August 15, 2025
Dept. 9
Tentative Rulings

1.	**24CV0278**	**BRAZELL v. INNOBIOSURG OF AMERICA**
Motion to Compel & Motion to Continue Trial		

Just as the prior Notices did not comply with Local Rule 7.10.05, Plaintiff's current Notice does not comply either. Further violations will be grounds for sanctions pursuant to Local Rule 7.12.13.

Plaintiff moves the Court for an order compelling deponent Jewon Wang ("Wang"), CEO of Defendant to appear for deposition, and for Defendant, Defendant's attorneys, and Deponent to pay, jointly and severally, monetary sanctions to Plaintiff in the amount of $3,931.75.

Plaintiff noticed a deposition of Wang and then noticed a deposition for Defendant's PMQ. Defense counsel informed opposing counsel that she was not authorized to make Wang available for deposition, but the parties engaged in meet and confer discussions, and Plaintiff issued an amended deposition notice. The deposition of the PMQ Mr. Choi took place, but the following day, Wang and counsel failed to appear for Wang's noticed deposition. Defendant's counsel never objected to the amended deposition notice of Wang, nor notify Plaintiff of unavailability for the selected date.

California law provides that "[a]ny party may obtain discovery…by taking in California the oral deposition of any person, including any party to the action." (Cal. Code Civ. Proc. § 2025.010.) "The service of a deposition notice under Section 2025.240 is effective to require any deponent who is a party to the action or an officer, director, managing agent, or employee of a party to attend and to testify, as well as to produce any document, electronically stored information, or tangible thing for inspection and copying." (Cal. Code Civ. Proc. § 2025.280, subd. (a).) California Code of Civil Procedure section 2025.450, subdivision (a) provides: "If, after service of a deposition notice, a party to the action …, without having served a valid objection under Section 2025.410, fails to appear for examination, … the party giving the notice may move for an order compelling the deponent's attendance and testimony[.]"

Defense counsel opposes the Motion, stating that on or about August 1, 2025, their office provided dates that would work for the deposition of Dr. Wang, and they were currently waiting for the Notice of Deposition. (Juarez Decl., ¶ 14-15.) Defendant argues Wang should not be subject to sanctions simply because he misunderstood the nature of the deposition, considering the language barrier and the fact that he utilizes interpreters unfamiliar with the legal process, and considering he has since made himself available for the deposition. The Court does not find sufficient justification for counsel's failure to object to the amended deposition notice, nor alert Plaintiff's counsel that the deposition of Wang would not be moving forward, despite the fact that they have since provided available dates.

Plaintiff seeks attorney's fees in the amount of $2,170, along with costs. While the Court finds a billable rate of $350/hour for both attorneys, 6.2 hours of attorney time for a simple

motion to compel is unreasonable. The Court awards attorney's fees of 3.5 hours for the drafting of the Motion, review of Opposition, and preparation of the Reply, along with the appearance at the failed deposition, for a total of $1,225.00 in attorney's fees. The Court further awards $1,761.75 in costs.

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Defendant files a Motion to Continue Trial because counsel is unavailable due to conflicts with other trial dates and requests a continuance to June 2026. Defendant argues the continuance will not prejudice Plaintiff as discovery is ongoing. Trial in this matter is currently set to begin on October 28, 2025. Considering discovery is indeed ongoing, and in light of the Court's granting of the Motion to Compel, the Court is inclined to grant a brief continuance.

TENTATIVE RULING #1:

1. **MOTION TO COMPEL THE DEPOSITION OF DR. WANG IS GRANTED. PARTIES TO CHOOSE A MUTUALLY AGREED UPON DATE.**
2. **ATTORNEY'S FEES OF $1,225.00 PLUS COSTS OF $1,761.75 ARE HEREBY AWARDED TO PLAINTIFF. PAYABLE BEFORE MONDAY, SEPTEMBER 13, 2025.**
3. **APPEARANCES REQUIRED ON FRIDAY, AUGUST 15, 2025, AT 8:30 AM IN DEPARTMENT NINE TO DISCUSS NEW TRIAL DATES.**

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.

2.	**24CV2404**	**DEMTECH SERVICES, INC. v. DM SOLUTIONS, INC. et al**
Motions to Compel		

TENTATIVE RULING #2:

THIS HEARING IS CONTINUED TO FRIDAY, OCTOBER 17, 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).

