SUPERIOR COURT OF CALIFORNIA, CONTRA COSTA COUNTY
MARTINEZ, CA
DEPARTMENT 16
JUDICIAL OFFICER: BENJAMIN T REYES II
HEARING DATE: 04/23/2025

INSTRUCTIONS FOR CONTESTING TENTATIVE RULING IN DEPARTMENT 16

The tentative ruling will become the ruling of the Court unless by 4:00PM of the Court day preceding the hearing, notice is given of an intent to argue the matter. Counsel or self-represented parties must email Department 16 (Dept16@contracosta.courts.ca.gov) to request argument and **must specify, in detail, what provision(s) of the tentative ruling they intend to argue and why**. Counsel or self-represented parties requesting argument must advise all other counsel and self-represented parties by no later than 4:00PM of their decision to argue, and of the issues to be argued. Failure to timely advise the Court and counsel or self-represented parties will preclude any party from arguing the matter. (Pursuant to Local Rule 3.43(2).)

ALL APPEARANCES TO ARGUE WILL BE IN PERSON OR BY ZOOM, PROVIDED THAT PROPER NOTIFICATION IS RECEIVED BY THE DEPARTMENT AS PER ABOVE.
Zoom link-
https://www.zoomgov.com/j/1619504895?pwd=N0V1N3JFRnJ0TEVoSDNrTGRzakF3UT09
ID: 161 950 4895
Password: 812674

Courtroom Clerk's Session

CASE NUMBER: C23-02445
CASE NAME: DARSHAN SINGH VS. RUDOLPH SANDOVAL
CASE MANAGEMENT CONFERENCE

The CMC is **continued** to June 4, 2025 to be heard with motions by Defendants Roston and Sandoval. See L&M Line 7. Counsel are not required to appear at the CMC on April 23, 2025.

Law & Motion

2. 9:00 AM CASE NUMBER: C22-00743
CASE NAME: SARAH HOLMSTROM VS. CSAA INSURANCE EXCHANGE
HEARING ON SUMMARY JUDGMENT MOTION CONTINUED PER TENTATIVE RULING ON 4/2/2025.
FILED BY:
TENTATIVE RULING:

Before the Court is Defendant CSAA Insurance Exchange's Motion for Summary Judgment or, in the alternative, Summary Adjudication.

Defendant's unopposed Request for Judicial Notice is **granted**. (Cal. Evid. Code § 452 (d).)

Defendant's motion for summary judgment is **granted** for the reasons set forth below.

Initial Procedural Issues

Amended Opposition Papers

The hearing on this matter was originally scheduled for March 2, 2025. On March 1, the Court issued a tentative ruling continuing the hearing until April 23. Neither party opposed the tentative, and it became the ruling of the Court.

On April 3, 2025, Plaintiff filed Amended Opposition papers. On April 4, Plaintiff filed another amended document, this time a new response to Defendant's separate statement. There was no request to file amended papers. Nor is there any statement or indication by Plaintiff what, if any, changes were made to the originally filed opposition papers. The Court will not review the amended papers but instead bases this ruling on the originally filed opposition papers.

Request for Continuance for Additional Discovery

Plaintiff begins her Opposition by arguing that the MSJ is premature and should be denied. She contends that her discovery was not complete and cites California Code of Civil Procedure section 2024.020 regarding the entitlement to conduct discovery.

If a party believes that additional discovery is necessary before they can properly oppose a motion for summary judgment/adjudication, they can request a continuance in accordance with California Code of Civil Procedure section 437c, subd. (h). The section provides, in pertinent part:

> If it appears from the affidavits submitted in opposition to a motion for summary judgment or summary adjudication, or both, that facts essential to justify opposition may exist but cannot, for reasons stated, be presented, the court shall deny the motion, order a continuance to permit affidavits to be obtained or discovery to be had, or make any other order as may be just.

A request under this provision must be supported by a declaration that demonstrates: "(1) the facts to be obtained are essential to opposing the motion, (2) there is reason to believe such facts may exist, and (3) the reasons why additional time is needed to obtain these facts. [Citations omitted.] The reason for this 'exacting requirement' [citation omitted] is to prevent 'every unprepared party who simply files a declaration stating that unspecified essential facts may exist' [citation omitted] from using the statute 'as a device to get an automatic continuance' [citation omitted]." (*Chavez v. 24 Hour Fitness USA, Inc.*, *supra*, 238 Cal.App.4th at 643 [citing and quoting *Lerma v. County of Orange* (2004) 120 Cal.App.4th 709, 715, 716].)

It is worth noting that Plaintiff does not actually request a continuance to conduct additional discovery. Nor does she submit a declaration in support, must less a declaration that meets the above requirements. As such, a continuance under section 437c (h) is inappropriate.

If the opposing party fails to make the showing necessary for a continuance under Code of Civil Procedure § 437c(h), the Court may grant a continuance in its discretion if good cause is shown. (*Lerma v. County of Orange* (2004) 120 Cal.App.4th 709, 716.) Plaintiff has failed to specify any good cause to support a request for a continuance. As such, to the extent Plaintiff's opposition papers can

be construed as seeking additional time to oppose the MSJ, such a request is denied. It is worth noting that Plaintiff filed a substantive opposition with over a hundred-fifty pages of exhibits.

Facts

This matter pertains to an insurance coverage dispute involving claims that Defendant acted in bad faith in the handling of an uninsured/underinsured motorist claim. ("UIM"). It arises from a motor vehicle accident that occurred on May 1, 2013. (UMF 2.)

Plaintiff Sarah Holmstrom was driving a Dodge Caravan and wearing a seat belt when she was involved in a two-vehicle accident at a T-intersection by her school. (*Ibid.*) Prior to the accident, Plaintiff was travelling straight with the right of way in a school zone. (UMF 3.) The other party (Mr. Medrano) pulled out directly into the path of Plaintiff and began turning left. (UMF 4.) Plaintiff veered to the side to avoid directly hitting Mr. Medrano's vehicle, resulting in the sides of the two vehicles colliding. (*Ibid.*) Plaintiff left the scene of the accident of her own accord and did not immediately seek medical care. (UMF 5.)

At the time of the accident, Plaintiff was covered by a CSAA insurance policy issued to her father, Eric Holmstrom (the "Policy"). (UMF 1.) That policy had a limit of liability for UIM claims of $500,000 each person and each occurrence. (Ds Evid. Ex. 1.) That amount would be reduced by any amounts already recovered from the other driver. (*Ibid.*) Plaintiff hired an attorney and filed a suit against the other driver, Mr. Medrano. Defendant happened to also insure Mr. Medrano. Accordingly, CSAA agreed to pay Mr. Medrano's policy limits ($50,000) in exchange for a complete release. (UMF 8.) CSAA made the payment, and the lawsuit was dismissed with prejudice on October 29, 2015. (UMF 8.)

On November 3, 2016, Plaintiff (via her counsel) made a demand for arbitration of the UIM claims under the Policy. (UMF 9.) Shortly thereafter, she made a demand for the remaining amounts under the UIM limits – i.e. for the remaining $450,000. (UMF 10; Rivera Decl. ¶ 5, Ex. 5.) On December 5, 2016, CSAA's counsel requested an extension of time to respond to the demand while they conducted discovery. (UMF 11; Rivera Decl. ¶ 5, Ex. 5.) CSAA took the deposition of Plaintiff in March of 2017. (Rivera Decl. ¶ 6, Ex. 6.) Plaintiff also provided responses to written discovery, including two psychiatric reports. (Rivera Decl. ¶ 7, Exs. 7-8.) Plaintiff's medical histories revealed prior issues related to anxiety and mental health issues. (UMF 12.) Since the accident, Plaintiff saw several medical providers seeking a diagnosis for her alleged injuries. (UMF 14.)

In early 2016, Plaintiff was referred to a psychiatrist, Dr. Darmal, who first opined that she suffered from a traumatic brain injury ("TBI") in the accident. (UMF 15.) Dr. Darmal's report notes that Plaintiff did not recall hitting her head in the accident. (*Ibid.*) Dr. Darmal's report also makes clear that his opinion is based solely on Plaintiff's self-reporting of symptoms and alleged injuries. (UMF 16, Rivera Decl. Ex. 8.)

As of March 2017, Plaintiff's provided records showed a total of just over $19,000 in recoverable medical expenses. (UMF 19.) Plaintiff continued to seek a policy limit demand. Given what CSAA's experts determined were complex and unusual symptoms, Defendant determined that additional discovery was needed before it could offer the remaining $450,000 under the Policy. (UMF 20.) As such, they sought additional discovery. (*Ibid.*)

In September 2017, Plaintiff was seen by another new doctor, Dr. Jamie Nicacio. (UMF 21.) Dr. Nicacio

is a physiatrist, also called a physical medicine and rehabilitation or musculoskeletal specialist. Dr. Nicacio diagnosed Plaintiff as having a TBI with various posttraumatic symptoms, which were caused by the car accident. (UMF 22.) He referred Plaintiff to various rehabilitation treatments. Dr. Nicacio was deposed in August 2019, at which time he indicated that Plaintiff was approaching "maximal improvement." (Ex. 10 at 26:18-23.)

