

1.	23CV1998	BRUNIUS v. MILLER
Attorney Withdrawal		

Counsel for the Plaintiff Eli Brunius has filed a motion to be relieved as counsel pursuant to Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362.

A declaration on Judicial Council Form MC-052 accompanies the motion, as required by California Rules of Court, Rule 3.1362, stating that there has been a breakdown in the attorney-client relationship due to the inability to communicate with the client.

Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362 allow an attorney to withdraw after notice to the client. Proof of service of the motion on the Plaintiff at his last known address and on counsel for Defendant was filed on December 18, 2024.

A Settlement Conference is currently scheduled on March 12, 2025, and trial is currently scheduled for April 29, 2025. Both dates are listed in the proposed Order as required by California Rules of Court, Rule 3.1362(e).

TENTATIVE RULING #1:

ABSENT OBJECTION, THE MOTION IS GRANTED. COUNSEL IS DIRECTED TO SERVE A COPY OF THE SIGNED ORDER (FORM MC-053) ON THE CLIENT AND ALL PARTIES THAT HAVE APPEARED IN THE CASE IN ACCORDANCE WITH CALIFORNIA RULES OF COURT, RULE 3.1362(e).

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.

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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.	25CV0084	MATTER OF EVANS
Minor's Compromise		

On January 10, 2025, Elizabeth Evans, the mother of the minor who is the subject of this filed an ex parte application to be appointed guardian ad litem for the purpose of this proceeding, which was approved by the court on January 10, 2025.

This is a Petition to compromise a minor's claim. The Petition states the minor sustained spine and knee injuries resulting from a head-on auto accident in 2023. A copy of the accident investigation report was 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 \$50,000.00.

The Petition states the minor incurred \$5,815.14 in medical expenses that will 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 not fully recovered, and the claimant still has some pain and anxiety symptoms, which are temporary. 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 \$12,500.00, which represents 25% of the gross settlement amount. 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 \$466.25. There are no copies of bills substantiating the claimed costs 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 \$31,218.61 due to the minor, the Petition requests that they be deposited into a single-premium deferred annuity, subject to withdrawal with court authorization. See Structure Attachment which includes the name **but not the address** of the depository, as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A(7).

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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.

The Petition lacks invoices in support of the expenses requested (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6)) and the address of the annuity company (Local Rules of the El Dorado County Superior Court, Rule 7.10.12A(7)).

TENTATIVE RULING #2:

APPEARANCES REQUIRED ON FRIDAY, FEBRUARY 7, 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.

3.	24CV0345	COTTEN v. FORD MOTOR COMPANY
Motion to Compel		

This matter was originally called on January 10, 2025, but a continuance was granted due to the fires in Los Angeles.

On July 18, 2024, Plaintiffs served 298 discovery demands, including 140 Requests for Production of Documents. Defendants responded on September 19, 2024, and verified the responses on September 25, 2024. On October 3, 2024, Plaintiffs served a 35-page meet-and-confer letter, which Defendants responded to on October 30, 2024. On November 4, 2024, Plaintiff sent a lengthy email and then proceeded to file this Motion on November 8, 2024.

“A meet and confer declaration in support of a motion shall state facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.” Code Civ. Proc. § 2016.040. In order to properly “meet and confer” with respect to a discovery dispute:

The parties must present to each other the merits of their respective positions with the same candor, specificity, and support during informal negotiations as during the briefing of discovery motions. Only after all cards have been laid on the table, and a party has meaningfully assessed the relative strengths and weaknesses of its position in light of all available information, can there be a “sincere effort” to resolve the matter.

“[A]rgument is not the same as informal negotiation ... attempting informal resolution means more than the mere attempt by the discovery proponent ‘to persuade the objector of the error of his ways.’” *Clement v. Alegre*, 177 Cal. App. 4th 1277, 1294 (2009). When discovery requests are grossly overbroad on their face, and hence do not appear reasonably related to a legitimate discovery need, a reasonable inference can be drawn of an intent to harass and improperly burden. *Obregon v. Superior Ct.*, Cal. App. 4th 424, 431 (1998).

The Court finds that sufficient meet and confer efforts were not undertaken prior to filing this Motion.

