1. BUGAISKI v. SONNY'S BARBEQUE SHACK, ET AL., SC20190161

Final Account of Settlement

On September 25, 2023, the court entered the Final Approval Order and Judgment.

On January 22, 2025, the parties filed a joint status report indicating that the settlement account was funded a total amount of $230,000, and checks were issued to pay the settlement class members, attorney fees and costs, the class representative service awards, the Labor and Workforce Development Agency, administration fees, and applicable state and federal taxes. As of January 22, there was a total of 365 outstanding uncashed checks for a total of $21,205.39. Pursuant to the settlement agreement, the value of any uncashed checks by the 180-day deadline will be tendered by the settlement administrator to the Controller of the State of California to be held in the name of and for the benefit of such participating class members.

TENTATIVE RULING # 1: UPON COMPLETION OF THE ADMINISTRATION OF THE SETTLEMENT, THE PARTIES SHALL FILE A DECLARATION FROM THE SETTLEMENT ADMINISTRATOR STATING THAT ALL CLAIMS HAVE BEEN PAID AND THAT THE TERMS OF THE SETTLEMENT AGREEMENT HAVE BEEN COMPLETED. THE FINAL ACCOUNT OF SETTLEMENT HEARING IS CONTINUED TO 1:30 P.M., APRIL 25, 2025, IN DEPARTMENT FOUR. THIS WILL BE A NON-APPEARANCE DATE IF THE REQUIRED DECLARATION FROM THE SETTLEMENT ADMINISTRATOR IS SUBMITTED IN ADVANCE OF THE HEARING DATE.

2. CITY OF SOUTH LAKE TAHOE v. HARRINGTON, ET AL., 24CV2833

Petition for Order to Abate and Appoint Receiver

The City of South Lake Tahoe seeks the appointment of a receiver, Dean J. Pucci, under Health and Safety Code section 17980.7 to abate nuisance and substandard conditions at the real property located at 3515 Rancho Circle in South Lake Tahoe, California (the "Property").

No opposition was filed. The City believes the owner of the Property, respondent Stephen Harrington, may be deceased.

1. Background

The Property is a residential home that has reportedly been unoccupied since 1993.

From August 14, 2022, to 2024, the City engaged in various code enforcement efforts regarding maintenance and safety issues, including significant amounts of debris, a fallen fence, graffiti, broken windows, an open slider door, trespassers, and the possibility of squatters inside of the home.

On January 24, 2024, pursuant to an inspection warrant, the Property was inspected by South Lake Tahoe Police Department, Fire Department, Code Enforcement Division and Building Department personnel. The Principal Building Inspector prepared a report dated February 5, 2024, which specifies all violations identified during the inspection. (Chapman Decl., ¶ 5 & Ex. 1.)

On June 14, 2024, the City issued a notice and order to repair or abate under Health and Safety Code section 17980.6, with the attached inspection report dated February 5, 2024, ordering the owner to contact the Building Official to determine what permits will be necessary, and subsequently to obtain all permits within 30 days, and to commence repairs or demolition of the Property within 45 days of the notice and order date. (Harrison Decl., ¶ 10 & Ex. 1.) The notice and order, with attachment, was mailed to the owner and posted on the Property. (Harrison Decl., ¶ 10 & Ex. 1.)

To date, the owner has not taken any action to rehabilitate the Property. The City's attempts to contact the owner have been unsuccessful.

2. Discussion

When a building is maintained in a manner that violates state or local building maintenance regulations and "the violations are so extensive and of such a nature that the health and safety of residents or the public is substantially endangered" (Health & Saf. Code, § 17980.6), the local enforcement agency may issue a notice and order requiring repair or abatement of the unlawful conditions. (*City of Santa Monica v. Gonzalez* (2008) 43 Cal.4th 905, 919–920.) If the owner of the building thereafter fails to comply with the notice and order in a reasonable period of time, the enforcement agency can seek an order from the trial court appointing a receiver to oversee compliance. (*Id.* at p. 921.)

"In appointing a receiver, the court shall consider whether the owner has been afforded a reasonable opportunity to correct the conditions cited in the notice of violation." (Health & Saf. Code, § 17980.7, subd. (c)(1).) "The court shall not appoint any person as a receiver unless the person has demonstrated to the court their capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the building." (Health & Saf. Code, § 17980.7, subd. (c)(2).)