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3.	**25CV1717**	**PERDICHIZZI v. CA DEPT. OF FOOD AND AG. et al**
Motion to Strike & Preliminary Injunction		

The California Department of Food and Agriculture and its Secretary, Karen Ross, (collectively, "the Department") respectfully request that this Court strike the entire complaint because the plaintiff is not represented by a licensed attorney. Perdichizzi, who is not an attorney, purports to bring this case in propria persona, on behalf of the Wopumnes Nisenan and Mewuk Heritage Preservation Society of El Dorado County ("the Society"), a nonprofit corporation.

Courts have the inherent authority to "[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." (Code Civ. Proc., § 436, subd. (b).) In addition, a motion to strike may be brought by "[a]ny party, within the time allowed to respond to a pleading." (Code Civ. Proc., § 435, subd. (b)(1).) The grounds for a motion to strike must appear on the face of the challenged pleading or from matters subject to judicial notice. (Code Civ. Proc., § 437, subd. (a).)

A motion to strike is a proper vehicle to seek dismissal of a complaint on behalf of a corporation without legal counsel. (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141, 1146.) "A corporation cannot represent itself in court, either in propria persona or through an officer or agent who is not an attorney." (*Merco Constr. Engineers, Inc. v. Municipal Court* (1978) 21 Cal.3d 724, 729 (*Merco*), citing *Vann v. Shilleh* (1975) 54 Cal.App.3d 192, 199.) It is "a long-standing common law rule of procedure [that] a corporation, unlike a natural person, cannot represent itself before courts of record in propria persona, nor can it represent itself through a corporate officer, director or other employee who is not an attorney. It must be represented by licensed counsel in proceedings before courts of record." (*CLD Construction, Inc. v. City of San Ramon* (2004) 120 Cal.App.4th 1141, 1145 (*CLD Construction*); see also *Hansen v. Hansen* (2003) 114 Cal.App.4th 618, 621 ["Since the passage of the State Bar Act in 1927, persons may represent their own interests in legal proceedings, but may not represent the interests of another unless they are active members of the State Bar"].) Therefore, "[a] lay person who purports to represent a corporation is engaged in the unlawful practice of law." (*Clean Air Transport Systems v. San Mateo County Transit Dist*. (1988) 198 Cal.App.3d 576, 578 (*Clean Air*), citing *Merco*, supra, 21 Cal.3d at pp. 729–730; Bus. & Prof. Code, § 6125 ["No person shall practice law in California unless the person is an active licensee of the State Bar"].)

Where a corporation files a complaint without legal counsel, the complaint should be dismissed with leave for the plaintiff to seek counsel. (*CLD Construction, Inc.,* supra, at p. 1152; see also *Clean Air, supra*, at pp. 578–579 [affirming lower court's dismissal with leave to amend following motion to dismiss]; Hansen, supra, 114 Cal.App.4th at pp. 619, 622 [complaint improperly filed in propria persona on behalf of an estate should have been stricken without prejudice].) The Department states that in Perdichizzi's Motion for Preliminary Injunction, she

quotes *Clean Air* for the proposition that there is an exception for non-attorneys to represent unincorporated associations and certain nonprofit corporations. The Department argues that *Clean Air* does not state that, and in fact held that, like a corporation, "an unincorporated association must be represented by an attorney." (*Clean Air,* supra, 198 Cal.App.3d at 579.) The Court agrees.

Perdichizzi opposes, arguing that *Clean Air* does not apply to her case, because she is "not merely a corporate agent – she is a Tribal representative, an Executive Director, and a personally injured party." (Opp. p. 2). While Perdichizzi argues the right for an individual to proceed pro se, she does not provide any support for a non-attorney to represent an entity.

TENTATIVE RULING #3:

MOTION TO STRIKE IS GRANTED AND COMPLAINT IS DISMISSED WITHOUT PREJUDICE. THE MOTION FOR PRELIMINARY INJUNCTION IS HEREBY MOOT AND DROPPED FROM CALENDAR.

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4.	**25CV1842**	**MATTER OF TIFFANY DEVOS**
Petition for Order Releasing Mechanics Lien		

TENTATIVE RULING #4:

APPEARANCES ORDERED ON AUGUST 15, 2025 AT 8:30 A.M. IN DEPARTMENT NINE.