CSAA's defense counsel hired several physicians to examine Plaintiff's medical records. (UMF 23.) They also engaged Dr. Mark Strassberg, a neurologist and psychiatrist, to conduct an independent medical examination ("IME") of Plaintiff. (*Ibid.*) There were several roadblocks to scheduling the IME due to Plaintiff having moved out of state and her refusal to return to the Bay Area for the IME. Eventually, CSAA received a court order requiring her to appear for the IME. (Rivera Decl. ¶ 9.)

Dr. Strassberg issued a report in July 2019 in which he opined that Plaintiff did not have a TBI and did not need treatment. (UMF 24.) His report reference and relied on testing performed by Dr. Ronald Roberts, a psychologist that administered a neuropsychological testing examination on Plaintiff. (UMF 25.) Based on the IME and Dr. Roberts' testing, Dr. Strassberg opined that Plaintiff believed that her problems were the result of the accident, but in fact they were not. (UMF 27.) He opined that the accident did not cause any substantial impediment for Plaintiff's work capacity and school.

With more physician depositions pending, and the costs associated therewith, CSAA ultimately agreed to pay Plaintiff the remaining policy limits of $450,000. (UMF 28.) Plaintiff initially refused to accept the payment and continued to demand that the arbitration go forward. (UMF 29.) Plaintiff accepted the policy payment on September 4, 2021. (UMF 30.)

Standard

Summary judgment is proper if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. (Code Civ. Proc. § 437c(c).) A moving defendant satisfies the initial burden of showing that a cause of action has no merit if he shows that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the cause of action. (Code Civ. Proc., § 437c (p)(2).)

Once the defendant meets that burden, the burden shifts to the plaintiff to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto. (*Ibid*.) The plaintiff then has the burden of demonstrating that triable issues of material fact exist. (*Ibid*.)

The party moving for summary judgment has the burden of persuasion to show there is no triable issue of material fact and thus it is entitled to judgment as a matter of law. (*Aguilar v. Atlantic Richfield Co*. (2001) 25 Cal.4th 826, 850.) Only if the moving party successfully meets this burden does the burden shift to the opposing party to make its own prima facie showing of the existence of a triable issue of material fact. (*Ibid*.; *see also Chern v. Bank of America* (1976) 15 Cal.3d 866, 873.) "In ruling on the motion, the court must consider all of the evidence and all of the inferences reasonably drawn therefrom, and must view such evidence and such inferences, in the light most favorable to the opposing party." (*Aguilar, supra,* 25 Cal.4th at p. 843 (internal citations and quotations omitted); see also, Code of Civ. Proc. §437c(c).)

Analysis

Plaintiff's complaint contains two causes of action: (1) breach of contract and (2) breach of the covenant of good faith and fair dealing – i.e. a 'bad faith' claim. CSAA seeks summary adjudication as to each of the two causes of action.

Breach of Contract

"The standard elements of a claim for breach of contract are '(1) the contract, (2) plaintiff's performance or excuse for nonperformance, (3) defendant's breach, and (4) damage to plaintiff therefrom.'" (*Wall Street Network, Ltd. v. New York Times Co.* (2008) 164 Cal.App.4th 1171, 1178, citations omitted.) The operative Second Amended Complaint does not identify specific provisions of the insurance policy at issue that were allegedly breach. However, in reading the SAC it appears that the main dispute relates to CSAA's failure to pay amounts she claims fully compensate her alleged damages, the failure of CSAA to proceed with the arbitration, and the failure to make such payments in a timely manner. The timeliness issues is addressed below with regard to the bad faith claim.

By statute (as well as the terms of the Policy), "[c]overage disputes for underinsured motorists are subject to contractual arbitration." (*Glassman v. Safeco Ins. Co. of America* (2023) 90 Cal.App.5th 1281, 1311 quoting Ins. Code § 11580.2, subd. (f).) "Absent language in the insurance agreement expanding the issues to be arbitrated [citation], underinsured motorist arbitrations contemplate only two issues — 'whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof'" (*Ibid.*) There is no language in the Policy that expands this agreement.

"[T]he term 'damages' refers to the amount of damages the insured is entitled to recover from the underinsured motorist." (*Ibid.*) Any award in a UIM arbitration "may not exceed the policy limits." (*Ibid.* (citations omitted.) As such, once the policy limits have been paid, the matter is settled regarding the insurance companies' obligations under the UIM policy. (See e.g. *State Farm Mutual Automobile Ins. Co. v. Superior Court* (2004) 123 Cal.App.4th 1424 ("*State Farm*")).

The *State Farm* case is instructive and similar to the present situation. There, the plaintiff was involved in a multi-vehicle accident. (*State Farm,* 123 Cal.App.4th at 1429.) Her insurance policy provided for UIM coverage in the amount of $100,000 (less any credit for the underinsured contribution). Plaintiff's attorney notified State Farm they were making a policy limits demand. (*Ibid.*) State Farm indicated it could not accept a policy limits offer at that time. (*Ibid.*) Plaintiff withdrew the demand and instead demanded that the matter be referred to arbitration. State Farm agreed to arbitration, but indicated it needed to conduct discovery before scheduling the arbitration. The parties agreed on an arbitrator.

While the arbitration was pending and discovery was proceeding, Plaintiff sent a new demand for $150,000 – above policy limits – claiming that State Farms rejection of the pre-arbitration policy limits demand 'opened up' the insurance policy. (*Id.* at 1430.) Months later, State Farm told Plaintiff they had completed their discovery and based on the review of Plaintiff's medical claims, they would pay the policy limits ($100,000 minus $15,000 received from the underinsured.) State Farm sent a check for $85,000. Plaintiff's attorney disputed that the payment settled the matter, but ultimately cashed the check and informed State Farm that in their view that only represented a partial payment.

Plaintiff filed a motion to compel arbitration, which was granted. State Farm sought a writ directing the trial court to vacate the order compelling arbitration – arguing that there was nothing left to arbitrate. (*Id.* at 1431.) The Court of Appeal agreed, noting the limits of the issues to be determining

an a UIM arbitration above, finding that given the payment of the policy limits, "*there is no controversy to be arbitrated here*." (*Ibid.* italics in original.) Given the payment, there was no longer a "litigable issue" to be decided. (*Id.* at 1432.)

To the extent Plaintiff claimed that she was entitled to have an arbitrator determine the total value of her injuries, to support her claim of bad faith, the *State Farm* court made clear that such damages are not relevant to a bad faith claim. "In *Neal [v. Famers Ins. Exchange* (1978) 21 Cal.3d 910] the [California Supreme] court made it clear that if an insured believes its insurer has breached its duties in handling an uninsured motorist claim, the damages from such alleged breach of the insurance contract are not related to the damages allegedly sustained by the insured from the accident itself." (*Id.* at 1434.)

Here, CSAA has presented evidence that the Policy had a UIM limit of $500,000 per incident, minus any amount recovered by the other party. Plaintiff was paid $50,000 under the other parties' insurance policy (also issued by CSAA.) Thereafter, the parties agreed to proceed with the required arbitration. CSAA conducted discovery to determine the validity of Plaintiff's medical claims. After conducting such discovery, CSAA determined that payment of the Policy limits was warranted. As such, it tendered payment of the remaining Policy limits – *i.e.* $450,000. At that point, the arbitration was cancelled.

Based on the above, Defendant has met its initial burden to show that Plaintiff's breach of contract cause of action cannot be established. As such, the burden shifts to Plaintiff to show that there remains a triable issue of fact.

Plaintiff points to Policy language related to the monetary limits and the requirement that the parties arbitrate the dispute. She appears to argue that the arbitration was closed without her agreement, and other arguments regarding how her claim was handled. She does not cite to or rely on any legal authority for any of her statements. Nor does she directly address any of the arguments made by CSAA.

It is accepted that the failure to challenge a contention made by the opposing party results in the concession of that argument. (*DuPont Merck Pharmaceutical Co. v. Superior Court* (2000) 78 Cal.App.4th 562, 566 ["By failing to argue the contrary, plaintiffs concede this issue"]; *Westside Center Associates v. Safeway Stores 23, Inc.* (1996) 42 Cal.App.4th 507, 529 ["failure to address the threshold question ... effectively concedes that issue and renders its remaining arguments moot"]; *Glendale Redevelopment Agency v. Parks* (1993) 18 Cal.App.4th 1409, 1424 [issue is impliedly conceded by failing to address it].) By failing to oppose the motion, Plaintiff concedes all of the contentions and arguments in the moving papers.

Plaintiff has failed to meet her burden to show a triable issue of material fact. She received the full policy limits related to the accident. As such, she had no right to move forward with the arbitration.

Bad Faith

"[I]n California every contract contains an implied covenant of good faith and fair dealing that 'neither party will do anything which will injure the right of the other to receive the benefits of the agreement.' [Citations, internal omitted.]" (*Wolf v. Walt Disney Pictures & Television* (2008) 162 Cal.App.4th 1107, 1120 [quoting *Kransco v. American Empire Surplus Lines Ins. Co.* (2000) 23 Cal.4th

390, 400].)