Here, the City's June 14, 2024, notice and order to repair or abate appears on its face to comply with the statutory requirements. The City has established numerous violations of various building maintenance regulations, including the Building Code, the Health and Safety Code, the International Property Maintenance Code, and the Codes adopted by the City. The Property has numerous safety issues including unsecured access points, structural issues, debris, and is suffering from ongoing deterioration due to lack of maintenance, all of which poses a risk to any individual that enters the Property. The court agrees with the City that the owner's long-term abandonment has created a situation of increased risk of fire, disease, personal injury, and criminal activity, and the owner does not appear to have the ability to address the problems.

Having reviewed the declaration and resume of the proposed receiver, the court finds that Mr. Pucci has demonstrated his capacity and expertise to develop and supervise a viable financial and construction plan for the satisfactory rehabilitation of the Property.

TENTATIVE RULING # 2: THE PETITION IS GRANTED. THE COURT APPOINTS DEAN J. PUCCI TO ACT AS RECEIVER OVER THE PROPERTY. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

3. DNF ASSOCIATES, LLC v. TINO, 23CV0148

OSC Re: Dismissal

Plaintiff filed this action on January 30, 2023. To date, there is no proof of service of the summons and complaint in the court's file.

There were no appearances at the last order to show cause hearing on November 8, 2024.

TENTATIVE RULING # 3: APPEARANCES ARE REQUIRED AT 1:30 P.M., FRIDAY, JANUARY 31, 2025, IN DEPARTMENT FOUR.

4. COETZEE v. LOMELI-DIAZ, ET AL., 24CV2028

(A) Defendant Adrian Lomeli-Diaz's Motion to Strike

(B) Defendant Ignacio Ramos De Santiago's Motion to Strike

Defendants Ignacio Ramos de Santiago ("Santiago") and Adrian Lomeli-Diaz ("Lomeli-Diaz") separately move to strike the following portions of plaintiff's first amended complaint ("FAC"): (1) Paragraph 14, subdivision (a)(2) for punitive damages; and (2) the Exemplary Damages Attachment (Judicial Council Form PLD-PI-001(6)).

Defense counsel declares he met and conferred with plaintiff's counsel on November 12, 2024, regarding the punitive damages claim in the original complaint. Although plaintiff later filed the FAC on November 21, 2024, the court finds that defendants have substantially complied with the meet and confer requirement under Code of Civil Procedure section 435.5, subdivision (a).

Plaintiff did not file any opposition to the motions. However, plaintiff did file a second amended complaint ("SAC"), which appears to be an unauthorized pleading.[1]

1. Background

This is a personal injury action arising from a motor vehicle accident. Plaintiff alleges that, at the time of the accident, defendant Santiago was: (1) not trained to drive a motor vehicle; (2) unlicensed to drive in the State of California; and (3) driving under the influence of alcohol or other substance. Plaintiff alleges defendant Lomeli-Diaz

[1] Plaintiff filed his original complaint on September 17, 2024. On November 21, 2024, plaintiff filed the FAC, apparently as a matter of right under Code of Civil Procedure section 472, subdivision (a), which allows a party to amend a complaint once without leave of court before the defendant's answer, demurrer, or motion to strike is filed. Defendants Santiago and Lomeli-Diaz filed their motions to strike portions of the FAC on December 30 and 31, 2024, respectively. Defendants filed their amended motions to strike portions of the FAC on January 2, 2025. Then, on January 14, 2025, plaintiff filed the SAC. However, plaintiff did not obtain leave of court to file the SAC and there is no indication that the parties stipulated to the filing of the SAC. As such, the SAC appears to be an unauthorized pleading. The court disregards the SAC for the purposes of the instant motions to strike.

permitted and entrusted the motor vehicle to defendant Santiago when defendant Lomeli-Diaz knew or should have known that defendant Santiago was not trained to drive a motor vehicle and was unlicensed to drive in the State of California, "certainly not while under the influence."

2. Legal Principles

A motion to strike is generally used to address defects appearing on the face of a pleading that are not subject to demurrer. (*Pierson v. Sharp Memorial Hospital* (1989) 216 Cal.App.3d 340, 342.) Further, "[t]he court may, upon a motion [to strike] …, or at any time in its discretion … [¶] … [s]trike out any irrelevant, false, or improper matter inserted in any pleading." (Code Civ. Proc., § 436, subd. (a).) Like a demurrer, the grounds for a motion to strike must appear on the face of the pleading or from any matter which the court is required to take judicial notice. (Code Civ. Proc., § 437, subd. (a).) On a motion to strike, the trial court must read the complaint as a whole, considering all parts in their context, and must assume the truth of all well-pleaded allegations. (*Courtesy Ambulance Service v. Superior Court* (1992) 8 Cal.App.4th 1054, 1519.)

