

1.	24CV1621	WATERMARK ON THE LAKE HOA v. BRADLEY
Motion to Compel & Motion to Deem Matters Admitted		

Plaintiff brings a Motion to Compel Further Discovery Responses to Form Interrogatories, Special Interrogatories, Request for Production of Documents, and a Motion to Deem the Truth of the Matters in the Request for Admissions Admitted.

On May 23, 2025, Plaintiff sent a set of discovery requests to Defendant pursuant to CCP § 2031.210, § 2031.220, § 2031.230, and § 2031.240 consisting of the following; 1. Form Interrogatories, General, set one; 2. Special Interrogatories, set one; 3; and Request for Production of Documents, set one; (Declaration of Michael W. Thomas filed herewith and made a part hereof.) Defendant sent her Responses via mail, which were received on June 6, 2025, (Thomas Decl.) There was no a proof of service included indicating when they were mailed. (Thomas Decl.) Plaintiff states there were many deficiencies with the Responses, including the lack of verifications. (Thomas Decl.)

Plaintiff sent two meet and confer letters to Defendant – one on June 17, 2025, and one on July 16, 2025, both of which Defendant responded to. Defendant filed with the Court her responses to the above discovery requests. While it appears some of the formatting defects were cured, these responses are still not verified as required under CCP § 2030.050. Defendant did not oppose the Motions.

Monetary sanctions are required under CCP §§ 2023.010, 2023.030, 2031.300(c), and 2033.280. Plaintiff requests \$2,588 for the Motion to Compel Further Responses, and \$1,860 for the Motion to Deem Matters Admitted. Due to the length and simplicity of the motions, the Court will reduce the attorney time to what the Court deems to be a reasonable amount. Pursuant to the Thomas Declaration, counsel bills at \$360.00 per hour and each motion necessitated a \$60 filing fee. The Court hereby awards \$120.00 in filing fees and 4 hours of attorney time at \$360 per hour for a grand total of \$1,560.00.

TENTATIVE RULING #1:

- 1. MOTION TO COMPEL FURTHER DISCOVERY RESPONSES TO FORM INTERROGATORIES, SPECIAL INTERROGATORIES, AND REQUEST FOR PRODUCTION OF DOCUMENTS IS GRANTED.**
- 2. MOTION TO DEEM THE TRUTH OF THE MATTERS IN THE REQUEST FOR ADMISSIONS ADMITTED IS GRANTED.**
- 3. SANCTIONS IN THE AMOUNT OF \$1,560.00 AWARDED TO PLAINTIFF, PAYABLE BY DEFENDANT BEFORE OCTOBER 27, 2025.**

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

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

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

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

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2.	24CV2461	BANK OF AMERICA v. CURTIS
Motion to Vacate Judgment and Enter Dismissal		

The Court notes that the Notice of hearing is deficient as the hearing date, time, and department were not completed. Further, the Notice does not comply with Local Rule 7.10.05. Repeated violations will be grounds for sanctions under Local Rule 7.12.13. Lastly, the Court received the Notice, Declaration, and proposed Order, but no Memorandum of Points and Authorities.

TENTATIVE RULING #2:

HEARING CONTINUED TO OCTOBER 17, 2025, AT 8:30 AM IN DEPARTMENT NINE TO ADDRESS THE ABOVE DEFICIENCIES AND TO PROVIDE PROPER NOTICE OF THE HEARING TO THE OTHER PARTY.

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

3.	25CV1891	MICHAUD-LINTON v. JARRETT
Compromise of Minor's Claim		

This is a Petition to compromise a minor's claim. The Petition states the minor sustained injuries to her back, left arm, right knee, and left knee resulting from an auto accident in 2024. A copy of the accident investigation report is included as Attachment 5, as required by Local Rule 7.10.12A(4). Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of \$19,000.00.

The Petition states the minor incurred \$320.62 in medical expenses and \$3,500.00 in statutory liens that would be deducted from the settlement. Copies of invoices for the claimed medical expenses are attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

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 not attached, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(3).

The minor's attorney is waiving his fee. The Petition does include a Declaration by the attorney as required by California Rules of Court, Rule 7.955(c).