To establish a breach of the covenant of good faith and fair dealing Plaintiff "must show that the conduct of the defendant, whether or not it also constitutes a breach of a consensual contract term, demonstrates a failure or refusal to discharge contractual responsibilities, prompted not by an honest mistake, bad judgment or negligence but rather by a conscious and deliberate act, which unfairly frustrates the agreed common purposes and disappoints that reasonable expectations of the other party thereby depriving that party of the benefits of the agreement." (*Careau & Co. v. Security Pacific Business Credit, Inc.* (1990) 222 Cal.App.3d 1371, 1395.)

Plaintiff's claim is the CSAA acted in bad faith by delaying payment of the full policy limits – i.e. that CSAA should have paid her sooner.

As noted by CSAA, it acted in accordance with California law and the Policy by agreeing to proceed with arbitration of Plaintiff's UIM claim. During that time, it also reasonably conducted discovery aimed at determining the extent of Plaintiff's injuries that resulted from the accident.

An insurer's obligations under the implied covenant of good faith and fair dealing includes "a duty not to unreasonably withhold benefits due under the policy." (*Rappaport-Scott v. Interinsurance Exchange of the Automobile Club* (2007) 146 Cal.App.4th 831, 837 citing *Gruenberg v. Aetna Ins. Co.* (1973) 9 Cal.3d 566, 575.) However, the "withholding of benefits due under the policy is not unreasonable if there was a genuine dispute between the insurer and the insured as to coverage or the amount of payment due." (*Ibid.*) When there is a genuine dispute regarding coverage or the amount payable, "there can be no bad faith liability imposed on the insurer for advancing its side of that dispute." (*Chateau Chamberay Homeowners Assn. v. Associated Internatl. Ins. Co.* 90 Cal.App.4th 335, 347 ("*Chateau*"*)* multiple citations omitted.)

"While an insurer must give as much consideration to the interests of its insured as it does to its own [cite], 'it is not required to disregard the interests of its shareholders and other policyholders when evaluating claims….'" (*Ibid.* citations omitted.) "In other words, an insurer *is* entitled to give its own interests consideration when evaluating the merits of an insured's claim." (*Ibid.* italics in original.) The insurer can show that there is a 'genuine dispute' when it relies on the opinions of experts in evaluating the claims. (*Id.* at 347-48 citing *Fraley v. Allstate Ins. Co.* (2000) 81 Cal.App.4th 1282, 1292.) While *Fraley* pertained to property damage, the court found that "where the parties rely on expert opinions, even a substantial disparity in estimates for the scope and cost of repairs does not, by itself, suggest the insurer acted in bad faith." (*Fraley*, 81 Cal.App.4th at 1293.)

Courts can find as a matter of law that there was a 'genuine dispute,' and therefore no bad faith in handling an insurance claim. (*Chateau*, supra, 90 Cal.App.4th 335, 347-48.)

CSAA presents evidence that it agreed to move forward with arbitration as required under California law and the Policy. It then proceeded to conduct discovery to determine the extent of Plaintiff's alleged injuries. While this process did take some time, CSAA adequately explains why there were delays. These included Plaintiff's moving to another state and refusing to return for an IME, as well has her seeing several different doctors over the course of the investigation. The issues involved were complex and required physicians in different specialties to opine on the issues.

CSAA hired several physicians to review Plaintiff's medical records and reasonably required that she

submit to independent evaluations. Given the number of doctors Plaintiff received treatment from and the nature of the alleged injuries, this was a reasonable course of action. There was also a genuine dispute between Plaintiff's doctors and CSAA's experts regarding the cause of Plaintiff's symptoms, wherein CSAA's experts disputed that the injuries were a result of the accident.

Based on the above, CSAA has met its initial burden to show that Plaintiff's bad faith cause of action cannot be established. As such, the burden shifts to Plaintiff to show that there remains a triable issue of fact.

Plaintiff argues that "CSAA's claims process is documented as untimely and unreasonable." (Opp. at 13:3-4.) Here full argument then states:

> Plaintiff directs the Court's attention to Plaintiff's disputed responses to Defendant's list of Undisputed Material Facts, and to Plaintiff's added list of Undisputed Responses. To simplify the clarity, Plaintiff has provided direct reference to direct documented evidence by CSAA's claims adjuster, CSAA's own claim file, CSAA's own legal counsel correspondence, CSAA's own expert examination reports, CSAA's own expert depositions with statement of their actions and CSAA's actions, Plaintiff's records, and Plaintiff's experts' depositions. Plaintiff let's the evidence make the case. The facts and narrative reveals itself. (Opp. at 13:6-13.)

Again, Plaintiff does not cite to any legal authority to support her position. Nor does she directly cite to or reference any of the 169 pages of evidence she submitted along with her opposition. Most of that evidence is objected to by CSAA, and those objections were sustained (see below). Plaintiff does not attempt to refute any of CSAA arguments, nor does she have any countervailing arguments to establish that the time CSAA took to resolve her claims were unreasonable. Vague references to CSAA's claim file and expert examination reports do not meet Plaintiff's burden.

Once the defendant meets its initial burden, the burden shifts to plaintiff who is "then subjected to a burden of production of [her] own to make a prima facie showing of the existence of a triable issue of material fact." (*Borders Online v. State Bd. Of Equalization* (2005) 129 Cal.App.4th 1179, 1187-88 quoting *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 450.) "Thus, once a defendant has made a prima facie showing, the plaintiff must then 'set forth the specific facts showing that a triable issue of material facts exists… .'" (*Id.* at 1188.) "To meet this burden, the plaintiff must produce admissible evidence." (*Ibid.*) "A party may not avoid summary judgment based on mere speculation and conjecture [cite], but instead must produce admissible evidence raising a triable issue of fact." (*Compton v. City of Santee* (1993) 12 Cal.App.4th 591, 595-96.)

Plaintiff has failed to meet her burden regarding her bad faith cause of action.

Conclusion

Based on the above, Defendant's motion for summary judgment is **granted**.

Evidentiary Issues

Plaintiff's Response to Separate Statement

When responding to a separate statement, the "response must unequivocally state whether that fact

is 'disputed' or 'undisputed.' (Cal. R. Ct. 3.1350 (f)(2).) "An opposing party that contends that a fact is disputed must state … the nature of the dispute and describe the evidence that supports the position that the fact is controverted." (*Ibid.*) "Citation to the evidence in support of the position that a fact is controverted must include reference to the exhibit, title, page, and line number." (*Ibid.*)

While Plaintiff indicates that some portion of just about every material fact asserted by CSAA is "disputed," none of the responses properly describe a material dispute regarding the fact and/or the evidence cited does not actually show a material dispute. For example, UMF 1 pertains to the issuance of the Policy. Plaintiff disputes the fact "to the extent that 'issued' means created." Other semantic 'disputes' are made to statements that the accident involved two "cars" and that it was "next to" a "T-intersection" and "Plaintiff's school" as those terms are alleged to be 'vague and ambiguous.' (UMF 2.)

Though Plaintiff claims to 'dispute' just above every fact presented by CSAA, the Court finds that none of the 'disputed' issues were material to the determination of this matter.

CSAA's Objections to Evidence:

Objection 1: Sustained (Cal. Evid. Code §§ 1200 (hearsay), 1400-01 (lack of authentication.)
Objection 2: Sustained (Cal. Evid. Code §§ 1200 (hearsay), 1400-01 (lack of authentication.)
Objection 3: Sustained (Cal. Evid. Code §§ 1200 (hearsay), 1400-01 (lack of authentication.)
Objection 4: Sustained (Cal. Evid. Code §§ 1200 (hearsay), 1400-01 (lack of authentication.)
Objection 5: Sustained (Cal. Evid. Code §§ 1200 (hearsay), 1400-01 (lack of authentication.)
Objection 6: Sustained (Cal. Evid. Code §§ 1200 (hearsay), 1400-01 (lack of authentication.)
Objection 7: Sustained (Cal. Evid. Code §§ 1200 (hearsay), 1400-01 (lack of authentication.)
Objection 8: Overruled - CSAA submitted the same document as evidence (See Evid. Ex. 9) As such, CSAA concedes the authenticity of the document. (See e.g. *Ambriz v. Kelegian* (2007) 146 Cal.App.4th 1519, 1527.)
Objection 9: Sustained (Cal. Evid. Code §§ 1200 (hearsay), 1400-01 (lack of authentication.)
Objection 10: Overruled – CSAA submitted the same document as evidence (See Evid. Ex. 9) As such, CSAA concedes the authenticity of the document. (See e.g. *Ambriz v. Kelegian* (2007) 146 Cal.App.4th 1519, 1527.)

3. 9:00 AM CASE NUMBER: C22-01829
CASE NAME: MICHAEL GIUFFRIDA VS. VIVEK BANSAL, MD
***HEARING ON MOTION FOR DISCOVERY FOR PROTECTIVE ORDER**
FILED BY: GIUFFRIDA, MICHAEL
****TENTATIVE RULING:****

Summary

Plaintiff's Motion for Protective Order or, in the Alternative, to preclude Defendant's Expert, Juris Bunkis, M.D., from testifying about certain issues at trial is **denied**.