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5.	**22CV0690**	**BROST et al v. MARTINEZ**
Motions		

Defendant Morrow's Motion for Summary Judgment or Adjudication

On February 13, 2025, Defendant Brian Morrow ("Morrow") filed and served a Notice of Motion for Summary Judgment or in the Alternative, Summary Adjudication, and supporting documents thereto. The motion initially was heard on May 9, 2025. The tentative ruling drafted for that hearing would have granted the motion in full. However, at the hearing, the court continued the motion to August 15, 2025 to allow Plaintiffs to conduct further discovery under Code of Civil Procedure section 437c, subdivision (h). On its own motion, the court set the matter for sanctions against Plaintiff's counsel for failure to comply with Code of Civil Procedure section 437c, subdivisions (b)(2) and (b)(3), Cal. Rules of Court, rule 3.113, subdivision (d), and Local Rule 7.10.11 for filing an opposition well beyond the maximum page limit without leave of court, for failing to file a separate statement, and for filing the opposition after the deadline. The court found no pleadings filed by Plaintiffs' counsel on this issue. The court orders Plaintiff's counsel to appear to address this matter.

The court adopts the language of the May 9, 2025 tentative ruling, including the court's grant of Defendant's request for judicial notice.

In bringing this motion, Morrow contends that he is an individual member of 5059 Greyson Creek Drive LLC ("5059") and that summary judgment is appropriate because (1) Defendant has no individual duty to Plaintiffs because Morrow formed no contracts with Plaintiffs, (2) the LLC Operating Agreement shields individual members from personal liability under both California and Wyoming law beyond their capital investment, and (3) Plaintiffs have not shown and cannot show that Brian Morrow should be subject to alter-ego liability for the 5059. The court finds, as articulated in the May 9, 2025 tentative ruling, that Morrow has made his prima facie case that there are no triable issues of material fact sufficient to shift the burden to Plaintiffs.

The court permitted Plaintiffs to conduct further discovery to present evidence of triable issues of material fact as to whether Morrow is liable as an alter-ego of 5059 or otherwise liable to Plaintiffs. In Plaintiff's supplemental brief, they make several conclusory statements about the unity of interest between Morrow and 5059, the commingling funds, the lack of corporate formalities, and the other factors for determining alter-ego liability. However, Plaintiffs fail to clearly point to the evidence supporting these assertions. At best, Plaintiffs establish some confusion in the documents signed by Morrow as to whether he was signing as a member or

managing member of 5059. The court fails to see how this evidence, even liberally construed, could lead to a finding of alter-ego liability.

Plaintiffs also state that 5059 engaged in significant commingling of assets. Yet, as their evidence, Plaintiffs cite to a voluminous exhibit with hundreds of pages of bank statements, without clear citation to the records that might support the purported commingling. Even if commingling were to be evidenced by these statements, it is unclear to the court whether such commingling involved Morrow. While Plaintiffs point to a bridge loan that Morrow made to 5059, the court finds that this evidence is insufficient to raise a triable issue of material fact regarding the commingling of funds and alter-ego liability.

Plaintiffs also appear to argue that Morrow is liable if he is deemed to be a managing member. To the extent Plaintiffs are making this argument, the court is unclear upon what legal authority this contention is based.

Upon considering the evidence submitted by Plaintiffs, the court finds that they have failed to meet their burden of establishing triable issues of material fact as to whether Morrow is liable under a theory of alter-ego liability or under any other theory of liability. As such, the court grants Morrow's motion for summary judgment.

Defendant Machado's Motion for Summer Judgment or Adjudication

On February 25, 2025, Defendants Ninoroy D. Machado ("Machado") and Side, Inc. dba All City Homes ("Side")(collectively "Machado") filed and served a Notice of Motion for Summary Judgment or in the Alternative, Summary Adjudication, and supporting documents thereto.

The motion initially was heard on May 9, 2025. The tentative ruling drafted for that hearing would have granted the motion in full. However, at the hearing, the matter was continued to June 5, 2025, at which time the court continued the motion to August 15, 2025 to allow Plaintiffs to conduct further discovery under Code of Civil Procedure section 437c, subdivision (h). On its own motion, the court set the matter for sanctions against Plaintiff's counsel for failure to comply with Code of Civil Procedure section 437c, subdivisions (b)(2), for filing the opposition after the deadline. The court found no pleadings filed by Plaintiffs' counsel on this issue. The court orders Plaintiff's counsel to appear to address this matter.

The court adopts the language of the May 9, 2025 tentative ruling.

At the May 9, 2025 hearing, the court granted Machado's motion as to the third cause of action. As such, what remains in contention are the fifth (for negligent infliction of emotional distress), sixth (for intentional infliction of emotional distress), ninth (for general fraud), and eleventh (for unfair business practices) causes of action. Defendants argue these causes of action all fail because Plaintiffs did not have a contract with Machado, Plaintiffs admit that Machado did not extort additional monies from Plaintiffs, Machado did not intentionally do anything to cause Plaintiffs to suffer severe emotional distress, and Machado did not make any

false promises to Plaintiffs regarding the contract or the property. The court finds that Machado has met his prima facie burden that there are no triable issues of material fact sufficient to shift the burden to Plaintiffs.

