1.	PC20200596	MALONE v. WEAHUNT
Attorney's Fees		

Plaintiff filed a motion for attorney's fees, which was continued to January 24, 2025 to afford Plaintiff an opportunity to supplement her motion and to allow Defendant to thereafter respond. On January 15, 2024 and again on January 21, 2025, Defendant Verniest filed a request for an extension indicating that Defendant Weahunt had significant medical issues preventing him from filing a substantive response. Upon review of the file, there is no indication that these pleadings of Defendant were served on Plaintiff. As such, the court declined to act on this request ex parte and instead ordered the parties to appear. At the hearing, Plaintiff appeared with her counsel. Defendant Verniest appeared to be on zoom, but her audio did not appear to be working.

The court continued the matter to February 14, 2025, as it needed additional time to review Plaintiff's pleadings. The court now has reviewed Plaintiff's pleadings, including the declaration of counsel with the billing statements attached. In the declaration, counsel states that the time on the case between September 26, 2020 to January 2022 was spent clearing the cloud on the title on Plaintiff's property and resolving the negative impacts of the publication of the lien. Per the declaration and as reflected in the billing statement, on January 26, 2022, Plaintiff purchased the release of the lien.

Counsel declares that $69,390.98 in attorney's fees and costs were incurred during this time period. Upon review of the billing statements, the court finds that $1,149.98 of this amount was for costs. The remaining $68,241, the court finds, were for attorney's fees, comprising just under 195 hours of attorney time billed at $350 per hour. The court finds that the hourly rate charged to Plaintiff is reasonable. The court additionally reviewed every line of the billing statements during this time period and finds that the hours spent were reasonable and were reasonably related to the clearing of title. The court acknowledges that Plaintiff plead other causes of action, aside from slander of title. The court finds good cause to not allocate counsel's work during this time period between the various causes of actions, finding that all the work conducted was connected to the slander of title claim. As such, the court awards Plaintiff $68,241 in attorney's fees and $1,149.98 in costs, for a total of $69,390.98 for this time period for the slander of title cause of action.

Counsel further requests that the court award an additional $109,894 in fees and costs, expense incurred while the matter awaited trial. While the court did not grant Plaintiff's slander of title cause of action until after trial, the court reasonably infers that the release of the lien, purchased by Plaintiff on January 26, 2022, effectively removed the cloud on the title. The court cannot find based on the declaration and its review of the billing statements that any subsequent attorney work or costs related to removing the cloud on the title. While Plaintiff certainly is entitled to damages for the effect of the cloud on her title, the court already

awarded her what it found to be the appropriate amount of damages based on the evidence admitted at trial. The court therefore limits its award to only those fees and costs up to the point that the lien was released on January 26, 2022.

The court awards Plaintiff $68,241 in attorney's fees and $1,149.98 in costs, for a total of $69,390.98, for the slander of title cause of action. Plaintiff is directed to add this amount to the judgment in the case.

TENTATIVE RULING #1:

THE COURT AWARDS PLAINTIFF $68,241 IN ATTORNEY'S FEES AND $1,149.98 IN COSTS, FOR A TOTAL OF $69,390.98, FOR THE SLANDER OF TITLE CAUSE OF ACTION. PLAINTIFF IS DIRECTED TO ADD THIS AMOUNT TO THE JUDGMENT IN THE CASE.

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.

2.	**23CV0769**	**POST v. DELEON**
Motions to Compel		

Defendants Huberty DeLeon, Isabel Diego, and Manuel Diego ("defendants") have jointly filed motions to compel: (1) plaintiff Gregory Post's verified response to Special Interrogatories (Set Two); (2) plaintiff Connie Post's verified response to Special Interrogatories (Set Two); (3) plaintiff Gregory Post's attendance at deposition; and (4) plaintiff Connie Post's attendance at deposition. Defendants also seek monetary sanctions in the total amount of $2,654.80 ($330.00 against each plaintiff related to their special interrogatories; and $997.40 against each plaintiff related to their deposition). Plaintiffs filed no opposition.

Special Interrogatories

If a party to whom interrogatories were directed fails to serve a timely response, that party waives all objections to the interrogatories, including an objection based on privilege or on the protection for work product. (Code Civ. Proc., § 2030.290, subd. (a).) The propounding party may move for an order compelling a response and for a monetary sanction. (Code Civ. Proc., § 2030.290, subd. (b); see *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404.) All that need be shown in the moving papers is that a set of interrogatories were properly served on the opposing party, that the time to respond has expired, and that no verified response has been served. (See *Leach v. Superior Court* (1980) 111 Cal.App.3d 902, 905–906.)

The court finds that defendants have established their burden with respect to both plaintiffs. Defense counsel declares that each plaintiff was served with Special Interrogatories (Set Two) on July 25, 2024. (McCormick Decl., ¶ 3.) To date, neither plaintiff has served a verified response. (McCormick Decl., ¶ 5.) Therefore, the motions to compel are granted.