3. Discussion

Civil Code section 3294 allows a plaintiff to recover exemplary (or "punitive") damages "[i]n an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice." (Civ. Code, § 3294, subd. (a).) For the purposes of awarding exemplary damages, " '[m]alice' means conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others." (Civ. Code, § 3294, subd. (c)(1).) " 'Oppression' means despicable conduct that subject a person to cruel and unjust hardship in conscious disregard of that person's rights." (Civ. Code, § 3294, subd. (c)(2).) " 'Fraud' means an intentional misrepresentation, deceit, or

concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury." (Civ. Code, § 3294, subd. (c)(3).)

3.1. Defendant Santiago

Defendant Santiago argues that the following allegations, without more, cannot support a claim for punitive damages: (1) that defendant Santiago was untrained and/or unlicensed to drive in the State of California; and (2) that defendant Santiago was driving under the influence of alcohol or other substance.

The court agrees. The FAC does not include any allegations indicating a willful or conscious disregard of probable injury to others. "The risk of injury to others from ordinary driving while intoxicated is certainly foreseeable, but it is not necessarily probable." (*Dawes v. Superior Court* (1980) 111 Cal.App.3d 82, 89 [finding that allegations would support recovery of punitive damages where complaint alleged intoxicated driver decided to zigzag in and out of traffic at 65 miles per hour in a crowded beach recreation area at 1:30 in the afternoon on a Sunday in June].)

Defendant Santiago's motion to strike is granted with leave to amend.

3.2. Defendant Lomeli-Diaz

The court finds plaintiff's allegations that defendant Lomeli-Diaz failed to properly investigate whether defendant Santiago was competent to drive do not rise to the level of malice, fraud, or oppression required to support a punitive damages award. Defendant Lomeli-Diaz's motion to strike is granted with leave to amend.

TENTATIVE RULING # 4: BOTH MOTIONS TO STRIKE ARE GRANTED WITH LEAVE TO AMEND. PLAINTIFF SHALL FILE AN AMENDED COMPLAINT WITHIN 10 DAYS AFTER THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247), UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED

ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

5. IMPERIUM BLUE TAHOE HOLDINGS v. TAHOE CHATEAU LAND HOLDINGS, 22CV1204

Motion for Protective Order

On December 20, 2024, defendant Tahoe Chateau Land Holding, LLC ("defendant") filed an ex parte application for a protective order related to plaintiff's special interrogatories (Set Two) and requests for production (Set Three) propounded upon defendant. The court set the matter for hearing on December 27, 2024. On December 27, the court received oral argument from the parties and continued the matter to January 31, 2025. The court ordered the parties to meet and confer, and file any opposition and reply papers in accordance with Code of Civil Procedure section 1005, subdivision (b).

The parties met and conferred but did not reach an agreement.[2] On January 16, 2025, defendant filed its opposition. On January 24, 2025, defendant filed its reply.

It is the court's understanding that defendant seeks to protect the following documents from disclosure: (1) its Construction Contract with defendant Propriis, LLC; (2) its Developer Contract with defendant Propriis, LLC; (3) its state and federal tax returns; and (4) its monthly bank statements.

1. Background

The operative complaint alleges that, under the parties' Chateau Shared Improvement Maintenance and Easement Agreement (the "M&E Agreement"), defendant was granted a temporary construction easement to construct 16 residential condominium units directly above plaintiff's retail space. Defendant agreed that, in its use of the temporary construction easement, it would not unreasonably interfere with plaintiff or its tenants' use or operation of their businesses, and defendant would repair and indemnify plaintiff

[2] Plaintiff's counsel states he proposed that if defendant would produce the requested information, plaintiff's counsel would limit access of such information to plaintiff, its attorneys, and expert witnesses/consultants for the limited purpose of prosecuting its claims in this civil action. (Sherman Decl., ¶ 3.) It appears that defendant takes issue with the requested information being shown to plaintiff. (See Bluto Decl., ¶ 4.)

for any damage arising from defendant's use of the temporary construction easement. (Sherman Decl., ¶ 7.)

Special Interrogatory ("SPROG") Number 27 asks defendant to identify all documents that evidence parking rates charged by defendant, and Request for Production ("RFP") Number 37 requests all documents identified in SPROG Number 27.

SPROG Number 28 asks defendant to state the aggregate total of the construction budget in the Construction Contract.

SPROG Number 29 asks defendant to identify all documents that evidence the aggregate total of the construction budget in the Construction Contract, and RFP Number 38 requests all documents identified in SPROG Number 29.