Background

Plaintiff Michael Giuffrida's ("Plaintiff") case involves a cause of action for statutory indemnity

pursuant to Cal. Labor Code § 2802. Plaintiff is requesting that his employers, Defendants Vivek Bansal, M.D. and Vivek Bansal M.D. Inc. ("Defendants") indemnify him for claims of attorney's fees, costs and reimbursable business expenses arising out of an incident and related administrative actions pertaining to Plaintiff's treatment of Patient 1.

On January 10, 2025, Plaintiff Michael Giuffrida ("Plaintiff"), through Counsel Palay Hefelfinger APC, filed a Notice of Motion and Motion for Protective Order, or in the Alternative, to Preclude Defendant's Medical Expert, Juris Bunkis, M.D., or any other expert, from testifying about certain issues at Trial ("Motion"). The Motion was accompanied by a Memorandum of Points and Authorities and Declaration of Counsel Daniel J. Palay. An Amended Notice of this Motion was filed on January 15, 2025. The Motion seeks a Protective Order requesting the Court to either prevent deposition or entering a protective order to limit the scope of discovery of (1) Defendant's Medical Expert regarding any assertion that the Plaintiff's work fell below the standard of care, as that issue has already been summarily adjudicated; and (2) to Limit discovery on the issue of whether Plaintiff was partially negligent with respect to the accusations of malpractice, based on the grounds that liability is irrelevant to the claim of indemnification of an employee for attorney's fees and costs arising out of conduct with the course and scope of employment.

On April 10, 2025, Defendants filed their opposition to the Motion claiming that Labor Code § 2802 requires that Plaintiff provide proof of whether he incurred necessary and reasonable costs in the course and scope of his employment, or which were incurred at the employer's direction. Defendants claim that expert testimony sought from Dr. Bunkis is necessary to determine whether Plaintiff's treatment of Patient 1 was (1) outside the course and scope of his jobs duties; (2) Whether or not Defendants did not direct or authorize Plaintiff's treatment of Patient 1; and (3) Whether Patient 1's treatment was a departure from the standard of care. Defendants argue that such testimony is beyond the common knowledge and experience of lay jurors. Accordingly, Defendants are entitled to present exert testimony on the standard of care and whether it was met. Defendants also assert that Plaintiff's Motion for a Protective Order is a tactic to avoid addressing his own negligence and to circumvent the Court's prior ruling that evidence of Plaintiff's negligence is relevant and admissible at time of trial. For said reasons, Defendants request denial of this Motion. Defendant's Opposition cites to specific orders previously entered by the Court on October 11, 2024. Defendants' Opposition was supported Declaration of Counsel Nicolas Gioiello.

In a reply filed on April 16, 2025, Plaintiffs assert that the Court rulings have rendered moot Defendants' legal position.

After considering the papers submitted by Counsel, the arguments therein, and after considering the applicable statutory and decisional authority, the Court makes the following findings and orders.

Analyses

Under CCP §2034.250, the court may make any order "that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense," including, among others, an order that:

- The demand be quashed as not timely served;
- The date of exchange be earlier or later;

- The exchange be made only on specified terms and conditions;
- Production and exchange of reports be made at a different time or place than specified in the demand;
- The parties be divided into sides on the basis of identity of interest in the issues, and the designation of employed or retained experts be made by sides so created rather than parties; and
- A party or a side reduce its list of employed or retained experts.

A motion for a protective order under Cal. Code of Civ. Proc. §2034.250 is the only proper method for objecting to the untimely demand for an exchange of expert witness information. Subsection (c) states, "If the motion for a protective order is denied in whole or in part, the court may order that the parties against whom the motion is brought, provide or permit the discovery against which the protection was sought on those terms and conditions that are just."

The party objecting to the scope of discovery must support its objection with admissible evidence establishing the burden, expense, or intrusiveness of the proposed discovery. Cal. Code of Civ. Proc. § 2017.020(a). Counsel should ensure that any declarations supporting a motion for protective order to limit discovery are made by persons having personal knowledge of the facts that support a narrowing of the scope of discovery.

In applying the foregoing legal standards to Plaintiff's Motion, the Court finds that there is insufficient cause to enter a protective order as requested. The issues of Plaintiff's negligence, whether he fell below the standard of care are relevant and whether his work was within the scope of his duties as an employee of Defendants is relevant to the issues in dispute.

In reviewing the Court's prior orders, it is clear that Plaintiff is required to meet the statutory elements of Labor Code § 2802, which requires him to prove that the expenses claimed were incurred as the result of his employment. Those issues were not adjudicated, nor can they be, as they are triable issues. Defendants may introduce expert testimony to challenge Plaintiff's contention and may do so without Plaintiff's proposed limitations.

Ruling

Plaintiff's Motion for protective order, and in the alternative, to preclude Dr. Bunkis from testifying are both **denied**. Dr. Bunkis' expert testimony on the issue of Plaintiff's negligence and whether his work was within the scope and course of his duties of an employee are factual issues that the trier of fact may consider in determining whether Plaintiff is entitled to reimbursement of costs, fees and business-related expenses pursuant to Labor Code § 2802. To hold otherwise would result in prejudice to Defendants. Defendants Counsel shall prepare an order conforming to this tentative ruling, approved as to form by Plaintiff, and e-file with the Court within 5 days. Each party to bear their own attorney's fees and costs in prosecuting and defending this Motion.

4. 9:00 AM CASE NUMBER: C23-00639
CASE NAME: 4740 APPIAN WAY HOMEOWNERS ASSOCIATION VS. CONTRA COSTA COUNTY
***HEARING ON MOTION FOR DISCOVERY RE MOTION TO COMPEL FURTHER RESPONSES TO SPECIAL INTERROGATORIES, SET ONE IN CASE C24-00001 (SET PER ORDER FILED 10/10/24)**
FILED BY: GLOBAL HOUSING ALLIANCE, LLC
****TENTATIVE RULING:****

Summary

Defendant Global Housing Alliance LLC Motion to Compel Further Reponses to Special Interrogatories, Set 1, is **granted**. Defendant Global Housing Alliance LLC's Request for Monetary Sanctions in the amount of $6,495 is **granted**.

Background

On September 11, 2024, Defendant Global Housing Alliance LLC ("Defendant" or "Global") filed, through Counsel Law Offices of James Hastings, a Notice of Motion and Motion to Compel Further Responses to Special Interrogatories, Set No. 1, along with a Request for Monetary Sanctions Against Plaintiff Michael Rooney ("Plaintiff" or "Rooney") in the Sum of $6,495 ("Motion"). Rooney, a member of the State Bar, is a self-represented litigant and also represents his spouse as Counsel of Record. Global's Motion was supported by a Memorandum of Points and Authorities, Declaration of Paul H. Nathan, and a Separate Statement. Global's Motion is based on the grounds that Rooney failed to serve code compliant responses to interrogatories without good cause. Specifically, that the Rooney's responses are incomplete, non-responsive, and evasive and, further, that the objections were too general and without merit.

On April 10, 2025, Rooney filed an Opposition to Global's Motion, supported by his declaration. No separate statement accompanied Rooney's Opposition. Rooney's opposition was based, in part, on Global's failure to meet and confer in good faith prior to bringing a motion, that his objections were valid, and that the reasons set forth in the separate statements are without merit or "overlarge."

On April 16, 2025, Global filed its reply brief in support of its Motion. The reply brief, in large part, contests the Rooney's arguments that there was a failure to meet and confer in good faith and also contests that the interrogatories, particularly Special Interrogatories Nos 36-84, are duplicative and/or cumulative.

After considering the papers submitted by Counsel, the arguments therein, and after considering the applicable statutory and decisional authority, the Court makes the following findings and orders.

Analyses

Civil discovery in California is governed by the Civil Discovery Act. See Code Civ. Proc. §§ 2016.010–2036.050. The Civil Discovery Act provides litigants with the right to broad discovery. *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants (2007*) 148 Cal.App.4th 390, 402. In general, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. Code Civ. Proc. § 2017.010; see *Sinaiko Healthcare Consulting,*

Inc., supra, 148 Cal.App.4th at 402.

On the other hand, the Court is empowered to limit the scope of discovery where the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence. Code Civ. Proc. § 2017.020(a). Moreover, the moving party and proponent of the discovery on a motion to compel further answers to interrogatories must set forth specific facts showing good cause justifying the discovery sought by the demand. See Code Civ. Proc. § 2030.300. When a motion to compel has been filed, the burden is on responding party to justify any objections made. *Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255.

Under Cal. Code of Civ. Proc. § 2023.010(e),(f),(h) it is a misuse of discovery to make, "without substantial justification, an unmeritorious objection to discovery, " to make "an evasive response to discovery" and to make or oppose "unsuccessfully without substantial justification a motion to compel or to limit discovery."