TENTATIVE RULING #3:

APPEARANCES REQUIRED ON FRIDAY, FEBRUARY 7, 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.	22CV1258	HESS v. MARTIN
Minor's Compromise		

On November 14, 2024, John Hess, the father of the minor who is the subject of this filed an ex parte application to be appointed guardian ad litem for the purpose of this proceeding, which was approved by the court on November 14, 2024.

This is a Petition to compromise a minor's claim. The Petition states the minor sustained left hip pain and emotional distress resulting from an auto accident in 2022. 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 \$33,333.00.

Private health insurance paid \$6,555.20 in medical expenses and is not seeking reimbursement.

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 requests attorney's fees in the amount of \$8,333.25¹, which represents 25% of the gross settlement amount. 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 \$375.67. There are no copies of bills substantiating the claimed costs 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 \$24,624.33 due to the minor, the Petition requests that they be deposited into an insured account with Wells Fargo, 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. The Petition fails to

¹ Petition incorrectly states attorney's fees of 25% amount to \$8,333.33.

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include a copy of the accident report (Local Rule 7.10.12A(4)) and copies of invoices justifying the expenses requested by counsel (Rule 7.10.12A.(6)).

TENTATIVE RULING #4:

APPEARANCES REQUIRED ON FRIDAY, FEBRUARY 7, 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.	23CV1556	RIAZ v. HUGHES
Motion to Set-Aside		

This Motion was heard on December 13, 2024. The matter was continued to allow Defendants time to submit a proposed Answer and file a Declaration setting forth the basis for their motion. These documents were required to be filed and served by January 9, 2025. No additional documents have been filed.

TENTATIVE RULING #5:

MOTION TO SET-ASIDE FEFAULT IS DENIED.

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

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6.	24CV1638	WILLIAMS v. OLYMPIA MORTGAGE
Motion to Set-Aside		

Defendant Poppy Bank filed a Motion to Set Aside Default. The Motion did not comply with Local Rule 7.10.05. However, Plaintiff and Poppy Bank have since entered into a Joint Stipulation, and the Order was granted by Judge Slossberg on January 29, 2025. The Motion is moot.

TENTATIVE RULING #6:

HEARING DROPPED FROM CALENDAR.

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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7.	24CV1700	JP MORGAN CHASE v. TRULL
Motion to Deem Matters Admitted		

Plaintiff brings this Motion against Defendant. On October 21, 2024, Plaintiff served by mail a set of requests for admissions on Defendant. Exhibit 1. Plaintiff states that no response from Defendant has been received, and therefore Plaintiff requests an Order deeming the matters admitted.

California Code of Civil Procedure (“CCP”) § 2033.280 provides that if a party to whom requests for admissions have been directed fails to serve a timely response, that party thereby waives any objection to the requests, including one based on privilege or on the protection for work product under § 2018.010 et seq. It further provides that the requesting party may move for an order that the truth of any facts specified in the requests be deemed admitted. The court “shall” make this order unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admissions that is in substantial compliance with paragraph (1) of subdivision (f).

TENTATIVE RULING #7:

MOTION TO DEEM MATTERS ADMITTED IS GRANTED.

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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8.	22CV1072	ZAMAYA v. HEAGY CONSTRUCTION
Attorney Withdrawal		

Counsel for the Plaintiff Salvador Robeldo Zamaya has filed a motion to be relieved as counsel pursuant to Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362.

A declaration on Judicial Council Form MC-052 accompanies the motion, as required by California Rules of Court, Rule 3.1362, stating that counsel has been unable to reach his client despite various efforts to do so.

Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362 allow an attorney to withdraw after notice to the client. Proof of service of the motion on the on counsel for Defendants was filed on January 14, 2025. However, the proof of service does not indicate that Plaintiff was served.

The case is set for Settlement Conference on April 9, 2025, Trial Confirmation on May 23, 2025, and trial on June 10, 2025. All dates are listed in the proposed Order as required by California Rules of Court, Rule 3.1362(e).

TENTATIVE RULING #8:

APPEARANCES REQUIRED ON FRIDAY, FEBRUARY 7, 2025, AT 8:30 AM IN DEPARTMENT NINE.

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9.	PC20200639	ROGERS v. LEHR
Attorney Withdrawal		

Counsel for the Plaintiffs has filed a motion to be relieved as counsel pursuant to Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362.