The minor's attorney also requests reimbursement for costs in the amount of \$1,211.40. There are copies of bills substantiating some of the claimed costs attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6). The invoices attached add up to \$943.65 in costs, not \$1,211.40.

With respect to the \$13,967.98 due to the minor, the Petition requests that they be deposited into an insured account with Golden One Credit Union, subject to withdrawal with court authorization. See attachment 18(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).

The minor's presence at the hearing will be required in order for the court to approve the Petition. Local Rules of the El Dorado County Superior Court, Rule 7.10.12.D.

TENTATIVE RULING #3:

APPEARANCES REQUIRED ON FRIDAY, AUGUST 29, 2025, AT 8:30 AM 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.

4.	25CV1892	MATTER OF LOSCUTOFF
Compromise of Minor's Claim		

This is a Petition to compromise two minors' claims.

Nevaeh

The Petition states the minor sustained soreness in her ribs, lower back, and left arm, resulting from an auto accident in 2024. A copy of the accident investigation report was **not** filed with the Petition, as required by Local Rule 7.10.12A(4). Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of \$5,000.00.

The Petition states the minor incurred \$926.34 in medical expenses that would be deducted from the settlement. Copies of invoices for the \$26.34 Medi-Cal lien are attached, but there is **no invoice** for the remaining \$900.00 as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

The Petition states that the minor has fully recovered and there are no permanent injuries. The minor was seen once, at the Emergency Room on the date of the accident. 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 requests attorney's fees in the amount of \$1,000.00, which represents a reduction of the 25% fee agreed to in the fee agreement. The court uses a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor or a person with a disability. (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(8); California Rules of Court, Rule 7.955(a)(1).) The Petition does include a Declaration by the attorney as required by California Rules of Court, Rule 7.955(c).

The minor's attorney also requests reimbursement for costs in the amount of \$546.34. There are copies of bills substantiating the claimed costs of \$59.10 but **not** the remaining amount attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

With respect to the \$2,527.32 due to the minor, the Petition requests that they be paid to the parent of the minor, without bond, on the terms and under the conditions specified in Probate Code §§ 3401-3402. The name and address of the parent and the money or other property to be delivered are **not** specified in Attachment 18b(5).

The minor's presence at the hearing will be required in order for the court to approve the Petition. Local Rules of the El Dorado County Superior Court, Rule 7.10.12.D.

Harmonee

The Petition states the minor was evaluated and cleared for injuries resulting from auto accidents in 2023 and 2024. Copies of the accident investigation reports were **not** filed with the Petition, as required by Local Rule 7.10.12A(4). Petitioner requests the court authorize a compromise of the minor's claim against defendants/respondents in the gross amount of \$7,500.00.

The Petition states the minor incurred \$933.45 in medical expenses that would be deducted from the settlement. Copies of invoices for the \$33.45 Medi-Cal lien are attached, but there is **no invoice** for the remaining \$900.00 as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

The Petition states that the minor has fully recovered and there are no permanent injuries. The minor was evaluated once, in the Emergency Room. A doctor's report for each accident 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 requests attorney's fees in the amount of \$1,020.20, which represents a reduction of the 25% fee agreed to in the fee agreement. The court uses a reasonable fee standard when approving and allowing the amount of attorney's fees payable from money or property paid or to be paid for the benefit of a minor or a person with a disability. (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(8); California Rules of Court, Rule 7.955(a)(1).) The Petition does include a Declaration by the attorney as required by California Rules of Court, Rule 7.955(c).

The minor's attorney also requests reimbursement for costs in the amount of \$546.35. There are copies of bills substantiating the claimed costs of \$59.10 but **not** the remaining amount attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6).

With respect to the \$5,000.00 due to the minor, the Petition requests that they be paid to the parent of the minor, without bond, on the terms and under the conditions specified in Probate Code §§ 3401-3402. The name and address of the parent and the money or other property to be delivered are **not** specified in Attachment 18b(5).

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The minor's presence at the hearing will be required in order for the court to approve the Petition. Local Rules of the El Dorado County Superior Court, Rule 7.10.12.D.

TENTATIVE RULING #4:

APPEARANCES REQUIRED ON FRIDAY, AUGUST 29, 2025, AT 8:30 AM 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.