The primary new evidence since the May 9, 2025 hearing is Machado's deposition. Upon review of the excerpts cited by Plaintiffs, Machado indicate that he knew of issues with the subject property but could not recall whether he informed Plaintiffs or their agent of these issues. The issues included the delay in the timeline of getting the home completed, use of a brand of windows that conflicts with that called for in the contract, and deviations for the home's floor plan, among others. Machado acknowledged in his deposition that all of these issues would be material issues to the transaction. While Machado tries to explain this away as poor recollection, based on Plaintiff Brost's declaration in opposition to the motion, in which he stated that Machado assured him and his husband that the project would be completed per the initial 6-month timeframe (Brost's Declaration at ¶4), a reasonable juror could conclude that Machado with knowledge of the delays in the timeline failed to disclose this material fact nor correct the assurances of the co-defendants to the detriment of Plaintiffs.

The court finds there are triable issues of material fact as to whether Machado knew of material issues regarding the property, specifically the delay in completing the project, and failed to disclose this fact or correct the false representations of others regarding this fact. Given these triable issues, the court finds that a reasonable juror could find for Plaintiffs on the fifth cause of action for negligent infliction of emotional distress, the ninth cause of action for fraud, and the eleventh cause of action for unfair business practices.

As to the sixth cause of action for intentional infliction of emotional distress, the court finds that Plaintiffs have failed to cite to specific evidence that Machado has engaged in extreme and outrageous conduct sufficient to meet the elements of that cause of action. Rather, Plaintiffs' arguments boil down to bare assertions without sufficient factual support. Therefore, the court grants the motion as to the sixth cause of action.

Other Requests Contained Within Plaintiffs' Supplemental Brief

Plaintiffs additionally make requests for attorney's fees, summary adjudication in their favor, and leave to amend. The court denies all these requests. Summary adjudication cannot be granted in an opposition to the other side's motion for summary judgment, no authority is provided to grant attorney's fees, and leave to amend is not appropriate after a motion for summary judgment or adjudication unless the motion can be deemed a motion for judgment on the pleadings, which is not applicable to the pending motion.

Plaintiffs' Motion for Complex Case Designation

Pursuant to California Rule of Court 3.403, subdivision (b), plaintiffs Joshua Brost and Daniel Malakhov (collectively, "plaintiffs") move for a "complex case" designation under California Rule of Court 3.400. Although plaintiffs indicated on the civil case cover sheet (in 2022) that this was not a complex case, plaintiffs claim in the instant motion that new information has come to light through the discovery process that warrants a complex case designation.

Defendant Brian Morrow filed a timely opposition. On August 5, 2025, defendants Ninoroy Machado and Side, Inc. filed a notice of joinder to defendant Morrow's opposition. Plaintiffs filed no reply.

"A 'complex case' is an action that requires exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants, and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel." (Cal. Rules of Ct., Rule 3.400, subd. (a).)

In deciding whether an action is a complex case, the court must consider, among other things, whether the action is likely to involve: (1) numerous pretrial motions raising difficult or novel legal issues that will be time-consuming to resolve; (2) management of a large number of witnesses or a substantial amount of documentary evidence; (3) management of a large number of separately represented parties; (4) coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court; or (5) substantial postjudgment judicial supervision. (Cal. Rules of Ct., Rule 3.400, subd. (b).)

Here, plaintiffs claim a complex case designation is warranted based on the number of parties, anticipated motion practice, discovery complexity,[1] and novel legal issues requiring specialized judicial management.

In opposition, defendant Morrow argues that: (1) El Dorado County does not have a procedure for handling complex cases (i.e., local court rules); (2) there are only three represented defendants and two of those defendants are represented by the same counsel; (3) plaintiffs' claim that the case involves numerous witnesses and exhibits is speculative and unsupported; (4) plaintiffs have not identified any related actions pending in other courts that would require coordination; and (5) plaintiffs have not demonstrated that the anticipated motion practice or discovery disputes are beyond the capacity of standard case management procedures.

Having considered the factors under California Rule of Court 3.400, the court finds that the instant case is not a complex case. The motion is denied.

Plaintiffs' Motion for Terminating or Monetary Sanctions

[1] Notably, plaintiffs state that, "at this point, most discovery has come to a conclusion." (Mtn. at 4:12.)