A declaration on Judicial Council Form MC-052 accompanies the motion, as required by California Rules of Court, Rule 3.1362, stating that there has been a breakdown of the attorney-client relationship.

Code of Civil Procedure § 284(2) and California Rules of Court, Rule 3.1362 allow an attorney to withdraw after notice to the client. Proof of service of the motion on the Plaintiffs at their last known address and on Individual Defendant as well as counsel for Defendant was filed on December 4, 2024.

There is a Case Management Conference scheduled on May 6, 2025, which is not listed in the proposed Order, as it likely had not been set at the time this Motion was filed.

TENTATIVE RULING #9:

- 1. ABSENT OBJECTION, THE MOTION IS GRANTED. COUNSEL TO PREPARE AN AMENDED ORDER FOR THE COURT.**
- 2. COUNSEL IS DIRECTED TO SERVE A COPY OF THE SIGNED ORDER (FORM MC-053) ON THE CLIENT AND ALL PARTIES THAT HAVE APPEARED IN THE CASE IN ACCORDANCE WITH CALIFORNIA RULES OF COURT, RULE 3.1362(e).**

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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**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.**

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10.	24CV2087	TRUIST BANK v. POWERS
CMC		

TENTATIVE RULING #10:

APPEARANCES REQUIRED ON FRIDAY, FEBRUARY 7, 2025, AT 8:30 AM IN DEPARTMENT NINE.

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11.	24CV0350	RAWLIN v. AUCTION SERVICES OF CALIFORNIA, LLC
Motion to Strike Answer		

Plaintiff Amber Rawlin ("Plaintiff") hereby moves to strike Defendant Auction Services of California, LLC's ("Defendant") Answer. A motion to strike an answer is governed by Code Civ. Proc. §§ 435 and 436. Relevant here is Code Civ. Proc. § 436(b) which allows a party to move for an order "strik[ing] out all or any part of a 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. § 128.7 requires that all pleadings filed with the court be signed by an attorney of a represented party, or, if the party is not represented by counsel, by the party themselves. (*Id.*). However, "[i]t has long been established that a corporation cannot represent itself in court, either in propria persona or through an officer or agent who is not an attorney." (*Ziegler v. Nickel* (1998) 64 Cal.App.4th 545, 548 (citations omitted)). In other words, "a corporate officer who is not an attorney may not appear on behalf of the corporation." (*Id.*) In *Merco Constr. Engineers, Inc. v. Municipal Court* (1978) 21 Cal.3d 724, 731, the California Supreme Court reasoned that because a corporation is not a natural person, it must be represented by a natural person, and that representation clearly involves the practice of law and must be done by a licensed lawyer. A limited liability company, like a corporation, is not a natural person.

In this case, the Answer has no attorney information and is merely signed by "Defendants." Therefore, it is proper to strike Defendant's Answer since Defendant must be represented by counsel.

The Motion does not comply with Local Rule 7.10.05, which requires language notifying the non-moving party of this county's tentative ruling system and request for oral argument. Therefore, appearances are required, and a tentative ruling will not be issued.

TENTATIVE RULING #11:

APPEARANCES REQUIRED ON FRIDAY, FEBRUARY 7, 2025, AT 8:30 AM IN DEPARTMENT NINE.

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12.	23CV0035	JOE DOE #1 J.M. v. GENERAL COUNCIL OF THE ASSEMBLIES OF GOD
Demurrer		

This case involves allegations of childhood sexual assault by Plaintiff John Doe #1 J.M. (“Plaintiff”) against Defendants, including The General Council of the Assemblies of God (“Defendant”). Defendant hereby demurs to Plaintiff’s First Amended Complaint (“FAC”). The Notice does not comply with Local Rule 7.10.05.

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 (“CCP”) §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”).

Based on the Declaration of attorney Robyn Frick, the Court finds that the parties have engaged in sufficient meet and confer efforts.

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).”

Defendants requests judicial notice of two documents within the Court’s file.

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)

Defendant’s request for judicial notice is granted.

The FAC includes 7 causes of action: (1) Sexual Abuse of a Minor; (2) Intentional Infliction of Emotional Distress; (3) Sexual Harassment; (4) Negligence; (5) Negligent Supervision; (6) Violation of Civil Rights; and (7) Battery.