RFP Number 41 requests all documents comprising the complete and unredacted Construction Contract.

RFP Number 42 requests all documents comprising the complete and unredacted Developer Contract.

2. Legal Principles

The Civil Discovery Act gives the judge in most discovery contexts the general power to make any order that just requires to protect any party from undue burden or expense (Code Civ. Proc., §§ 2030.090, subd. (b) [interrogatories], 2031.060, subd. (b) [inspection demands]), and the specific power to order that a trade secret not be disclosed, or that it be disclosed only to specified persons, or only in a specified way. (Code Civ. Proc., §§ 2030.090, subd. (b)(6) [interrogatories], 2031.060, subd. (b)(5) [inspection demands].)

" '[T]he issuance and formulation of protective orders are to a large extent discretionary. [Citations.]" (*Nativi v. Deutsche Bank Nat. Trust Co.* (2014) 223 Cal.App.4th 261, 316–317.) "Where a party must resort to the courts, 'the burden is on the party seeking the protective order to show good cause for whatever order is sought.' " (*Id.* at p. 318.)

3. Timeliness of the Motion

As an initial matter, plaintiff argues defendant did not "promptly" bring its motion for a protective order in violation of Code of Civil Procedure sections 2030.90, subdivision (a) and 2031.060, subdivision (a). "[A]s to the timeliness of the motion for a protective order, the promptness of the request turns on the facts." (*Nativi*, *supra*, 223 Cal.App.4th at p. 317 [construing substantially similar language in Code Civ. Proc., § 2025.420, subd. (a): "Before, during, or after a deposition, any party, any deponent, or any other affected natural person or organization may promptly move for a protective order."].)

The court is not persuaded that defendant's motion for a protective order was not promptly filed. Although plaintiff served the discovery at issue on August 14, 2024, and defendant did not move for a protective order until December 20, 2024, the court notes that defendant raised the same privilege objections in its verified responses as it raises now in the instant motion. And defendant filed its motion for a protective order the day after the court issued its tentative ruling granting plaintiff's motion to compel further discovery responses.

4. Defendant's Construction Contract and Developer Contract

RFP Number 41 requests a complete and unredacted version of the Construction Contract. RFP Number 42 requests a complete and unredacted version of the Developer Contract. Defendant argues good cause exists to withhold disclosure of its Construction Contract and Developer Contract because both contracts contain trade secrets in exhibits attached to the agreements (Exhibits B and C to the Developer Contract are the same as Exhibit B to the Construction Contract and Exhibit A to the general conditions of the Construction Contract (Chen Decl., ¶ 10)).

Evidence Code section 1060 provides, "If he or his agent or employee claims the privilege, the owner of a trade secret has a privilege to refuse to disclose the secret, and to prevent another from disclosing it, if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice." (Evid. Code, § 1060.) "The test for trade

secrets is whether the matter sought to be protected is information (1) which is valuable because it is unknown to others and (2) which the owner has attempted to keep secret." (*Whyte v. Schlage Lock Co.* (2002) 101 Cal.App.4th 1443, 1454.)

"[T]he party claiming the privilege has the burden of establishing its existence. [Citations.] Thereafter, the party seeking discovery must make a prima facie, particularized showing that the information sought is relevant and necessary to the proof of, or defense against, a material element of one or more causes of action presented in the case, and that it is reasonable to conclude that the information sought is essential to a fair resolution of the lawsuit." (*Bridgestone/Firestone, Inc. v. Superior Court* (1992) 7 Cal.App.4th 1384, 1393.)

Defendant claims the exhibits to the agreements contain pricing information, funding for a construction schedule, and estimated labor rates. According to defendant, the financial information in these exhibits could provide a competitor with the information necessary to determine how to price similar projects at a lower cost, thus allowing that competitor to outbid defendant on property to be developed because it might spend less on construction costs. (App. at 4:14–17.)

Defendant cites *Whyte*, *supra*, 101 Cal.App.4th at p. 1455 for the proposition that, information that can allow a competitor to undercut a party can have independent economic value. In *Whyte*, the court found that a lock manufacturer's market strategy and plans – which included pricing, profit margins, costs of production, pricing concessions, promotional discounts, advertising allowances, volume rebates, marketing concessions, payment terms, and rebate incentives – were trade secrets. (*Ibid.*)

Further, defendant claims that it has attempted to keep the subject financial information secret, as evidenced by the confidentiality clauses in the contracts and applicable employee policies prohibiting disclosure.

The court is persuaded by defendant's argument and finds that the subject exhibits contain trade secrets.