Plaintiffs move for terminating, or in the alternative, monetary sanctions, against defendant Ninoroy Machado on the grounds that he willfully violated Evidence Code section 1119 and "this Court's mediation confidentiality agreement"[1] when he sent a text message to defendant Martin (who, at the time, was not a party to this legal action), stating: "Also mediation with your boy went bad[.]"

Defendants Machado and Side, Inc. oppose the motion. Plaintiffs filed no reply.

1. Background

On February 23, 2023, the parties participated in private mediation. Prior to mediation, all participants, including defendant Machado, signed the Mediation Confidentiality Agreement, which provides in relevant part: "Subject to, and in keeping with, the provisions contained in sections … 1115 through 1128 of the California Evidence Code, the participants to the mediation of this dispute agree and acknowledge the following: [¶] 1. No statements made by any participant to this mediation and its course, whether oral or in writing, may be used by or against any other party hereto in any other proceeding whatsoever, without the express written consent of all participants, including the mediator. [¶] 2. The disclosure of privileged information during the course of this mediation shall not alter or revoke the privileged nature of such information. … [¶¶] 5. This Mediation Confidentiality Agreement does not prohibit the reporting of general statistical and administrative information to the Superior Court[.]" (DeGuzman Decl., ¶ 2 & Ex. A.)

The instant motion alleges defendant Machado sent defendant Martin (who, at the time, was not a party to this legal action) the following text message:[2] "Also mediation with your boy went bad[.]" (DeGuzman Decl., Ex. B.)

2. Discussion

Evidence Code section 1119, codifying the mediation privilege, generally makes "[a]ll communications, negotiations, or settlement discussions by and between participants in the course of a mediation or a mediation consultation" confidential. (Evid. Code, § 1119, subd. (c).) Absent proper application of a statutory exception to the mediation privilege, no evidence of

[1] It is not clear why plaintiffs refer to the confidentiality agreement as "this Court's" agreement. The agreement was entered into by the parties voluntarily without the court's involvement. (See DeGuzman Decl., Ex. A.)

[2] It is not clear when the text message was sent. Curiously, plaintiffs' brief indicates the text message was sent on February 9, 2023, approximately two weeks before mediation took place on February 23, 2023. (Mtn. at 3:6–15.) The screenshot of the text message conversation is not date-stamped; and Ms. DeGuzman's declaration does not indicate when the message was allegedly sent.

anything said in the course of or pursuant to a mediation or mediation consultation is discoverable or admissible in any civil action. (Evid. Code, § 1119, subd. (a); *Cassel v. Superior Court* (2011) 51 Cal.4th 113, 127.)

But here, the text message has not been offered into evidence (outside of the instant motion). Further, Evidence Code section 1119 does not authorize the court to impose terminating or monetary sanctions.

Plaintiffs urge the court to use Code of Civil Procedure section 2023.030 – which authorizes discovery sanctions for misuses of the discovery process – "as a guide for the issuance of sanctions" in this case, as plaintiffs allege the text message was sent willfully and/or in bad faith. (Mtn. at 4:22–5:3.) Plaintiffs provide no authority for their position.

Lastly, plaintiffs argue that "the Court has inherent authority… under California Code of Civil Procedure § 128, to impose sanctions for conduct that abuses the judicial process, which includes violation of mediation confidentiality." (Mtn. at 4:17–21.) In support of this argument, plaintiffs cite *Vesco Mfg. Co. v. Bank of America, N.A.* (2013) 218 Cal.App.4th 1260, 1269. However, the court is unable to find that case using the citation plaintiffs provided.

"Courts have the inherent authority to dismiss a case as a sanction. [Citation.] The authority should be exercised only in extreme situations, such as where the conduct was clear and deliberate and no lesser sanction would remedy the situation. [Citation.]" (*Crawford v. JPMorgan Chase Bank, N.A.* (2015) 242 Cal.App.4th 1265, 1271.) The court finds that defendant Machado's text message does not give rise to terminating or monetary sanctions in this case. The text message was vague and did not explicitly disclose any communications, negotiations, or settlement discussions between the mediation participants. Defendant Machado merely stated that the mediation "went bad." The text message also appears to be an isolated incident.

