults at a time when they could not legally marry and what the court held to be an employment contract between the partners. There is no contract in this case.

Next, the Spignesi Defendants argue that any claim against the Decedent's estate was required to be filed within one year of Decedent's death on June 22, 2023, therefore the deadline was June 22, 2024.

CCP § 366.2(a) states:

If a person against whom an action may be brought on a liability of the person, whether arising in contract, tort, or otherwise, and whether accrued or not accrued, dies before the expiration of the applicable limitations period, and the cause of action survives, an action may be commenced within one year after the date of death, and the limitations period that would have been applicable does not apply.

The Spignesi Defendants argue that Decedent passed away in June 2022, and Defendant did not assert any claim against the Decedent's estate within the required time frame. McKenzie

¹ The Court notes that the Demurrer filed is neither dated nor signed by Counsel.

opposes, arguing that he filed an Affidavit pursuant to Probate Code § 13100 on July 27, 2023, which was timely according to that statute. However, McKenzie and counsel fail to acknowledge that Probate Code § 13100 applies to "decedent's successor." Decedent died intestate¹, so Probate Code § 6402 determines the intestate succession. McKenzie is unable to prove he qualifies as a surviving spouse of Decedent, therefore, the Court finds he was bound by the time frame in CCP § 366.2.

Lastly, the Spignesi Defendants argue that the deficiencies in the Answer cannot be cured by Amendment, and therefore the Demurrer should be sustained without leave to amend. Where a pleading's deficiencies cannot be cured, a demurrer should be sustained without leave to amend. See *Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081. The Court agrees – McKenzie admits that he was not Decedent's spouse and the Court finds that McKenzie's claim was not timely brought – neither of those facts can be changed with leave to amend.

TENTATIVE RULING #7:

DEMURRER 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).

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¹ McKenzie's Opposition admits the document executed by Decedent titled "Will and [Testament]" is not a valid Will.

8.	24CV2747	DEMEYER v. PALASHEWSKI
Motion to Strike Answer		

<u>Plaintiff's Notice does not comply with Local Rule 7.10.05. Repeated violations will be</u> <u>grounds for sanctions.</u> Plaintiff filed a Verified Complaint ("Complaint") on December 6, 2024. On or about January 10, 2025, Defendant Kari Palashewski ("Defendant") filed an answer ("Answer"). Plaintiff seeks to strike Defendant's Answer arguing it does not comply with California Code of Civil Procedure § 446(a) and contains improper material.

"When the complaint is verified, the answer shall be verified." Cal. Code Civ. Proc. § 446(a). "If the complaint is verified...the denial of the allegations shall be made positively or according to the information and belief of the defendant." Cal. Code Civ. Proc. § 431.30(d). "The court may, upon a motion made pursuant to Section 435...[s]trike 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. Code Civ. Proc. § 436(b).

The Complaint is verified. The Answer is not verified. Therefore, the Court finds that the Answer does not comply with California Code of Civil Procedure § 446(a) and is hereby stricken, with leave to amend.

On June 2, 2025, Defendant filed with the court and served a letter on Plaintiff requesting a continuance of the hearing. While the continuance request was procedurally improper and therefore not considered by the court, the letter indicates that Defendant is unavailable related to medical issues with her granddaughter through June 27, 2025. As such, the court grants leave to file an amended answer by July 11, 2025 to afford adequate time for Defendant to file an amended answer.

TENTATIVE RULING #8:

ABSENT OBJECTION, MOTION TO STRIKE IS GRANTED WITH LEAVE TO AMEND. THE AMENDED ANSWER SHALL BE FILED BY NO LATER THAN JULY 11, 2025.

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.