If a party fails to serve a timely response, and the propounding party moves for and obtains a court order compelling a response, the trial court must impose a monetary sanction against the delinquent party unless that party acted with "substantial justification" or the sanction would otherwise be unjust. (Code Civ. Proc., § 2030.290, subd. (c).) Here, defendants request $330.00 in monetary sanctions against each plaintiff. Defense counsel declares his current hourly rate is $165.00, he spent one hour preparing each motion, and the filing fee for each motion was $46.00. (McCormick Decl., ¶ 6.) Defense counsel also declares that he anticipates spending two hours attending the hearing. (McCormick Decl., ¶ 6.) The court finds that $206.00 is an appropriate monetary sanction against each plaintiff (one hour of legal work plus the motion filing fee).

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Attendance at Deposition

When a party is served with a deposition notice but fails either to appear for examination or to proceed with it, or to serve a written objection to the notice at least three calendar days before the scheduled date on which the deposition is scheduled (Code Civ. Proc., § 2025.410, subds. (a), (b)), the party that gave the notice may move for an order compelling the deponent's attendance, the deponent's testimony, and the production for inspection of any document, electronically stored information, or tangible thing described in the notice. (Code Civ. Proc., § 2025.450, subd. (a).)

Here, defense counsel declares that on August 26, 2024, each plaintiff was served with a notice of deposition that included a request for documents. (McCormick Decl., ¶ 3 & Ex. A.) The depositions were set for October 29, 2024. Neither plaintiff served objections or appeared at deposition. (McCormick Decl., ¶¶ 4–5.)

The court notes, however, that defense counsel's declaration does not state he contacted either plaintiff to inquire about their nonappearance, as required for a motion to compel under Code of Civil Procedure section 2025.450, subdivision (b)(2). Implicit in the statute is a requirement that the attorney making the inquiry must listen to the reasons offered for the nonappearance and make a good-faith effort to resolve the issue. (*Leko v. Cornerstone Bldg. Inspection Serv.* (2001) 86 Cal.App.4th 1109, 1123–1124.)

The court continues the matter 30 days to allow defendants to meet and confer with plaintiffs.

TENTATIVE RULING #2:

1. **DEFENDANTS' MOTION TO COMPEL PLAINTIFF GREGORY POST'S VERIFIED RESPONSE TO SPECIAL INTERROGATORIES (SET TWO) IS GRANTED.**
    a. **PLAINTIFF GREGORY POST SHALL SERVE A VERIFIED RESPONSE TO SAID DISCOVERY WITHOUT OBJECTIONS AND PAY DEFENDANTS $206.00 IN MONETARY SANCTIONS WITHIN 30 DAYS AFTER THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER.**
2. **DEFENDANTS' MOTION TO COMPEL PLAINTIFF CONNIE POST'S VERIFIED RESPONSE TO SPECIAL INTERROGATORIES (SET TWO) IS GRANTED.**
    a. **PLAINTIFF CONNIE POST SHALL SERVE A VERIFIED RESPONSE TO SAID DISCOVERY WITHOUT OBJECTIONS AND PAY DEFENDANTS $206.00 IN MONETARY SANCTIONS WITHIN 30 DAYS AFTER THE DATE OF SERVICE OF THE NOTICE OF ENTRY OF ORDER.**
3. **DEFENDANTS' MOTION TO COMPEL PLAINTIFF GREGORY POST'S ATTENDANCE AT DEPOSITION IS CONTINUED TO 1:30 P.M., FRIDAY, MARCH 14, 2025, IN DEPARTMENT 9 TO ALLOW DEFENDANTS TO MEET AND CONFER WITH PLAINTIFF PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 2025.450, SUBDIVISION (B)(2).**

4. **DEFENDANTS' MOTION TO COMPEL PLAINTIFF CONNIE POST'S ATTENDANCE AT DEPOSITION IS CONTINUED TO 1:30 P.M., FRIDAY, MARCH 14, 2025, IN DEPARTMENT 9 TO ALLOW DEFENDANTS TO MEET AND CONFER WITH PLAINTIFF PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 2025.450, SUBDIVISION (B)(2).**

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.

3.	23CV0990	BARRAGAN v. PRASAD
Attorney Withdrawal		

All upcoming hearings are now listed on the proposed Order, and the Plaintiff was personally served with the Motion and supporting documents.

TENTATIVE RULING #3:

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). ORDER IS EFFFECTIVE UPON FILING OF THE PROOF OF SERVICE INDICATING SERVICE OF THE SIGNED ORDER ON THE CLIENT.

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4.	22CV0690	MALAKHOV v. MARTINEZ
Attorney Withdrawal		

Counsel for the Cross-Complainant, 5059 Greyson Creek Drive, LLC, 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 "professional considerations under California Rules of Professional Conduct 1.16(b)(5)."[1]

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 incorrectly captioned "Request for Jury Trial" was filed on December 24, 2024, showing the Notice of Motion and Motion, along with Declaration were mailed and emailed to all parties.

A Motion hearing is currently scheduled for April 25, 2025, and a Case Management Conference 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). The proposed Order indicates a Motion for Summary Judgment scheduled for April 11, 2025, but that does not appear on the Court's calendar.

TENTATIVE RULING #4:

APPEARANCES REQUIRED ON FRIDAY, FEBRUARY 14, 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.

[1] Rule 1.16(b)(5) provides that a lawyer may withdraw from representing a client if: "(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled."

5.	25CV0008	MATTER OF SWEEDEN
Minor's Compromise		

On November 25, 2024, Kayla Sweeden, 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 not approved by the Court as no Order was prepared.