TENTATIVE RULING #5:

1. **DEFENDANT MORROW'S MOTION FOR SUMMARY JUDGMENT IS GRANTED.**
2. **DEFENDANTS MACHADO AND SIDE'S MOTION FOR SUMMARY ADJUDICATION IS GRANTED FOR THE SIXTH CAUSE OF ACTION AND DENIED FOR THE FIFTH, NINTH, AND ELEVENTH CAUSES OF ACTION.**
3. **ALL OF PLAINTIFFS' ADDIITONAL REQUESTS IN THEIR SUPPLEMENTAL BRIEF ARE DENIED.**
4. **PLAINTIFFS' COUNSEL IS ORDERED TO APPEAR TO ADDRESS THE PENDING SANCTIONS MOTION.**
5. **THE MOTION FOR A COMPLEX CASE DESIGNATION IS DENIED.**
6. **THE MOTION FOR TERMINATING OR MONETARY SANCTIONS IS DENIED.**

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RULE CT. 3.1308; LOCAL RULE 8.05.07; SEE ALSO LEWIS V. SUPERIOR COURT, 19 CAL.4TH 1232, 1247 (1999).

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6.	**25CV1832**	**MATTER OF POENAR**
Minor's Compromise		

This is a Petition to compromise a minor's claim. The Petition states the minor sustained a knee abrasion injury resulting from a playground incident in 2023. Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of $12,000.

The Petition states that the minor has fully recovered and there are no permanent injuries. A doctor's report concerning the minor's condition and prognosis of recovery is attached, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

The minor's attorney is not requesting any fees to be paid from the settlement, as counsel is being paid by Schools Insurance Authority. There are no medical expenses to be paid from the settlement proceeds.

With respect to the $12,000.00 due to the minor, the Petition requests that they be deposited into an insured account with US Bank, subject to withdrawal with court authorization. See attachment 19(b)(2), which includes the name and address of the depository, as required by Local Rules of the El Dorado County Superior Court**,** Rule 7.10.12A(7).

By letter filed July 7, 2025, Counsel requests that the minor's presence at the hearing be waived. Local Rules of the El Dorado County Superior Court, Rule 7.10.12.D.

TENTATIVE RULING #6:

PETITION TO APPROVE COMPROMISE OF DISPUTED CLAIM OF MINOR IS GRANTED.

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7.	**23CV1890**	**MURATORI et al v. TURNER et al**
Motions to Quash (4) & Order of Examination		

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. Pursuant to the joint statement, defense counsel has agreed to withdraw his Motion to Quash Third-Party Records Subpoena to BMO Bank N.A. because both parties have agreed to limit the scope of the subpoenas to January 2022 to present.

The parties have not come to a mutually agreed upon conclusion pertaining to the other three motions to quash: (1) Motion to Quash Third-Party Records Subpoena to E*Trade Securities LLC; (2) Motion to Quash Third-Party Records Subpoena to Robinhood Markets, Inc,; and (3) Motion to Quash Third-Party Records Subpoena to WeBull Financial LLC.

On April 2, 2025, Plaintiffs propounded subpoenas to financial institutions: 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 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.) 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. Defendant further argues that the subpoenas are overbroad. 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. Lastly, Defendant argues that the requested information can be obtained through less intrusive means. Defendant argues that the only potential rationalization of the subpoenas could be to attempt to trace how their funds were allegedly misappropriated, which should be sought through an analysis of Mr. Turner's accounts, not Defendant's.

Plaintiff opposes, arguing that: Defendant has not shown good cause to quash the subpoena; that Defendant has not demonstrated that the information sought is subject to privilege or otherwise undiscoverable through a records deposition; that Defendant is deliberately trying to interfere with Plaintiffs' right to discovery by shielding relevant, discoverable information; that there is no legitimacy to a claim of financial privacy because the underlying action is pertaining to financial fraud and misappropriation of funds; and the discovery is without question reasonably calculated to lead to the discovery of admissible evidence.

Pursuant to the civil discovery statutes, a party may obtain discovery of the following: Any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. (Cal. Civ. Proc. Code § 2017.010). The scope of discovery is expansive, as discovery serves to eliminate surprise at trial and "take the game element out of trial preparation." (*Puerto v. Superior Court* (2008) 158 Cal.App.4th 1242, 1249). Proper discovery is designed to educate the parties on claims and defenses, encourage settlements and expedite and facilitate trial. Ibid. "Relevancy of the subject matter" criterion is a broader concept than "relevancy of the issues." (e.g. *Chronicle Publishing Co. v. Superior Court* (1960) 54 Cal.2d 548, 60, 7 Cal. Rptr 109. 111) The discovery statutes should be construed broadly so as to favor discovery and disclosure of facts whenever possible. (*Id*., See also *Burke v. Superior Court of Sacramento County* (1969) 71 Cal.2d.276, 281). doubts as to the information's relevance should be resolved in favor of permitting the challenged discovery. (*Pacific Tel. & Tel. Co. v. Superior Court* (1970) 2 Cal.3d.161, 173). The matter need not be admissible at trial in order to be discoverable. (*Id*.)