Defendant demurs to all seven causes of action on the following grounds:

1. Pursuant to CCP § 430.10(e), Defendant demurs to the First through Seventh Causes of Action in Plaintiff’s FAC on the grounds that they fail to state facts sufficient to state a cause of action because they are barred by the applicable statute of limitation that was in effect at the time the original Complaint was filed.
2. The First Cause of Action (sexual abuse of a minor) fails to state facts sufficient to state a cause of action because Defendant cannot be liable for the perpetrator(s)’ alleged conduct on a *respondeat superior* theory or directly liable on a ratification theory, and it is uncertain because it fails to allege specific allegations of wrongdoing against Defendant.
3. The Second Cause of Action (intentional infliction of emotional distress) fails to state facts sufficient to state a cause of action because Plaintiff has failed to allege the requisite elements against Defendant, and it is uncertain because it fails to allege specific allegations of wrongdoing against Defendant.

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4. The Third Cause of Action (sexual harassment) fails to state facts sufficient to state a cause of action because Plaintiff failed to allege any specific facts supporting this cause of action against Defendant and it is uncertain because it fails to allege specific allegations of wrongdoing against Defendant.
5. The Sixth Cause of Action (violation of civil rights) fails to state facts sufficient to state a cause of action because Plaintiff has failed to allege any specific facts supporting this cause of action against Defendant and it is uncertain because it fails to allege specific allegations of wrongdoing against Defendant.
6. The Seventh Cause of Action (battery) fails to state facts sufficient to state a cause of action because Defendant cannot be vicariously liable for the alleged perpetrator(s)' alleged acts, Plaintiff alleges no specific acts by Defendant, and it is uncertain because it fails to allege specific allegations of wrongdoing against Defendant.

Defendant's first argument is that Plaintiff's entire case is barred by the applicable statute of limitations and was filed ten days late. Plaintiff alleges that "This action to recover damages on behalf of an adult who was a victim of childhood sexual abuse is governed by Code of Civil Procedure § 340.1." (FAC, ¶ 5.) The original complaint in this action was filed on January 11, 2023. See RJN, Court Docket and Complaint (Exhs. 1 and 2). However, CCP § 340.1, which was in place at the time the original complaint was filed, required the lawsuit to be filed by January 1, 2023. (See Code Civ. Proc. § 340.1(q) (2022).

Defendant argues, and the Court agrees, that the statute was subsequently amended for alleged abuse occurring on or after January 1, 2024, but the prior version of the statute remains in place for cases such as this, which allege abuse prior to January 1, 2024. See Code Civ. Proc. §§ 340.1(p) (2024)2 and 340.11(q); see also FAC ¶¶ 4 and 37, alleging the abuse occurred in 1980 or 1987, i.e., prior to January 1, 2024. The entire action is premised on the revivor statute in CCP § 340.1, and under that statute the complaint is untimely, therefore, the demurrer will be sustained.

The demurrer is unopposed. Leave to amend must be denied where there is no reasonable probability that the defect in the complaint can be cured by an amendment. *Camsi IV v. Hunter Technology Corp.* (1991) 230 Cal.App.3d 1525, 1539. The Court finds that there is not a reasonable probability that the Complaint could be cured by amendment, and that burden rests on the Plaintiff. However, the Plaintiff has not opposed the Demurrer or provided any evidence of how the Complaint could be amended. *Blank v. Kirwin* (1985) 39 Cal.3d 311, 318; *Goodman v. Kennedy* (1976) 18 Cal.3d 335, 384. Leave to amend is denied because Plaintiff did not meet his burden.

Defendant offers additional arguments in support of its demurrer, but those need not be addressed based on the findings above.

TENTATIVE RULING #12:

- 1. DEFENDANT'S REQUEST FOR JUDICIAL NOTICE IS GRANTED.**
- 2. DEMURRER SUSTAINED AS TO ALL SEVEN CAUSES OF ACTION, WITHOUT LEAVE TO AMEND.**

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

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

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

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

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TENTATIVE RULING #13:

MATTER IS CONTINUED TO FRIDAY, FEBRUARY 14, 2025, AT 8:30 AM IN DEPARTMENT NINE.