*   *   *

This is a Petition to compromise a minor's claim. The Petition states the minor sustained contusion and laceration of lip, bloody nose, facial laceration and anxiety, resulting from an auto accident in 2021. A copy of the accident investigation report was filed with the Petition, as required by Local Rule 7.10.12A(4) (Attachment 5). Petitioner requests the court authorize a compromise of the minor's claim against defendant/respondent in the gross amount of $10,000.00.

The Petition states the minor incurred $1,574.42 in medical expenses that would be deducted from the settlement. Copies of invoices for the claimed medical expenses are not attached to the Petition as required by Local Rules of the El Dorado County Superior Court, Rule 7.10.12A.(6). There is a letter from Medi-Cal agreeing to payment of $572.42, but no invoice regarding payment of the remaining $1,000.00 indicated on the Petition.

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 $2,500.00, 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 $802.00. 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 $5,123.58 due to the minor, the Petition requests that they be deposited into an insured account with an unknown bank, subject to withdrawal with court authorization, until the minor obtains age 18, when the mother can withdraw the funds without

further court order. There is no attachment indicating 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 #5:

HEARING IS CONTINUED TO FRIDAY, MARCH 7, 2025, AT 8:30 AM IN DEPARTMENT NINE TO ALLOW COUNSEL TIME TO CURE THE DEFICINCIES NOTED ABOVE.

6.	24CV2912	MIC-BRY8, LLC v. INTERESTED PARTIES
Approval for Transfer of Structured Settlement Payment Rights		

Prior to approving a petition for the transfer of payment rights, this court is required to make a number of express written findings pursuant to Cal. Insurance Code § 10139.5, including the following:

1. That the transfer is in the best interests of the Payee, taking into account the welfare and support of Payee's dependents. Payee has no dependents. Exhibit C.
2. That the Payee has been advised in writing by the Petitioner to seek independent professional advice and has either received that advice or knowingly waived in writing the opportunity to receive that advice. This finding is supported by Exhibits B and E to the Petition. See also, Petition at ¶13.
3. That the transferee has complied with the notification requirements and does not contravene any applicable statute or the order of any court or government authority. In this case, the required disclosure statement was provided at least ten days prior to the execution of the transfer agreement, as required by Cal. Ins. Code § 10136. See Exhibits A and B.
4. That the transfer does not contravene any applicable statute or the order of any court or government authority. The Payee states he does not have any court-ordered child support obligations; however, he does not confirm whether he has maintenance obligations to a former spouse. Exhibit D.

In addition to the express written findings required by the applicable statutes, Cal. Ins. Code § 10139.5(b) requires the court to determine whether, based on the totality of the circumstances and considering the payee's age, mental capacity, legal knowledge, and apparent maturity level, the proposed transfer is fair and reasonable, and in the payee's best interests. The court may deny or defer ruling on the petition if the court believes that the payee does not fully understand the proposed transaction, and/or that the payee should obtain independent legal or financial advice regarding the transaction.

TENTATIVE RULING #6:

APPEARANCES REQUIRED ON FRIDAY, FEBRUARY 14, 2025, AT 8:30 AM IN DEPARTMENT NINE TO CONFIRM PAYEE'S SPOUSAL MAINTENANCE OBLIGATIONS. ABSENT OBJECTION, THE COURT INTENDS TO GRANT THE PETITION.

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.	24CV2871	RE 4959 FIN COURT
Unresolved Claims		

Petitioner, National Default Servicing Corporation ("Petitioner"), is the trustee under the Deed of Trust ("Deed") that encumbered 4959 Fin Court ("the property"). The Deed was executed by Sandra Laura Paradee ("Sandra") on October 11, 2011. The property was sold on October 25, 2022, for $148,000.00 and there remain surplus funds of $76,725.46. Notice was provided pursuant to Civil Code §2924j(a). Petitioner received two claims and is unable to determine priority, so this Petition was brought. After expenses, the proposed deposit amount is $71,972.28.

The trustee determined that Sandra passed away in 2015 and was survived by three daughters. Sandra had one son who predeceased her, and he was survived by a wife and two daughters, Gina and Maria. The trustee received two claims for the surplus funds, which came from Gina and Maria.

Petitioner provided notice on December 20, 2024, and pursuant to Civil Code §2924j(d) any interested party had 30 days from that notice to file a claim with the Court. On December 30, 2024, Laurie Jay Paradee ("Laurie"), Betty Sue Paradee ("Betty"), and Pamela Jay Paradee ("Pamela") filed a claim for surplus funds. Laurie, Betty, and Pamela, are the daughters of the former owner, Sandra. No other claims were filed with the Court.

Because no Will has been produced for Sanda, distribution of the surplus funds will be done according to Probate Code §6402, which provides for distribution amongst Sandra's heirs. However, Gina and Maria did not file claims with the Court. Minimally, the Court finds it proper to divide the surplus funds equally amongst Laurie, Betty and Pamela. However, the court orders the parties to appear as it appears that Gina and Maria as well were seeking to make a claim for the funds.