Boilerplate objections fail to satisfy the level of specificity mandated by statute, and the use of boilerplate objections may be sanctionable. (*Korea Data Systems Co. v. Super. Court* (1997) 51 Cal.App.4th 1513, 1516.) See also Cal. Code of Civ. Proc. §§ 2023.010(e),(f) and (h), and Cal. Code of Civ. Proc. §§ 2030.210, 2030.220 (b)(c). It is wholly improper for a party to respond to discovery by making unmeritorious objections and then refusing to provide any documents and/or responsive answers. California's Discovery act was "intended to take the 'game' element out of trial preparation," considering that "a lawsuit should be an intensive search for the truth, not a game to be determined in outcome by considerations of tactics and surprise." (*Greyhound Corp. v. Super. Court In and For Merced County* (1961) 56 Cal.2d 355).

In exercising its discretion in ruling on discovery motions, the trial court relies on the Civil Discovery Act and the legislative purpose of avoiding surprise and preventing fabrication of evidence at trial. *Glenfed Dev. Corp. v Superior Court (1997)* 53 Cal.App.4th 1113, 1119. The principles of eliminating gamesmanship in discovery practice in California has been in place for over sixty years. The California Supreme Court in the seminal case of *Greyhound Corp. v Superior Court* (1961) 56 Cal.2d 355, 376, remain applicable today. "That is, the Legislature intended to take the "game" element out of trial preparation while yet retaining the adversary nature of the trial itself. One of the principal purposes of discovery was to do away "with the sporting theory of litigation--namely, surprise at the trial." *Chronicle Pub. Co. v. Superior Court, supra*, (1960) 54 Cal.2d 548, 561. See also page 572 of the same opinion wherein we adopted from *United States v. Proctor & Gamble Co*. (1958), 356 U.S. 677, the phrase that discovery tends to "make a trial less a game of blindman's buff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent."

Cal. Code of Civ. Proc. § 2023.010 (i) makes it a misuse of the discovery process to fail to "confer in person, by telephone, or by letter with an opposing party or attorney in a reasonable and good faith attempt to resolve informally any dispute concerning discovery…" Rooney raises the argument in his opposition to the Motion that Global did not meet and confer in good faith prior to Global's filing the instant motions. Rooney's own declaration filed Declaration filed on April 10, 2025 details several attempts to meet and confer with Plaintiff's counsel. Counsel Hasting's Declaration filed on September 11, 2024, referencing Exhibit F, details reasons why additional responses were necessary to comply with the Discovery Code.

Counsel are admonished to meet and confer for all future discovery disputes and are placed on notice that the Court may impose sanctions for failing to follow the clear statutory language of §2023.010.

Ruling

Defendant Global Housing Alliance LLC ("Defendant" or "Global") Motion to Compel Further Responses to Special Interrogatories, Set No. 1, along with a Request for Monetary Sanctions Against Plaintiff Michael Rooney ("Plaintiff" or "Rooney") in the Sum of $6,495 ("Motion") is **granted as follows:**

1. Special Interrogatories Nos. 13, 16, 19, 22, 25, 28, 31, and 34

Special Interrogatories 13, 16, 19, 22, 25, 28, 31, and 34 all asks for **Facts** that support various causes of action, allegations, and support for his prayer for damages. Rooney's objections are overruled. Further verified code-compliant answers to interrogatories shall be produced to Global within ten (10) days from the date of this order. Cal. Code of Civ. Proc. §§ 2030.220, 2030.240, 2030.50, 2030.300

2. Special Interrogatories Nos. 14, 17, 20, 23, 26, 29, 32, and 35

Special Interrogatories 14, 17, 20, 23, 26, 29, 32, and 35 asks Rooney for the **Name and Address** of any person he believes has knowledge of support of his causes of action, allegations and support for his prayer for damages, as sought by Special Interrogatories Nos. 14, 17, 20, 23, 26, 29, 32, and 35. The Objection is inapplicable and overruled. Further verified code-compliant answers to interrogatories shall be produced to Global within ten (10) days from the date of this order. Cal. Code of Civ. Proc. §§ 2030.220, 2030.240, 2030.50, 2030.300

3. Special Interrogatories Nos. 15, 18, 21, 24, 27, 30, and 33

Special Interrogatories Nos. 15, 18, 21, 24, 27, 30, and 33 all asks Rooney to **Identify each Document** that supports each of your causes of action, allegations, and prayer for relief. Rooney's Objections based on "cumulative and duplicative of SROG No 6; harassing" are overruled. Further verified code-compliant answers to interrogatories shall be produced to Global within ten (10) days from the date of this order. Cal. Code of Civ. Proc. §§ 2030.220, 2030.240, 2030.50, 2030.300

4. Special Interrogatories 36 through 84

Rooney did not answer Special Interrogatories 36 through 84, instead making one response for all of them, which is not a response to any. Therefore, responses are required, without further objections, including any objections based on the attorney client privilege and the work product doctrine. Further verified code-compliant answers to each of these interrogatories, Nos. 36 through 84, shall be produced to Global within ten (10) days from the date of this order. Cal. Code of Civ. Proc. §§ 2030.220, 2030.240, 2030.50, 2030.300

5. Sanctions

Under Cal. Code of Civ. Proc. § 2023.010(e),(f),(h) it is a misuse of discovery to make, "without substantial justification, an unmeritorious objection to discovery, " to make "an evasive response to

discovery" and to make or oppose "unsuccessfully without substantial justification a motion to compel or to limit discovery." In making boilerplate objections and failing to provide further responses, after meeting and conferring with Counsel, the Court finds that Rooney's actions constitute a misuse of the discovery process without substantial justification as set forth in this Court's analyses. As such, the Court finds that such conduct merits an award of sanctions. The Court therefore awards sanctions to Global and against Rooney in the amount of $6,495, which shall be due and payable within 30 days, or pursuant to a payment schedule mutually negotiated between Global and Rooney.

Global shall prepare proposed order conforming to the ruling, approved as form by Rooney, and shall e-file this order within five (5) business days after the hearing.

5. 9:00 AM CASE NUMBER: C23-00868
CASE NAME: SONJA STANCHINA VS. CONTRA COSTA WATER DISTRICT
***HEARING ON MOTION IN RE: CONT FROM 2/26/25 HRG**
FILED BY:
****TENTATIVE RULING:****

Summary: Plaintiff's Motion to Compel Further Responses and Documents to Plaintiff's Requests for Production Nos. 3 is **granted** in part and **denied** in part. Request for Production Nos. 5, 6, 7, and 15 are **granted** as set forth below.

Background

This is an employment discrimination case wherein Plaintiff Soja Stanchina ("Plaintiff") alleged causes of action against Defendant Contra Costa Water District ("Defendant" or "District") for retaliation, hostile work environment, failure to prevent retaliation and harassment in violation of the Fair Employment and Housing Act.

This motion is Plaintiff's Motion to Compel Further Responses and Documents to Plaintiff's Requests for Production ("Motion"). This Motion was originally filed December 20, 2023, and Defendant's Opposition was filed March 20, 2024. Although the Motion was initially set for hearing on April 3, 2024, it was later continued several times by agreement of the parties. The continuances were necessary because Defendant continued to produce documents responsive to Plaintiff's First Set of Requests for Production through the end of March 2025.

This Motion was rescheduled to be heard on February 26, 2025, along with Plaintiff's Motion to Compel Further Responses and Documents to Plaintiff's Request for Admissions, Interrogatory No. 217.1, etc., filed on November 8, 2024. In addition to filing her reply in support of her November 2024 Motion to Compel Further Responses and Documents, Plaintiff also filed her reply to the instant December 2023 motion on February 19, 2025 (entitled Plaintiff's Reply Memorandum of Points and Authorities in Support of Motion to Compel Further Responses and Documents to Plaintiff's CCP § 2031.010 Requests for Production), at which point Defendant had still not produced all responsive documents.

At that hearing, Judge Leonard Marquez (Dept. 34) granted Plaintiff's November 2024 motion to

compel but continued the hearing of this December 2023 motion because the Court was uncertain as to which issues remained unresolved. Judge Marquez set April 25, 2025, for the instant motion, which was ultimately reset to April 23, 2025, to align with the Court's calendar, and directed the parties to file a Joint Separate Statement to identify the requests that remain at issue. The parties' Joint Separate Statement was filed on April 9, 2025.

At issue is Plaintiff's Motion to Compel Response to Production of Documents Nos. 3, 5, 6, 7 and 15. The Court has reviewed the papers submitted by Counsel, including the Joint Separate Statement filed on April 9, 2025, the Memorandum of Points and Authorities, Declarations, and the applicable statutory and decisional authority. The Court also considered the arguments set forth in Counsels' papers. After carefully considering the foregoing, the Court makes the following findings and orders.

Analyses

Civil discovery in California is governed by the Civil Discovery Act. See Code Civ. Proc. §§ 2016.010–2036.050. The Civil Discovery Act provides litigants with the right to broad discovery. Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants (2007) 148 Cal.App.4th 390, 402. In general, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. Code Civ. Proc. § 2017.010; see Sinaiko Healthcare Consulting, Inc., supra, 148 Cal.App.4th at 402.

On the other hand, the Court is empowered to limit the scope of discovery where the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence. Code Civ. Proc. § 2017.020(a).