Plaintiffs argue they will be prejudiced at trial if the Motions to Quash are granted because Plaintiffs will be unable to discover relevant information in support of its claims. Plaintiffs argue they need to be able to assess whether Langford utilized Plaintiffs' funds for either his own investments or whether Langford is withholding monies owed to Plaintiff due to trading by Langford on behalf of Plaintiffs and Plaintiffs need to be able to assess whether Turner provided the funds to Langford or if Langford transferred Plaintiffs' funds placed in the Krossline account into his own trading platforms.

The Court acknowledges Plaintiffs' argument that Langford's right to privacy argument is severely weakened by the fact that the underlying causes of action involve financial fraud and misappropriation of funds. The Court further acknowledges the broad purpose of discovery. However, the Court is not satisfied that the subpoenas should start in January 2018 instead of

June 2022. Since the Motions to Quash are being denied, but the subpoenas are being limited in the scope, the Court declines to grant sanctions to either party.

TENTATIVE RULING #7:

1. **MOTION TO QUASH THIRD-PARTY RECORDS SUBPOENA TO BMO BANK N.A. IS WITHDRAWN AND THEREBY DROPPED FROM CALENDAR.**
2. **MOTIONS TO QUASH THIRD-PARTY RECORDS SUBPOENA TO E*TRADE, WEBULL, AND ROBINHOOD ARE DENIED, WITH THE SUBPOENAS BEING AMENDED TO START WITH RECORDS FROM JUNE 2022.**
3. **SANCTIONS DENIED.**
4. **APPEARANCES REQUIRED FOR THE ORDER OF EXAMINATION HEARING, ON FRIDAY, AUGUST 15, 2025, AT 8:30 AM IN DEPARTMENT NINE.**

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8.	**24CV2686**	**SMUD v. PIERSON et al**
Demurrer		

Standard of Review - Demurrer

A demurrer tests the sufficiency of a complaint by raising questions of law. *Rader Co. v. Stone* (1986) 178 Cal.App.3d 10, 20. 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,* 7 Cal.4th 634, 638; *Interinsurance Exchange v. Narula,* 33 Cal.App.4th 1140, 1143. **The complaint must be construed liberally by drawing reasonable inferences from the facts pleaded. *Flynn v. Higham* (1983) 149 Cal.App.3d 677, 679.**

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

Meet and Confer Requirement

Code of Civil Procedure §430.41(a) provides: Before filing a demurrer pursuant to this chapter, the demurring party shall meet and confer in person or by telephone with the party who filed the pleading that is subject to demurrer for the purpose of determining whether an agreement can be reached that would resolve the objections to be raised in the demurrer.

Code of Civil Procedure §430.41(a)(3):

The demurring party shall file and serve with the demurrer a declaration stating either of the following:

(A) The means by which the demurring party met and conferred with the party who filed the pleading subject to demurrer, and that the parties did not reach an agreement resolving the objections raised in the demurrer.

(B) That the party who filed the pleading subject to demurrer failed to respond to the meet and confer request of the demurring party or otherwise failed to meet and confer in good faith.

Dumas v. Los Angeles County Bd. of Supervisors (2020) 45 Cal. App. 5th 348 ("If, upon review of a declaration under section 430.41, subdivision (a)(3), a court learns no meet and confer has taken place, or concludes further conferences between counsel would likely be productive, it retains discretion to order counsel to meaningfully discuss the pleadings with an eye toward reducing the number of issues or eliminating the need for a demurrer, and to continue the hearing date to facilitate that effort").

Requests for Judicial Notice

Cal. Rules of Court, rule 3.1113(l), also covers judicial notice, requiring that "[a]ny request for judicial notice shall be made in a separate document listing the specific items for which notice is requested and shall comply with rule 3.1306(c)."

Cross-Complainants request judicial notice of: Plaintiff Steve Shehyn's Second Amended Complaint for inverse condemnation, breach of contract, and negligence against Ventura County Public Works Agency filed in the Ventura Superior Court. Cross-Defendant objects, arguing: "It is well settled that courts cannot in one case take judicial notice of their records in another and different case." *Sewell v. Price* (1912) 164 Cal. 265, 273. As argued by Cross-Defendant, the Court can only take judicial notice that the reference Second Amended Complaint exists and cannot take judicial notice of the truth of facts in the requested document. It seems Cross-Complainants are seeking to use the Shehyn Second Amended Complaint in a way that is not appropriate for judicial notice.