TENTATIVE RULING #7:

APPEARANCES REQUIRED ON FRIDAY, FEBRUARY 14, 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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8.	24CV1094	FORD v. MORENO
Motion to Compel		

Plaintiff filed a Motion to Compel Further Responses to Requests for Admissions ("Motion"). The Motion states: "Plaintiff's Counsel Michael R. Loewen has met and conferred extensively through written correspondence with Defendants' counsel." Plaintiff's counsel states that he sent a formal meet and confer letter to Defense counsel on December 4, 2024, given a deadline of January 3, 2025. It seems the extensive efforts argued by Plaintiff's counsel are limited to one letter.

Defendant opposes the Motion, arguing, in part, that it is fundamental that to meet and confer in a good faith attempt to resolve the issues takes more than a single letter, particularly when notified that the letter had not been delivered. As set forth in *Clement v. Alegre* (2009) 177 Cal.App.4th 1277, 1294 "the statute requires that there be a serious effort at negotiation and informal resolution." (*Townsend v. Sup.Ct.* (EMC Mortg. Co.)(1998) 61 Cal.App.4th 1431, 1438).

In the Reply, Plaintiff's counsel admits the meet and confer letter was initially sent to an incorrect service address; however, he fails to identify when the letter was actually served on Defense counsel. Defense counsel states in the Opposition, that the meet and confer letter was never resent. Despite Defense counsel offering to waive the statutory deadline for this Motion, Plaintiff's counsel failed to engage in any meaningful meet and confer efforts and instead brought this Motion. Defense counsel further outlines his efforts to informally resolve the discovery issues but notes that Plaintiff's counsel failed to respond.

Further, Plaintiff's counsel argues that "the law requires a reasonable effort, not an indefinite back-and-forth negotiation." While the Court agrees, the Court also finds that Plaintiff's counsel did not expend reasonable efforts. After sending the initial demand letter to an incorrect service address, Plaintiff's counsel made no efforts to contact Defense counsel directly.

Lastly, Plaintiff's Motion does not comply with Local Rule 7.10.05.

TENTATIVE RULING #8:

1. **MOTION TO COMPEL DENIED BASED ON PLAINTIFF'S FAILURE TO ENGAGE IN SUFFICIENT MEET AND CONFER EFFORTS.**
2. **SANCTIONS AWARDED AGAINST PLAINTIFF IN THE AMOUNT OF $300.00, PAYABLE BEFORE FRIDAY, MARCH 14, 2025.**

NO HEARING ON THIS MATTER WILL BE HELD UNLESS A REQUEST FOR ORAL ARGUMENT IS TRANSMITTED ELECTRONICALLY THROUGH THE COURT'S WEBSITE OR BY TELEPHONE TO THE COURT AT (530) 621-6551 BY 4:00 P.M. ON THE DAY THE TENTATIVE RULING IS ISSUED. CAL.

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

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9.	21CV0105	HERNANDEZ v. DAMAS
Motion for Leave to Amend Complaint		

Plaintiff Victoria Hernandez ("Plaintiff") brings this Motion for Leave to Amend the Complaint ("Motion"). The Complaint was filed on November 4, 2021. Trial is set for March 25, 2025. The Motion does not comply with Local Rule 7.10.05.

Plaintiff requests leave to file a First Amended Complaint ("FAC") to add a cause of action for Breach of the Implied Warranty of Habitability and damages including special, general and statutory, along with attorney's fees and punitive damages, in addition to any other damages the Court deems proper.

"The court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading[.]" Cal. Civ. Proc. Code § 473(a)(l); see also Cal. Civ. Proc. Code § 576 ("Any judge, at any time before or after commencement of trial, in the furtherance of justice, and upon such terms as may be proper, may allow the amendment of any pleading."). "There is a strong policy in favor of liberal allowance of amendments." *Mesler v. Bragg Mgmt. Co.* (1985) 39 Cal. 3d 290, 296.

If the granting of a timely motion for leave to amend "will not prejudice the opposing party, it is error to refuse permission to amend, and where the refusal also results in a party being deprived of the right to assert a meritorious cause of action[;] it is not only error but an abuse of discretion." *Morgan v. Super. Ct*. (1959) 172 Cal. App. 2d 527, 530 (finding that the trial court acted arbitrarily and abused its discretion when it denied a motion for leave to file an amended complaint that was filed before a trial date had been set). The difference between this case and *Morgan* is that trial is set to occur in approximately five weeks and in *Morgan* trial had not been set. The Court acknowledges the liberal policy in favor of amendments, but that must be weighs against the potential prejudice to the opposing party.

Plaintiff argues that they met and conferred with Defense, and that no additional discovery would be necessary at this juncture. In his Declaration, Plaintiff's counsel notes that these changes are required in part based on a liability expert's opinions. However, counsel fails to state when that liability expert's opinions were received and what length of time passed between that and the filing of this Motion.

Defendants Richard Damas dba Cedar West Properties, Kevin Woody, and Denise Woody (collectively "Defendants") oppose the Motion. Defendants argue that while generally a trial court has wide discretion in determining whether to allow an amendment, the appropriate exercise of that discretion requires that the trial court consider a number of factors: "including the conduct of the moving party and the belated presentation of the amendment." (*Emerald Bay Community Assn. v. Golden Eagle Ins. Corp.* (2005) 130 Cal.App.4 1078, 1097.) Even if a good amendment is proposed in proper form, unwarranted delay in presenting it may—of itself—be a

valid reason for denial. (*P& D Consultants, Inc. v. City of Carlsbad* (2010) 190 Cal.App.4th 1332, 1345.