Moreover, the moving party and proponent of the discovery on a motion to compel further responses to a request for production of documents must set forth specific facts showing good cause justifying the discovery sought by the demand. Code Civ. Proc. § 2031.310(b)(1). When a motion to compel has been filed, the burden is on responding party to justify any objections made. Fairmont Ins. Co. v. Superior Court (2000) 22 Cal.4th 245, 255.

Under Cal. Code of Civ. Proc. § 2023.010(e),(f),(h) it is a misuse of discovery to make, "without substantial justification, an unmeritorious objection to discovery, "to make "an evasive response to discovery" and to make or oppose "unsuccessfully without substantial justification a motion to compel or to limit discovery."

Boilerplate objections fail to satisfy the level of specificity mandated by statute, and the use of boilerplate objections may be sanctionable. (*Korea Data Systems Co. v. Super. Court* (1997) 51 Cal.App.4th 1513, 1516.) See also Cal. Code of Civ. Proc. §§ 2023.010(e),(f) and (h), and Cal. Code of Civ. Proc. §§ 2030.210, 2030.220 (b)(c). It is wholly improper for a party to respond to discovery by making unmeritorious objections and then refusing to provide any documents and/or responsive answers. California's Discovery act was "intended to take the 'game' element out of trial preparation," considering that "a lawsuit should be an intensive search for the truth, not a game to be determined in outcome by considerations of tactics and surprise." (*Greyhound Corp. v. Super. Court In and For Merced County* (1961) 56 Cal.2d 355).

In exercising its discretion in ruling on discovery motions, the trial court relies on the Civil Discovery Act and the legislative purpose of avoiding surprise and preventing fabrication of evidence at trial. *Glenfed Dev. Corp. v Superior Court* (1997) 53 Cal.App.4th 1113, 1119. The principles of eliminating gamesmanship in discovery practice in California has been in place for over sixty years. The California Supreme Court in the seminal case of *Greyhound Corp. v Superior Court* (1961) 56 Cal.2d 355, 376, remain applicable today. "That is, the Legislature intended to take the "game" element out of trial preparation while yet retaining the adversary nature of the trial itself. One of the principal purposes of discovery was to do away "with the sporting theory of litigation—namely, surprise at the trial." *Chronicle Pub. Co. v. Superior Court*, (1960) 54 Cal.2d 548, 561. See also page 572 of the same opinion wherein we adopted from *United States v. Proctor & Gamble Co*., (1958) 356 U.S. 677, the phrase that discovery tends to "make a trial less a game of blindman's buff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent."

Attorney Work Product Doctrine

In California, the work product doctrine was originally court-created law but was codified in 1963 when the California Legislature added former CCP §2016 (now CCP §2018.030), which provides that the following documents are privileged:

> (a) A writing that reflects an attorney's impressions, conclusions, opinions, or legal research or theories is not discoverable under any circumstances.
>
> (b) The work product of an attorney, other than a writing described in subdivision (a), is not discoverable unless the court determines that denial of discovery will unfairly prejudice the party seeking discovery in preparing that party's claim or defense or will result in an injustice.

(See generally *Wellpoint Health Networks v. Superior Court*, (1997), 59 Cal.App.4th 110, pp. 120-125)

The work product doctrine is as fundamental to our system of justice as the attorney-client privilege. *PSC Geothermal Servs. Co. v Superior Court* (1994) 25 Cal.App.4th 1697, 1710. Under CCP §§2018.010–2018.080, attorney work product is given either absolute or qualified protection. The work product doctrine applies to both attorneys and non-attorneys representing themselves in *propria persona*. *Dowden v. Superior Court* (1999) 73 Cal.App.4th 126, 133.

Ruling

Plaintiff's Request for Production of Documents No. 3: **Granted in Part. Denied in Part**.

Plaintiff requested "Any and all documents that reflect or pertain to the annual award of merit pay/performance bonuses for Defendant's managers and directors since December 2017." The request contains multiple subparts (a) – (i) generally seeking documents that relate to "merit award percentages," that reflect the actual amounts of merit bonuses awarded, documents that reflect the decision making process, criteria or performance measures used to evaluate the managers, the manner in which the criteria are measured, the "justification data," documents that reflect the describe the reasons for each manager's merit award, the identities of the persons involved in making these decisions, and the "Performance Plan Matrix implemented in or around the Fall of 2022."

In reviewing the parties' Joint Separate Statement filed on April 9, 2025, the Court is satisfied that Defendant's responses appear to resolve the remaining issues. As such, this Motion is **granted** in part and **denied** in Part. Defendant shall produce further verified code-compliant responses and documents requested that including the performance plans and related performance documents relevant to merit pay for other employees during the relevant time period. Defendant shall also produce the "Performance Plan Matrix" for 2022 for all employees. Such documents shall be produced subject to the protective order in place between the parties.

Plaintiff clarified that it is not seeking documents that post-date her employment. Accordingly, Defendant's objections are sustained. Defendants will not be compelled to produce any documents that postdate Plaintiff's employment with the District. Those documents are not relevant.

Plaintiff's Request for Production of Documents No. 5: **Granted**.

Plaintiff requested "Any and all documents that refer, pertain, relate to or constitute any and all complaints or reports Ms. Stanchina ever made (formal or informal, oral or written)." The request contains multiple subparts (a)-(h) seeking numerous documents maintained by the District investing any claims made by Plaintiff.

In reviewing the parties' Joint Separate Statement filed on April 9, 2025, the Court notes that Defendant's responses appear to resolve the remaining issues, except that it withheld the documents related to Kristen Cunningham, who was the employee chosen to over Plaintiff to assume the new role of Director of People and Culture. The basis for withholding those documents includes the attorney-client privilege, the work product doctrine, the privacy rights of Ms. Cunningham, as well as relevance. Defendant also reasons that Plaintiff did not compete for the job that Cunningham held. The role was created as the result of a reorganization.

Defendant's work product, and relevance objections are overruled. The Court finds that the that the denial of discovery regarding Ms. Cunningham's documents will unfairly prejudice Plaintiff in preparing her claim or will result in an injustice. Such a determination justifies invading the work-product privilege. Defendants shall produce the documents related to Kristen Cunningham requested by Plaintiff. Cal. Code of Civ. Proc. §2018.030(b). If the District seeks to assert the attorney-client privilege for any documents it seeks to withhold, it must prepare a detailed privilege log that contains a description of each document being withheld, the author, the date it was prepared, and the identity of each attorney and client referenced in the documents.

Plaintiff's Request for Production of Documents No. 6: **Granted**.

Plaintiff requested "Any and all documents that refer, pertain, relate to or constitute any and all complaints or reports Ms. Stanchina ever made (formal or informal, oral or written)." The request includes multiple subparts, like the other requests.

In reviewing the parties' Joint Separate Statement filed on April 9, 2025, the Court notes that Defendant's responses appear to resolve the remaining issues. Plaintiff seeks a verified response stating that Defendant has produced all responsive documents. This request is reasonable and is **granted**. Defendant shall prepare a further verified response that the District has produced all responsive documents to this request without further objections.

Plaintiff's Request for Production of Documents No. 7: **Granted.**

Plaintiff seeks Any and all documents that refer, relate, pertain to, or constitute any and all complaints or reports (formal or informal, oral or written) of potential racial discrimination and/or harassment and/or retaliation made by anyone OTHER than Ms. Stanchina since January 1, 2015, detailing multiple subparts for her request.

In reviewing the parties' Joint Separate Statement filed on April 9, 2025, the Court notes that Defendant's responses appear to resolve the remaining issues. Plaintiff seeks a verified response stating that Defendant has produced all responsive documents. This request is reasonable and is granted. Defendant shall prepare a further verified response that the District has produced all responsive documents to this request without further objections.

Plaintiff's Request for Production of Documents No. 15: **Granted**.

Any and all communications (including but not limited to emails and text messages, as well as any attachments to said communications) sent or received by any employee of Defendant whether current or former, that relate, pertain, refer to or reflect the decision to demote/downgrade Ms. Stanchina, along with multiple subparts for her request.

In reviewing the parties' Joint Separate Statement filed on April 9, 2025, the Court notes that Defendant's responses appear to resolve the remaining issues. Plaintiff seeks a verified response stating that Defendant has produced all responsive documents. This request is reasonable and is granted. Defendant shall prepare a further verified response that the District has produced all responsive documents to this request without further objections.

Time for Production

Defendants shall produce further verified responses and responsive documents no later than ten (10) days from the date of this order.

Plaintiff shall prepare and e-file a proposed order conforming to this ruling, approved as to form by the District, within five (5) days of this order. Each party shall bear their own attorney's fees and costs for prosecuting and defending this motion.

6. 9:00 AM CASE NUMBER: C23-02436
CASE NAME: DENNIS WANKEN VS. NAHLA DROUBI
***HEARING ON MOTION FOR DISCOVERY TO COMPEL FURTHER RESPONSES**
FILED BY: DROUBI, NAHLA
****TENTATIVE RULING:****

Summary: Defendant's Motions to Compel Further Responses to Discovery are granted in part and denied in part as set forth in this ruling. Sanctions are denied. Each Party shall bear their own attorney's fees and costs for prosecuting and defending this motion.