Accordingly, plaintiff, as the party seeking discovery, "must make a prima facie, particularized showing that the information sought is relevant and necessary to the proof of, or defense against, a material element of one or more causes of action presented in the case, and that it is reasonable to conclude that the information sought is essential to a fair resolution of the lawsuit." (*Bridgestone/Firestone, Inc.*, *supra*, 7 Cal.App.4th at p. 1393.) Plaintiff claims the Construction Contract and Developer Contract are directly relevant to plaintiff's claims or would very likely lead to the discovery of admissible evidence. Plaintiff's counsel explains, "For example, if [defendant] underbudgeted the construction work, I think it would support a finding that [defendant] did not allocate sufficient resources to mitigate or avoid unreasonably interfering with [plaintiff's] business operations or creating unreasonable construction delays. Similarly, I think the construction schedule itself may demonstrate or evidence a breach of the M&E Agreement based on the amount of time that [plaintiff] was exposed to construction activities. The construction budget and schedule may also directly or indirectly demonstrate or support a finding of [defendant's] negligence." (Sherman Decl., ¶ 8.)

The court is not convinced that plaintiff has made a prima facie, particularized showing that the information sought is *necessary* to the proof of one or more causes of action in the case. (See *Bridgestone/Firestone*, *supra*, 7 Cal.App.4th at p. 1395 ["…it is not enough that a trade secret might be useful to real parties."].) Therefore, the court grants defendant's request for a protective order protecting the following exhibits from disclosure: (1) Exhibits B and C to the Developer Contract; and (2) Exhibit B to the Construction Contract and Exhibit A to the general conditions of the Construction Contract.

To the extent that the disputed *interrogatories* ask defendant to identify documents as to which a privilege is claimed, the court notes that the *existence* of a privileged document is not generally privileged. (*Hernandez v. Superior Court* (2003) 112 Cal.App.4th 285, 293.) Therefore, an adequate response to an interrogatory must include a

description of the documents, even if the party has the right to object to a demand for their production. (See *ibid*.)

5. SPROGs Regarding Aggregate Total of the Construction Budget

SPROG Number 28 asks defendant to state the aggregate total of the construction budget in the Construction Contract. SPROG Number 29 asks defendant to identify all documents that evidence the aggregate total of the construction budget in the Construction Contract.

The court finds that the aggregate total of the construction budget in the Construction Contract is not a trade secret because it does not identify any breakdown of costs. Therefore, the motion for protective order is denied insofar as defendant seeks to withhold such information.

6. Defendant's Tax Returns and Bank Statements

Defendant argues that its state and federal tax returns, as well as its monthly bank statements (which allegedly include income data related to the parking fees it receives under the parking agreement) should be protected from disclosure. The court questions, however, whether the tax returns and bank statements are responsive to RFP Number 37 where, presumably, they merely reflect payments received, not the actual parking rates. As such, the court denies the request for a protective order insofar as it relates to the disclosure of these documents.

TENTATIVE RULING # 5: THE MOTION FOR PROTECTIVE ORDER IS GRANTED IN PART AND DENIED IN PART. DEFENDANT TAHOE CHATEAU LAND HOLDINGS, LLC SHALL NOT BE REQUIRED TO DISCLOSE THE FOLLOWING DOCUMENTS IN THIS ACTION: (1) EXHIBIT B TO THE DEVELOPER CONTRACT; (2) EXHIBIT C TO THE DEVELOPER CONTRACT; (3) EXHIBIT B TO THE CONSTRUCTION CONTRACT; OR (4) EXHIBIT A TO THE GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT. NO HEARING ON THIS MATTER WILL BE HELD (*LEWIS v. SUPERIOR COURT* (1999) 19 CAL.4TH 1232, 1247),

UNLESS A NOTICE OF INTENT TO APPEAR AND REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 573-3042 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. NOTICE TO ALL PARTIES OF AN INTENT TO APPEAR MUST BE MADE BY TELEPHONE OR IN PERSON. PROOF OF SERVICE OF SAID NOTICE MUST BE FILED PRIOR TO OR AT THE HEARING.

6. GABLER v. LENNEX, 23CV1351

Order of Examination Hearing

On January 29, 2025, proof of personal service was filed showing that judgment debtor Melissa Lennex was personally served with the order to appear for examination no less than 10 days prior to the hearing.

TENTATIVE RULING # 6: JUDGMENT DEBTOR'S APPEARANCE IS REQUIRED AT 1:30 P.M., FRIDAY, JANUARY 31, 2025, IN DEPARTMENT FOUR.