Defendants argue that the Motion is procedurally defective and fails to comply with California Rules of Court ("CRC"), in that nowhere in the Notice of Motion or the Points and Authorities does Plaintiff explicitly state what is being added and where. Defendants further argue that Plaintiff's counsel's Declaration also fails to comply with CRC. The Court agrees with Defendants that the Motion and Declaration fail to explain why it took over three years from the filing of the Complaint, to discover an additional cause of action should be brought. In the Reply, Plaintiff's counsel notes that the expert's report was not received until October 7, 2024.

Defendants next argue that the site inspection which forms the factual foundation for the instant Motion and the new cause of action, was procedurally improper because Defendants were never given notice as required by California Code of Civil Procedure §2031.010(d). Defendants intend to bring a motion in limine to exclude all evidence collected at the site inspection and any expert opinions based on the allegedly improperly obtained evidence.

Next, Defendants argue they would be prejudiced by the proposed FAC, because they relied on Plaintiff's discovery responses in not obtaining expert input. Defendants offer two cases in support of their assertion that Plaintiff is barred from changing her sworn discovery responses to Defendants' detriment. *Thoren v. Johnston & Washer* (1972) 29 Cal.App.3d 270, 275; *Universal Underwriters Ins. Co. v. Superior Court* (1967) 250 Cal.App.2d 722. In the Reply, Plaintiff does not offer any case law to oppose Defendants' arguments.

Defendants argue that Plaintiff's retroactive assertion of attorney's fees is also prejudicial and states that precedent clearly establishes that a newly asserted claim for attorney's fees is a form of prejudice to the party upon whom they may be imposed, justifying denial of an amended complaint. This was the question at issue in *Duchrow v. Forrest* (2013) 215 Cal.App.4th 1359, where the Court of Appeal held that the trial court erred in allowing the amendment when plaintiff failed to offer a reason for the delay in seeking amendment, the amendment changed relevant facts and theories of liability, significantly increased the damages requested, warranted additional discovery and more. Plaintiff does not include any contrary case law in the Reply.

Lastly, Defendants argue that Plaintiff's proposed cause of action is barred by the statute of limitations. In *Barrington v. A,H. Robins Co.* (1985) 39 Cal.3d 146, the court stated: "An amended complaint relates back to the original complaint, and thus avoids the statute of limitations as a bar against named parties substituted for fictitious defendants, if it: (1) rests on the same general set of facts as the original complaint; and (2) refers to the same accident and same injuries as the original complaint." Defendants argue that Plaintiff's proposed new cause of action is based on new facts, not raised in the Complaint, and seeks recovery for a different type of injury. Plaintiff does not respond to this argument.

Defendants provide several arguments as to why Plaintiff's proposed amendment is prejudicial and should be barred. Plaintiff, as the moving party, failed to demonstrate that the proposed amendment was without delay and failed to dispute Defendants' arguments that the proposed amendment is prejudicial, and time barred.

TENTATIVE RULING #9:

MOTION FOR LEAVE TO AMEND 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).

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.

10.	24CV0424	LANE v. NICHOLAS
Demurrer		

Defendant files a Demurrer on the grounds of improper service. As pointed out in Plaintiff's Opposition, Defendant's Demurrer is untimely under California Code of Civil Procedure ("CCP") § 430.40(a). Plaintiff further argues that Defendant failed to comply with the meet and confer requirement of CCP § 430.41(a). Lastly, Plaintiff argues that Defendant's Demurrer is not brought on one of the allowable grounds as articulated in CCP §430.10.

Putting aside all of Plaintiff's valid arguments, the Court on December 6, 2024, rejected Defendant's argument that he was not properly served as it has been established that he was personally served with the Complaint and Summons on May 22, 2024.

While the Court is not considering sanctions against Defendant pursuant to CCP § 128.5(a) at this time, additional filings alleging improper service of the Complaint and Summons may give rise to sanctions.

TENTATIVE RULING #10:

DEMURRER OVERRULED.

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.

11.	**24CV1592**	**MAIER v. SPRINGER**
Demurrer		

Defendants Norcal Gold, Inc., Salameh J. Naser, Lucy S. Naser, and Evelyn Calopiz-Springer (collectively "Defendants") demurrer to Plaintiffs' Complaint. There is an additional individual Defendant, Terrence Springer ("Defendant Springer"), who has separate counsel and is not a party to this Demurrer. The Court will not be ruling on whether the Demurrer is sustained or overruled as to Defendant Springer.

Plaintiffs Patrick J. Maier, Tina C. Maier, Vivian C. Maier, and Connor W. Clark (collectively "Plaintiffs") are the owners of the subject property at issue. The subject property was previously owned by Defendants Salameh J. Naser, Lucy S. Naser, and Evelyn Calopiz-Springer. Defendant Terrence Springer is a licensed real estate agent with the brokerage Defendant Norcal Gold, Inc. Defendant Springer is married to Defendant Evelyn Calopiz-Springer.

The purchase of the real property occurred on or around January 22, 2022. As part of the purchase, Plaintiffs negotiated an addendum to the real estate contract to have Defendant Springer act as their representative for certain tasks, including dealing with the County to get permits for pre-existing structures on the property. The permits have not been obtained, and Plaintiffs are alleging that Defendant Springer breached the agreement.