Background

On January 2, 2025, Defendant Nahla Droubi ("Defendant" or "Droubi") filed, through Counsel Arlo Smith, Esq., a Notice of Motion and Motion to Compel Further Response to Form Interrogatories Set 2, No. 15.1 and Request for Production of Documents, Set 2, Nos. 1, 2 and 3 and for sanctions ("Motion"). The basis for the motion includes arguments that Plaintiffs served frivolous objections, evasive and incomplete responses and improper invocation for an inability to produce documents. The Motion was supported by a Memorandum of Points and Authorities, Declaration of Counsel, and a Separate Statement.

On April 10, 2025, Plaintiffs and Cross-Defendants Dennis and Eleni Wanken ("Plaintiffs" or "Wankens") filed an opposition through Counsel Andrew Kapur, Esq., supported by Declaration of Counsel claiming, in part, that the Motion is untimely, that counsel failed to meaningfully meet and confer, and that responses are substantively sufficient.

On April 16, 2025, Defendant filed her reply brief, which consists of the Declaration of Droubi regarding the timing of the service of discovery.

After reviewing the papers submitted by counsel, considering the arguments therein, and applying the applicable statutory and decisional authority, the Court makes the following findings and orders:

Analyses

Civil discovery in California is governed by the Civil Discovery Act. See Code Civ. Proc. §§ 2016.010–2036.050. The Civil Discovery Act provides litigants with the right to broad discovery. *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants (2007*) 148 Cal.App.4th 390, 402. In general, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. Code Civ. Proc. § 2017.010; see *Sinaiko Healthcare Consulting, Inc., supra*, 148 Cal.App.4th at 402.

On the other hand, the Court is empowered to limit the scope of discovery where the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence. Code Civ. Proc. § 2017.020(a).

Moreover, the moving party and proponent of the discovery on a motion to compel further responses to a request for production of documents must set forth specific facts showing good cause justifying the discovery sought by the demand. Code Civ. Proc. § 2031.310(b)(1). The moving party and proponent of the discovery on a motion to compel further answers to interrogatories must set forth specific facts showing good cause justifying the discovery sought by the demand. See Code Civ. Proc. § 2030.300. When a motion to compel has been filed, the burden is on responding party to justify any objections made. *Fairmont Ins. Co. v. Superior Court* (2000) 22 Cal.4th 245, 255.

Under Cal. Code of Civ. Proc. § 2023.010(e),(f),(h) it is a misuse of discovery to make, "without substantial justification, an unmeritorious objection to discovery, "to make "an evasive response to discovery" and to make or oppose "unsuccessfully without substantial justification a motion to compel or to limit discovery."

Boilerplate objections fail to satisfy the level of specificity mandated by statute, and the use of

boilerplate objections may be sanctionable. (*Korea Data Systems Co. v. Super. Court* (1997) 51 Cal.App.4th 1513, 1516.) See also Cal. Code of Civ. Proc. §§ 2023.010(e),(f) and (h), and Cal. Code of Civ. Proc. §§ 2030.210, 2030.220 (b)(c). It is wholly improper for a party to respond to discovery by making unmeritorious objections and then refusing to provide any documents and/or responsive answers. California's Discovery act was "intended to take the 'game' element out of trial preparation," considering that "a lawsuit should be an intensive search for the truth, not a game to be determined in outcome by considerations of tactics and surprise." (*Greyhound Corp. v. Super. Court In and For Merced County* (1961) 56 Cal.2d 355).

In exercising its discretion in ruling on discovery motions, the trial court relies on the Civil Discovery Act and the legislative purpose of avoiding surprise and preventing fabrication of evidence at trial. *Glenfed Dev. Corp. v Superior Court* (1997) 53 Cal.App.4th 1113, 1119. The principles of eliminating gamesmanship in discovery practice in California has been in place for over sixty years. The California Supreme Court in the seminal case of *Greyhound Corp. v Superior Court, supra,* (1961) 56 Cal.2d 355, 376, remain applicable today. "That is, the Legislature intended to take the "game" element out of trial preparation while yet retaining the adversary nature of the trial itself. One of the principal purposes of discovery was to do away "with the sporting theory of litigation—namely, surprise at the trial." *Chronicle Pub. Co. v. Superior Court*, (1960) 54 Cal.2d 548, 561. See also page 572 of the same opinion wherein we adopted from *United States v. Proctor & Gamble Co*., (1958) 356 U.S. 677, the phrase that discovery tends to "make a trial less a game of blindman's buff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent."

Cal. Code of Civ. Proc. § 2023.010 (i) makes it a misuse of the discovery process to fail to "confer in person, by telephone, or by letter with an opposing party or attorney in a reasonable and good faith attempt to resolve informally any dispute concerning discovery…" Plaintiffs raise the argument in their opposition to the Motion that Defendant did not meet and confer in good faith prior to filing the instant motions. However, the Court's review of the papers show that Counsel Smith and Counsel Kapur had exchanged correspondence on November 27, 2024 and December 6, 2024 to informally attempt to resolve the issue prior to the filing of this Motion. Plaintiffs' argument is without merit.

Counsel are admonished to meet and confer for all future discovery disputes and are placed on notice that the Court may impose sanctions for failing to follow the clear statutory language of §2023.010.

Ruling

The Court makes the following orders:

1. Timeliness of Motion to Compel: The Court finds that Defendant's Motion is timely. Any objection based on timeliness is overruled.

2. Motion to Compel Further Response to Form Interrogatories Set 2, No. 15.1: **Granted in Part and Denied in Part**.

The objections are **overruled**. Boilerplate objections fail to satisfy the level of specificity mandated by statute, and the use of boilerplate objections may be sanctionable. (*Korea Data Systems Co. v. Super. Court* (1997) 51 Cal.App.4th 1513, 1516.) See also Cal. Code of Civ. Proc. §§ 2023.010(e),(f) and (h), and Cal. Code of Civ. Proc. §§ 2030.210, 2030.220 (b)(c). It is wholly improper for a party to respond

to discovery by making unmeritorious objections and then refusing to provide any documents and/or responsive answers. California's Discovery act was "intended to take the 'game' element out of trial preparation," considering that "a lawsuit should be an intensive search for the truth, not a game to be determined in outcome by considerations of tactics and surprise." (*Greyhound Corp. v. Super. Court In and For Merced County* (1961) 56 Cal.2d 355).

The Court finds that the specific answers provided by Plaintiff to this interrogatory were broken down by the applicable paragraphs. The Court finds that such responses and answers substantially comply with the information sought by the interrogatories. To the extent that Plaintiff is in possession of additional information that has not been fully answered in the interrogatories, Plaintiff shall prepare code-complaint answers to Interrogatory No. 15.1 (Set 2) and each subpart in full, including all facts that support each material allegation and each defense, **the names, addresses and telephone numbers of all persons and the identity of all documents**; and in detail within ten (10) days of the date of this order.

3. Motion to Compel Further Responses to Request for Production of Documents, Set 2, Nos. 1: **This motion is Granted in part and Denied in part.**

The Court finds that Plaintiff has identified 93 pages of documents that purportedly comply with the document request identified in the Form Interrogatories. However, as set forth in the foregoing, the boilerplate objections are **overruled**. The Court orders Plaintiff to comply with the provisions of Cal. Code of Civ. Proc. § 3031.220(a)(1) and provide a code-compliant statement that contains the affirmation requested by Defendant.

4. Motion to Compel Further Responses to Request for Production of Documents, Set 2, No. 2. **This motion is Granted in part and Denied in part.**

The Court finds that Plaintiff has identified 93 pages of documents that purportedly comply with the document request identified in the Form Interrogatories. However, as set forth in the foregoing, the boilerplate objections are **overruled**. The Court orders Plaintiff to comply with the provisions of Cal. Code of Civ. Proc. § 3031.220(a)(1) and provide a code-compliant statement that contains the affirmation requested by Defendant.

5. Motion to Compel Further Responses to Request for Production of Documents, Set 2, No. 3: **This motion is Granted in part and Denied in Part.**

The boilerplate objections are **overruled**. The Court finds that the Plaintiff's responses that "No such DOCUMENTS exists" satisfies the provisions of the Discovery Code. No further responses are ordered.

6. Defendant's Request for Sanctions: **Denied**.

The Court finds that Plaintiff provided, in part, code compliant responses to the discovery requests. After meeting and conferring, and after the motion was filed, Plaintiff provided amended responses. This conduct demonstrates an effort to substantially comply with the Discovery Act and satisfies the substantial justification requirement. As such, the Court finds that sanctions are not warranted under

this circumstance. Defendant's request for sanctions is denied. Each Party shall bear their own attorney's fees and costs for prosecuting and defending this motion.

Defendant's Counsel shall prepare and e-file a proposed order, approved as to form by Plaintiff's Counsel, that conforms with this ruling within five (5) court days after this order.