5.	PC20210186	KLINGER v. COLOMA COTTAGES et al
Motion for Summary Judgment (2)		

On June 4, 2025, Defendant Danika J. McLean (“McLean”) filed and served a Notice of Motion for Summary Judgment or in the Alternative, Summary Adjudication, and supporting documents thereto. On June 9, 2025, Defendants Coloma Cottages and Twenty10Limited, LLC (collectively “Coloma Cottages”) filed and served a Notice of Motion for Summary Judgment or in the Alternative, Summary Adjudication, and supporting documents thereto.

Plaintiff filed and served Plaintiff’s Opposition to Defendant Danika J. McLean’s Motion for Summary Judgment and all supporting documents thereto, as well as Plaintiff’s Opposition to Defendants Coloma Cottages and Twenty10Limited, LLC’s Motion for Summary Judgment and all supporting documents thereto, on August 8, 2025.

On August 18, 2025, McLean filed her Reply to Plaintiff’s Opposition to Motion for Summary Judgment or in the Alternative, Summary Adjudication, and all supporting documents. On August 22, 2025, Coloma Cottages filed its Reply to Plaintiff’s Opposition to Motion for Summary Judgment or in the Alternative, Summary Adjudication, and all supporting documents.

This is a personal injury claim arising from an unfortunate fall Plaintiff Carey Klinger experienced on August 12, 2019, while riding her bicycle downhill on 5941 New River Road in Coloma, California. Plaintiff claims that she lost control of her bicycle and fell while riding downhill due to the existence of a dangerous condition on the roadway – an unmarked undulation or berm – that was either created and/or maintained by Defendants. Plaintiff filed her lawsuit on April 12, 2021. Her lawsuit contains two causes of action – negligence and negligence per se.

Requests for Judicial Notice

McLean filed a request for judicial notice, requesting that the Court take judicial notice of Plaintiff’s First Amended Complaint filed in this case, which has not been opposed by Plaintiff. Coloma Cottages did not file any request 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 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 “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” Ev. Code § 452(h).

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.

McLean has complied with the requirements of § 453, therefore the court is compelled to grant the judicial notice request.

Separate Statements of Undisputed Facts in Support of Motions

McLean and Coloma both filed Separate Statements of Undisputed Facts (“SUMF”) with their motions. In regards to the SUMF filed by McLean and Coloma Cottages, Plaintiff argues that they fail to comply with the statutory pleading requirements set forth in CCP § 437c and CRC 3.1350(d) and 3.1350(h). Plaintiff argues that failure to comply constitutes sufficient grounds to deny the motion. CCP § 437c(b)(1); *Collins v. Hertz Corp.* (2006) 144 Cal.App.4th 64, 72-73; *Fleet v. CBS Inc.* (1996) 50 Cal.App.4th 1911, 1916, fn. 3. The Court disagrees and finds McLean’s and Coloma Cottage’s SUMFs to be proper.

Motion for Summary Judgment/Adjudication

Defendant McLean and Defendant Coloma Cottages bring their motions as a Motion for Summary Judgment or, in the Alternative, Summary Adjudication. The legal standard is the same for each form of relief in all material respects. A motion for summary judgment or adjudication shall be granted if there is no triable issue as to any material fact and the papers submitted show that the moving party is entitled to judgment as a matter of law as to one or more causes of action or claims for damages. Cal. Civ. Pro. § 437c(f)(1). A defendant moving for summary judgment need only show that one or more elements of the cause of action cannot be established. *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849. This can be done in one of two ways, either by affirmatively presenting evidence that would require a trier of fact *not* to find any underlying material fact more likely than not; or by simply pointing out “that the plaintiff does not possess and cannot reasonably obtain, evidence that *would* allow such a trier of fact to find any underlying material fact more likely than not.” *Id.* at 845; *Brantly v. Pisaro* (1996) 42 Cal. App. 4th 1591, 1601.

The moving party bears the initial burden of making a prima facie case for summary judgment. *White v. Smule, Inc.* (2022) 75 Cal. App. 5th 346. In other words, the party moving for summary judgment or adjudication must show that it is entitled to judgment as a matter of law. *Doe v. Good Samaritan Hospital* (2018) 23 Cal. App. 5th 653, 661. Where the defendant makes the required showing, the burden shifts to plaintiff to make a prima facie showing that there exists a triable issue of material fact. *Zoran Corp. v. Chen* (2010) 185 Cal. App. 4th 799, 805. “There is a triable issue of material fact if, and only if, the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof.” *Aguilar, Supra* 25 Cal. 4th at 850.