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").

The Declaration of attorney Matthew Corsaut states that a meet and confer letter was emailed on August 14, 2024, and the exhibit indicates a deadline of August 21, 2024, was given. Counsel's Declaration states an agreement was not reached, but it is unclear whether the parties actually spoke.

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)." There is no request for judicial notice.

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The Complaint includes 5 causes of action: (1) breach of contract; (2) breach of fiduciary duty; (3) negligence; (4) fraud; and (5) declaratory relief.

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

1. Failure to state facts sufficient to constitute a cause of action (California Code of Civil Procedure ("CCP") § 430.10(e).
2. As being ambiguous and unintelligible and therefore subject to demurrer for uncertainty (CCP § 430.10(f)).

First Cause of Action – Breach of Contract (Against All Defendants)

"To prevail on a cause of action for breach of contract, the plaintiff must prove (1) the contract, (2) the plaintiff's performance of the contract or excuse for nonperformance, (3) the defendants' breach, and (4) the resulting damage to the Plaintiff." (*Richman v. Hartley* (2014) 224 Cal.App.4th 1182, 1186).

Defendants first allege that they were not a party to any written contract alleged in the Complaint. In an action based on contract, the plaintiffs must plead and prove the existence of the contract. *Walsh v. W Valley Mission Cmty. Coll. Dist.* (1998) 66 Cal.4th 1532, 1545. Defendants argue that if "the action is based on an alleged breach of written contract, the terms must be set out verbatim in the body of the complaint or a copy of the written instrument must be attached and incorporated by reference. *Otworth v. S. Oac. Transp. Co.* (1985) 166 Cal.App. 3d 452, 459. <u>The purchase agreement and addendum are attached as Exhibit 1 to the Complaint. The Court finds that Plaintiffs have established the contract.</u>

Defendants next argue that the First Cause of Action is ambiguous and uncertain because it does not allege the essential facts of the contract "with reasonable precision and with particularity sufficient to acquaint a defendants with the nature, source, and extent of his causes of action." *Ludgate Ins. Co. v. Lockheed Martin Corp*. (2002) 82 Cal.App.4th 592, 608. Defendants argue that the addendum to the real estate contract was not signed by each and every Defendant despite the Complaint stating it was signed by "all defendants."

Plaintiffs respond, arguing that they performed by agreeing to extend the close of escrow, taking the property with the red-tagged structures, and paying $30,000.0 to complete the terms of the addendum. Plaintiffs argue that Defendants have failed to (1) act as Plaintiffs' representative with the County in order to make the barn and JADU permitted; (2) convert the addition to the main house into a permitted porch and reinstall windows; (3) provide architectural plans and structural engineering report; (4) pay all required fees; and (5) make all required improvements and repairs, and attend all required meetings through the entire process until permitting is complete (Complaint ¶ 34).

Defendants then argue that Plaintiffs fail to establish proximate causation showing economic harm was caused by the acts of the Defendants, which is required. (*See Dryden v. TriValley Growers* (1977) 65 Cal.App.3d 990, 997 – "Plaintiffs, seeking to hold one liable for unjustifiably inducing another to breach a contract must allege that the contract would otherwise have been performed, and that it was breached and abandoned by reason of the defendant's wrongful act and that such act was the moving cause thereof.") Defendants conclude by stating that the addendum does not include a timeline for completion and Plaintiffs have failed to establish or allege any specific damages resulting from an alleged breach.

Plaintiffs respond, arguing that they were harmed by Defendants' breach of the contract and suffered damages including construction costs, expenses relating to repairing the property for which Defendants were responsible, and other damages to be proven at trial. (Complaint ¶ 36).

<u>The Court agrees that the addendum is only signed by Plaintiffs and Defendant Springer, and Plaintiff fails to allege how or why the other Defendants should be bound by a contract they did not enter. Plaintiffs allege all elements for a breach of contract claim against Defendant</u>

Springer, but not against the demurring Defendants. Demurrer as to the demurring Defendants is sustained. Defendants' Reply did not alter the Court's analysis.

Second Cause of Action – Breach of Fiduciary Duty (Against Defendants Springer and Norcal)

"While breach of fiduciary duty is a question of fact, the existence of legal duty in the first instance and its scope are questions of law." (*Kirschner Brothers Oil, Inc. v. Natomas Co.* (1986) 185 Cal.App.3d 784, 790, internal citation omitted.) Defendants argue that there are no specific acts or omissions to demonstrate a duty against Norcal Gold or Defendant Springer, nor any facts to suggest a breach of fiduciary duty. Defendants argue that any delay in the work performed was due to external forces and not due to lack of skill or care. Defendants allege that the complaint is deficient as to alleging specific damages or any causal relationship between the acts or omissions of the Defendants and any alleged breach.

"Traditional examples of fiduciary relationships in the commercial context include trustee/beneficiary, directors and majority shareholders of a corporation, business partners, joint adventurers, and agent/principal." *Wolf v. Superior Court* (2003) 107 Cal.App.4th 25, 30. Plaintiffs respond to Defendants' arguments, by alleging that Defendant Norcal Gold, Inc., as Defendant Springer's supervising broker, is responsible for the acts of its agent.