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 collectively 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. A trial court is required to take judicial notice of any matter listed in section 452 if a party requests it and gives the other party sufficient notice to prepare to meet the request. (Evidence Code § 453)

Cross-Complainant's request for judicial notice is denied.

***

The First Amended Cross Complaint ("FACC") includes 3 causes of action: (1) Inverse Condemnation; (2) Declaratory Relief to Determine the Boundary of Easement; and (3) Permanent Injunctive Relief.

SMUD demurs to the First Cause of Action on the grounds that it fails to state a cause of action for inverse condemnation under the California Constitution and applicable case law, because it does not allege any harm caused by an inherent risk of SMUD's electrical transmission line as planned, constructed or maintained, and because it does not allege more than harm caused by routine operation and maintenance of public works.

SMUD argues that the FACC fails to allege: (1) an inherent risk of SMUD's transmission line; and (2) that the alleged damage was substantially caused by an inherent risk of the transmission line project. "A plaintiff seeking to recover for inverse condemnation must allege [1.] a public entity [2.] has taken or damaged their property [3.] for a public use." *Shehyn v. Ventura County Public Works Agency* (2025) 108 Cal.App.5th 1254, 1258-1259 (internal quotes omitted). "A cause of action lies where damage to real property is 'substantially caused by an

inherent risk presented by the deliberate design, construction, or maintenance of [a] public improvement.'" *Id*. at 1259, citing, *City of Oroville v. Superior Court of Butte County* (2019) 7 Cal.5th 1091, 1105. As explained in *City of Oroville*, an inverse condemnation cross-complainant must plead and prove an inherent risk of a public project and that the identified inherent risk caused the cross-complainant's injury. The inherent risk required for inverse liability is something more than mere negligent or wrongful operation of the improvement.

SMUD argues: nowhere in the FACC is there an allegation identifying the inherent risk posed by the project; none of the allegations of harm to property point to an inherent risk of the electrical transmission line project nor identify tree removal as an inherent risk; and the allegation that tree removal is an inescapable and unavoidable consequence in insufficient to plead that the injury was an inescapable and unavoidable consequence of the public improvement.

Lastly, SMUD argues that the FACC alleges injury caused by SMUD's carelessness or negligence, and those claims are barred by Cross-Complainants' failure to comply with the Government Claims Act.

Cross-Complainants oppose, arguing that *City of Oroville* does not require that they plead and prove an inherent risk at this stage of litigation because that case involved a motion for summary judgment. Further, Cross-Complaints argue that the FACC alleges a clear causal chain between the damage and SMUD's activities, which necessarily implicates the inherent risk. California courts have repeatedly recognized that inverse condemnation pleads a constitutionally based theory of liability, requiring only a showing that the property damage in question resulted from the deliberate design, construction, or maintenance of a public improvement. (See, e.g., *Belair v. Riverside County Flood Control Dist.* (1988) 47 Cal.3d 550, 558–559; *Arreola v. County of Monterey* (2002) 99 Cal.App.4th 722, 739–740.)

Cross-Complainants argue that negligence is not asserted, and the Government Claims Act is not applicable to inverse condemnation causes of action. The Court agrees.

Lastly, Cross-Complainants argue that if the Court sustains the Demurrer, they should be granted leave to amend. Amendments should be liberally granted, even if defects are apparent. *Von Batsch v. American Dist. Telegraph Co.,* (1985) 175 Cal.App.3d 1111.

The Court agrees with SMUD's assertion that Cross-Complainants need to plead that an inherent risk of SMUD's electric transmission line project caused their alleged harm, and that simply alleging that SMUD's maintenance activities for the line caused harm is not enough. Cross-Complainants argue SMUD has not demonstrated that leave to amend should be denied; however, the burden is on Cross-Complainants to demonstrate a reasonable possibly of curing the pleading. Since this is the first Demurrer, the Court follows the liberal amendment standard.

TENTATIVE RULING #8:

1. **CROSS-COMPLAINANTS' REQUEST FOR JUDICIAL NOTICE IS DENIED.**
2. **SMUD'S DEMURRER TO THE FIRST AMENDED CROSS COMPLAINT IS SUSTAINED WITH LEAVE TO AMEND WITHIN 10 DAYS OF SERVICE OF THE SIGNED ORDER.**

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