Because McLean and Coloma Cottage's Motions are nearly identical, and Plaintiff's Oppositions to each are nearly identical, the Court addresses the Motions together. These Motions are brought pursuant to Code of Civil Procedure § 437c and on the following grounds/issues: The undisputed material facts establish that plaintiff 'does not possess and cannot reasonably obtain, needed evidence' to satisfy the causation element of its negligence and negligence *per se* causes of action against Defendant.

The elements of a negligence claim and negligence *per se* claim both require a showing of causation. A negligence cause of action requires that a plaintiff establish the following elements: a legal duty of care, breach of that duty, and proximate cause resulting in injury. (*Kesner v. Superior Ct. (Pneumo Abex, LLC)* (2016) 1 Cal. 5th 1132, 1158.) A negligence *per se* cause of action requires that a plaintiff establish the following elements: that a law was violated; and the violation of the law caused the harm suffered by the plaintiff. (CACI No. 418). Establishing the causation element requires the showing of connection between a defendant's breach of duty and the plaintiff's injury. (*Coyle v. Historic Mission Inn Corp.* (2018) 24 Cal.App.5th 627, 645.) Evidence of causation "must rise to the level of a reasonable probability based upon competent testimony." (*Williams v. Wraxall* (1995) 33 Cal.App.4th 120, 133.) "A mere possibility of such causation is not enough; and when the matter remains one of pure speculation or conjecture, or the probabilities are at best evenly balanced, it becomes the duty of the court to direct verdict for the defendant." (*Ortega v. Kmart Corp.* (2001) 26 Cal.4th 1200, 1205.)

Defendants argue that while Plaintiff alleges the unmarked berm placed or maintained by them is what caused her to fall, she is unable to point to any evidence that would establish that the berm is what caused her to lose control. Rather, Defendants argue: the only witnesses were Plaintiff and her sister; Plaintiff's husband was in front of her and did not see what caused her to lose control; when Plaintiff's husband first saw her after the fall, she was an estimated 30 feet from the berm; Plaintiff has no memory of the incident or anything that occurred that day; Plaintiff never told her husband what caused her to lose control; and Plaintiff's sister saw the fall but did not see what caused it and Plaintiff never told her it was because of the berm. (McLean SUMFs, 10-27; Coloma Cottages SUMFs, 15-19, 26-27).

Defendants argue that Plaintiff simply "does not possess and cannot reasonably obtain, needed evidence" to satisfy the causation element of both its negligence and negligence *per se* claims against defendant. The Court agrees and finds that McLean has met her burden of proof. Therefore, the burden switches to Plaintiff to make a *prima facie* showing that there exists a triable issue of material fact. *Zoran Corp. v. Chen* (2010) 185 Cal. App. 4th 799, 805. "There is a triable issue of material fact if, and only if, the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof." *Aguilar, Supra* 25 Cal. 4th at 850.

Plaintiff opposes the Motion, arguing that Defendants fail to prove that Plaintiff did not collide with the berm, nor point to anything else that could have caused Plaintiff's injuries. The

Court does not find that to be the appropriate standard. Plaintiff further argues that causation is a question for the jury and that she has “produced ample evidence on the issue.” (MPA, p. 4, l. 27-28). Plaintiff cites to numerous statements in her SUMF, but the Court is not persuaded that Plaintiff has established causation, nor pointed to a triable issue of material fact.

Defendants reply but it does not change the Court’s analysis. McLean’s Motion for Summary Judgment and Coloma Cottage’s Motion for Summary Judgment are granted.

TENTATIVE RULING #5:

- 1. DEFENDANT MCLEAN’S REQUEST FOR JUDICIAL NOTICE IS GRANTED.**
- 2. DEFENDANT MCLEAN’S MOTION FOR SUMMARY JUDGMENT IS GRANTED.**
- 3. DEFENDANT COLOMA COTTAGE’S MOTION FOR SUMMARY JUDGMENT IS GRANTED.**

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