Plaintiffs argue that Defendants breached their fiduciary duty by failing to (1) act as Plaintiffs' representative with the County in order to make the barn and JADU permitted; (2) convert the addition to the main house into a permitted porch and reinstall windows; (3) provide architectural plans and structural engineering report; (4) pay all required fees; and (5) make all required improvements and repairs, and attend all required meetings through the entire process until permitting is complete (Complaint ¶ 40). Plaintiffs allege damages including construction costs, expenses for repairs that Defendants were responsible for, and other damages to be proven.

In their Reply, Defendants do not provide any authority to dispute that the brokerage may be responsible for the acts of its agent.

When a salesperson or broker associate owes a duty to any principal, or to any buyer or seller who is not a principal, in a real property transaction, that duty is equivalent to the duty owed to that party by the broker for whom the salesperson or broker associate functions (West's Ann.Cal.Civ.Code § 2079.13). The Court finds that Plaintiffs alleged facts sufficient to state a cause of action for breach of fiduciary duty against Defendant Norcal Gold, Inc. The Demurrer as to the Second Cause of Action against Defendant Norcal Gold, Inc. is overruled.

Third Cause of Action – Negligence (Against All Defendants)

"The elements of a cause of action for negligence are well established. They are (a) a legal duty to use due care; (b) a breach of such legal duty; [and] (c) the breach as the proximate

or legal cause of the resulting injury." (*Ladd v. County of San Mateo* (1996) 12 Cal.4th 913, 917.) "The element of causation requires there to be a connection between the defendant's breach and the plaintiff's injury." (*Coyle v. Historic Mission Inn Corp.* (2018) 24 Cal.App.5th 627, 645.)

Defendants argue that Plaintiffs: failed to establish a legal duty owed by all Defendants to Plaintiffs (only citing the addendum signed by Defendant Springer), failed to plead with specificity who, what, where, or when any Defendants engaged in breach, and failed to plead facts clarifying which Defendants are being sued for what.

Defendants further argue that of the Defendants, Defendants Springer is the only party to the addendum and that he has worked under the addendum and any delays are due to external forces. As such, Defendants argue that any cause of action for breach or negligence is made premature and there are no specific claim for damages alleged.

Plaintiffs respond, arguing that Defendants owed Plaintiffs a duty of care to execute the terms of the addendum and breached their duty when they failed to (1) act as Plaintiffs' representative with the County in order to make the barn and JADU permitted; (2) convert the addition to the main house into a permitted porch and reinstall windows; (3) provide architectural plans and structural engineering report; (4) pay all required fees; and (5) make all required improvements and repairs, and attend all required meetings through the entire process until permitting is complete (Complaint ¶ 45). Plaintiffs allege they were harmed as a result and suffered damages including construction costs, expenses and other.

The facts supporting Plaintiffs' allegations for negligence, relate only to the addendum. As previously stated, the parties to the addendum are Plaintiffs and Defendant Springer only. Therefore, the Demurrer as to the Third Cause of Action is sustained. Defendants' Reply did not alter the Court's analysis.

Fourth Cause of Action – Fraud (Against All Defendants)

Defendants argue that Plaintiffs fail to state sufficient facts to demonstrate that the Defendants, and each of them, intentionally misrepresented, concealed, or failed to disclose certain information that was known to them or made representations known to be untrue. Defendants further argue that Plaintiffs fail to plead any facts demonstrating any further duty, relationship, disclosure, or obligation, on the part of the Defendants to or with the Plaintiffs.

Defendants next argue that Plaintiffs' cause of action fails to state any facts to show a causal connection between the RE/MAX Defendants allegations and Plaintiff's alleged harm.

To satisfy the particularity requirement, the plaintiffs must plead facts which "show how, when, where, to whom, and by what means the representations were tendered." *Stansfield v.* Starkey (1990) 220 Cal.App.3d 59, 74; see also *Lazar v. Superior Court* (1996) 14 Cal.4th 631, 645. Also, when asserting a fraud claim against an entity, plaintiffs must "allege the name of the persons who made the allegedly fraudulent misrepresentation, their authority to speak, to

whom they spoke, what they said or wrote, and when it was said or written." *Lazar*, supra, 12 Cal.4th at 645, (quoting *Tarmann v. State Farm Mut Auto Ins Co.* (1991) 2 Cal.App.4th 153, 157). Defendants argue that Plaintiffs' fraud cause of action is wholly deficient of the required elements. Defendants argue that the Complaint alleges fraud against all Defendants but is based upon the addendum, which was only signed by Defendant Springer, and fails to specify the acts, omissions or intent of Defendant Springer to commit fraud.

Plaintiffs respond, arguing that Defendants made a promise to execute the terms of the addendum. A cause of action for fraud must be specifically plead, and the Plaintiffs have not done that in this case. The allegations cited to all relate to actions that were supposed to occur under the addendum. The Plaintiffs fail to link the demurring Defendants to the addendum, and fail to allege any specific misrepresentations, concealments, or failures to disclose information. The Demurrer as to the Fourth Cause of action against the demurring Defendants is sustained. Defendants' Reply did not alter the Court's analysis.

Fifth Cause of Action – Declaratory Relief (Against All Defendants)

Defendants argue that declaratory relief is a cognizable cause of action under some facts, point, and authorities, but declaratory relief is an equitable remedy, not an independent cause of action. (See *Batt v. City and County of San Francisco* (2007) Call.App.4th 65, 82). "The court…may sustain a demurrer without leave to amend if it determines that a judicial declaration is not 'necessary or proper at the time under all circumstances." See *DeLaura v. Beckett* (2006) 137 Cal.App.4th 542, 545.

Plaintiffs respond, arguing that a cause of action for declaratory relief is a remedy created by Code of Civil Procedure § 1060 and it is properly pleaded if it: (1) sets forth facts showing the existence of an actual controversy relating to the legal rights and duties of the respective parties; and (2) it requests that the rights and duties be adjudged. *City of Tiburon v. Northwestern Pac. R.R. Co.* (1970) 4 Cal. App. 3d 160, 170. Declaratory relief is a broad remedy, and the rule that a complaint is to be liberally construed is particularly applicable to one for declaratory relief. *Id.* Plaintiffs argue that an actual controversy exists between the parties concerning the terms of the purchase agreement and addendum, and actions that Defendants were required to take under the addendum. Again, the facts alleged by Plaintiffs in support of this cause of action relate only to the addendum, signed only be Defendant Springer. The Demurrer as to the Fifth Cause of Action against the demurring Defendants is sustained. Defendants' Reply did not alter the Court's analysis.

Leave to Amend

Defendants argue that there is no reasonably possibility that Plaintiffs can amend their claims without resorting to a sham pleading.

Plaintiffs oppose and request that if the Court sustains the Demurrer, that they be granted leave to amend their Complaint, and that the time for filing said amendment be tolled until after Defendant Springer's Demurrer is heard on March 7, 2025.

A judge may allow in the furtherance of justice, amendment of any pleading. C.C.P. § 576. Courts have been liberal in granting leave to amend pleadings. *Grieves v. Superior Court* (1984) 157 Cal.App.3d 159, 168 ("an amendment should be allowed where the defect, although one of substance, may be cured by supplying omitted allegations".); *Von Batsch v. American Dist. Telegraph Co*. (1985) 175 Cal.App.3d 1111, 1119 ("Liberality in permitting amendment is the rule, not only where a complaint is defective as to form but also where it is deficient in substance".)

While the Court does not find that Plaintiffs have demonstrated that there is a reasonable possibility that they will be able to amend their claims, because no amendments have been made to date, the Court will grant leave to amend where applicable.

TENTATIVE RULING #11:

1. **DEMURRER AS TO THE FIRST CAUSE OF ACTION AGAINST DEFENDANTS SALAMEH J. NASER, LUCY S. NASER, EVELYN CALOPIZ-SPRINGER, AND NORCAL GOLD, INC. IS SUSTAINED WITH LEAVE TO AMEND.**
2. **DEMURRER AS TO THE SECOND CAUSE OF ACTION AGAINST DEFENDANT NORCAL GOLD, INC. IS OVERRULED.**
3. **DEMURRER AS TO THE THIRD CAUSE OF ACTION AGAINST DEFENDANTS SALAMEH J. NASER, LUCY S. NASER, EVELYN CALOPIZ-SPRINGER, AND NORCAL GOLD, INC. IS SUSTAINED WITH LEAVE TO AMEND.**
4. **DEMURRER AS TO THE FOURTH CAUSE OF ACTION AGAINST DEFENDANTS SALAMEH J. NASER, LUCY S. NASER, EVELYN CALOPIZ-SPRINGER, AND NORCAL GOLD, INC. IS SUSTAINED WITH LEAVE TO AMEND.**
5. **DEMURRER AS TO THE FOURTH CAUSE OF ACTION AGAINST DEFENDANTS SALAMEH J. NASER, LUCY S. NASER, EVELYN CALOPIZ-SPRINGER, AND NORCAL GOLD, INC. IS SUSTAINED WITH LEAVE TO AMEND.**

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12.	**23CV1593**	**DERMOTT v. GENERAL MOTORS**
Demurrer and Motion to Strike		

On April 16, 2024, Defendant filed and served two motions: one, Defendant's Demurrer to Plaintiff's First Amended Complaint and the other, Defendant's Motion to Strike Punitive Damages. The parties have since filed a stipulation informing the court that they will be attending private mediation on February 19, 2025. As such, the court is continuing this matter to Friday, March 21, 2025, pending the parties' participation in mediation and potential resolution of the case.

TENTATIVE RULING #12:

HEARING CONTINUED TO FRIDAY, MARCH 21, 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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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.

13.	**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 counsel for Defendants was filed on January 14, 2025. However, this proof of service did not indicate that Plaintiff was served.

At the initial hearing on motion on February 7, 2025, the court continued the hearing and ordered counsel to file an amended proof of service to reflect service on Plaintiff, if it in fact occurred. On February 10, 2025, counsel filed an amended proof of service indicating that Plaintiff was served as required by law.

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).

The court finds good cause to grant the motion.

TENTATIVE RULING #13:

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). ORDER IS EFFFECTIVE UPON FILING OF THE PROOF OF SERVICE INDICATING SERVICE OF THE SIGNED ORDER ON THE CLIENT.

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.