7. 9:00 AM CASE NUMBER: C23-02445
CASE NAME: DARSHAN SINGH VS. RUDOLPH SANDOVAL
***HEARING ON MOTION IN RE: OF ANTHONY J. ROSTON TO SET ASIDE DEFAULT ENTERED 12/4/24 AND REQUEST FOR $1,000 SANCTIONS**
FILED BY: ROSTON, ANTHONY J
****TENTATIVE RULING:****

Defendant Anthony J. Roston's Motion to Set Aside Default entered December 4, 2024, Etc., Is **continued** by the Court to 9:00 a.m. on June 4, 2025 to join the motion by Defendant Sandoval then pending.

The CMC currently scheduled on April 23, 2025 at 9:00 a.m. is **continued** to June 4, 2025 to be heard with the above motions.

8. 9:00 AM CASE NUMBER: C24-00892
CASE NAME: LAXMI CAPITAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY VS. MARGARET MURPHY
***HEARING ON MOTION FOR DISCOVERY TO QUASH DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS ISSUED TO BANK OF MARIN, OR, ALTERNATIVELY, FOR PROTECTIVE ORDER**
FILED BY: MURPHY, MARGARET MARIE
****TENTATIVE RULING:****

Summary: This Ruling applies to Lines 8-11. Defendant's Motions to Quash Deposition Subpoena for Production of Business Records served on (1) Bank of Marin, (2) Conventus Lending, (3) Clearpath Federal Lending, and (4) Readycap Lending, LLC are **dismissed**. Counsel have notified the Court that the subpoenas precipitating these Motions have been withdrawn. Accordingly, these motions are made moot and are dismissed by the Court without prejudice.

Background:

This case seeks to enforce a judgment by Plaintiff Laxmi Capital, LLC (A California Limited Liability Company) ("Plaintiff" or "Laxmi") entered in the District Court of Nevada on February 20, 2024 against Defendant Margaret Marie Murphy, individually and as trustee of the MMM Trust dated April 29, 2019, ("Defendant" or "Murphy") in the amount of $5,006,717.38.

On January 3, 2025, Defendant Margaret Marie Murphy, individually and as trustee of the MMM Trust dated April 29, 2019, ("Defendant" or "Murphy") filed four Notices of Motion and Motions to Quash Deposition Subpoena for Production of Business Records, or in the alternative, for a Protective Order

issued to the following organizations ("Motions"):

1. Bank of Marin
2. Coventus Lending
3. Clearpath Federal Credit Union
4. Readycap Lending LLC

Amended notices for the Motions were filed on January 10, 2025. The Motions are supported by the requisite Memorandum of Points and Authorities, Separate Statement, Declaration of Counsel Marshall Hogan. The Motions were filed and served, and the Court has received Proofs of Service. Defendant contends that the Subpoenas are unduly burdensome as Plaintiff pursues discovery in Nevada and California and the Nevada Court has already granted Defendant's motion for protective order. Additionally, objections are made based on non-party entities and scope of the discovery sought.

No timely opposition was received by the Court.

On April 18, 2025, the Court received a stipulation and proposed order continuing Plaintiff's Motion for Charging Order Against Debtor Margaret Marie Murphy's Interest in MJD Development, LLC (Charging Motion) set for April 23, 2025 (See Line 12). In that Stipulation, Counsel also noted that the foregoing four subpoenas filed by Plaintiff, which are the subject of these Motions, were withdrawn. Counsel requested that the four Motions to Quash should be taken off calendar. The Court executed this stipulation and proposed order on April 18, 2025.

Ruling

Defendant's Motions to Quash Deposition Subpoena for Production of Business Records served on (1) Bank of Marin, (2) Conventus Lending, (3) Clearpath Federal Lending, and (4) Readycap Lending, LLC are **dismissed**. Counsel have notified the Court that the subpoenas have been withdrawn. Accordingly, these motions are moot and are **dismissed by the Court without prejudice**.

9. 9:00 AM CASE NUMBER: C24-00892
CASE NAME: LAXMI CAPITAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY VS. MARGARET MURPHY
***HEARING ON MOTION FOR DISCOVERY TO QUASH DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS ISSUED TO CONVENTUS LENDING, LLC OR, ALTERNATIVELY, FOR PROTECTIVE ORDER**
FILED BY: MURPHY, MARGARET MARIE
****TENTATIVE RULING:****

See Line No. 8

10. 9:00 AM CASE NUMBER: C24-00892
CASE NAME: LAXMI CAPITAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY VS. MARGARET MURPHY
***HEARING ON MOTION FOR DISCOVERY TO QUASH DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS ISSUED TO CLEARPATH FEDERAL CREDIT UNION OR, ALTERNATIVELY, FOR PROTECTIVE ORDER**
FILED BY: MURPHY, MARGARET MARIE
****TENTATIVE RULING:****

See Line No. 8

11. 9:00 AM CASE NUMBER: C24-00892
CASE NAME: LAXMI CAPITAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY VS. MARGARET MURPHY
***HEARING ON MOTION FOR DISCOVERY TO QUASH DEPOSITION SUBPOENA FOR PRODUCTION OF BUSINESS RECORDS ISSUED TO READYCAP LENDING, LLC OR, ALTERNATIVELY, FOR PROTECTIVE ORDER**
FILED BY: MURPHY, MARGARET MARIE
****TENTATIVE RULING:****

See Line No. 8

12. 9:00 AM CASE NUMBER: C24-00892
CASE NAME: LAXMI CAPITAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY VS. MARGARET MURPHY
***HEARING ON MOTION IN RE: FOR CHARGING ORDER AGAINST DEBTOR MARGARET MARIE MURPHY'S INTEREST IN MJD DEVELOPMENT, LLC - CONTINUED FROM 4/9/25 DUE TO JUDGE'S UNAVAILABILITY**
FILED BY: LAXMI CAPITAL, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY
****TENTATIVE RULING:****

Summary: On April 18, 2025, the Court received a stipulation and proposed order continuing Plaintiff's Motion for Charging Order Against Debtor Margaret Marie Murphy's Interest in MJD Development, LLC (Charging Motion) set for April 23, 2025. The Court executed this Order. This motion is continued to July 30, 2025, at 9:00 a.m. in Department 15. Counsel are ordered to appear via Zoom or in person.

13. 9:00 AM CASE NUMBER: C24-00993
CASE NAME: NATALIE AMAYA VS. WANG GLOBAL NET, INC.
***HEARING ON MOTION IN RE: FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**
FILED BY:
****TENTATIVE RULING:****

Summary: On November 26, 2024, Plaintiffs Natalie Amaya and Ivan Hobson filed and served a Motion for Leave to File Second Amended Complaint to correct the name of Defendant, "Shinwoo Kim", previously identified incorrectly as, Shinwood Kim and to include additional facts that support a claim for punitive damages. On April 7, 2025, Defendant Wang Global Net filed a statement of non-opposition. Since the Motion is unopposed, the Court **grants** the Plaintiffs' motion for leave to File Second Amended Complaint as requested. Plaintiffs shall file and serve the Second Amended Complaint no later than ten (10) days from the date of this order. Defendant's response shall be due pursuant to code.

In the statement of non-opposition, Defendant's Counsel notified the Court that, "After the court's ruling on March 27, 2025, Counsel for Defendant attempted three times to meet and confer with Plaintiffs, which efforts were unanswered." The Court is concerned that Plaintiffs' Counsel has failed to meet and confer pursuant to the Court's minute order dated March 27, 2025. The Court therefore orders Plaintiff's Counsel, Razan Rasheed, Esq., to address this purported failure to meet and confer in a written declaration submitted with Plaintiff's Case Management Conference Statement in conjunction with the Case Management Conference scheduled for July 1, 2025. Failure to submit a declaration may result in this Court issuing an Order to Show Cause to Plaintiff's Counsel for contempt for failing to follow the Court's orders.

14. 9:00 AM CASE NUMBER: C24-01087
CASE NAME: DOMINIC REBEIRO VS. LINDA CABRERA
***HEARING ON MOTION IN RE: FOR APPOINTMENT OF REFEREE, APPROVAL OF INTERLOCUTORY SALE, ORDER FOR PRIVATE SALE ON OPEN MARKET, AND RESERVATION OF PROCEEDS**
FILED BY:
****TENTATIVE RULING:****

Summary: The Parties are ordered to appear via Zoom or in person in Department 16 to present proposed names of a referee to coordinate the partition sale consistent with this Court's April 2, 2025 order.

Background

The Court previously entered a ruling on this matter on April 2, 2025 which was not contested. That ruling stated:

> "Defendant and Cross-Complainant Linda Cabrera's unopposed "Motion for Appointment of Referee, Approval of Interlocutory Sale, Order for Private Sale on Open Market and Reservation of Proceeds" (the Motion) is continued by the Court to April 30, 2025 at 9:00 a.m. in

Department 16.

Plaintiff Dominic Rebeiro initiated this action against his mother Defendant Linda Cabrera with the filing of a Complaint for Partition by Sale of Real Property on April 22, 2024. The dispute arises from the parties' joint purchase of a single-family home at 3811 Shasta Circle in Pittsburg (the Property) in June of 2021. Rebeiro alleges he filed this partition action after Cabera refused his request for a partition sale of the Property. (Complaint, ¶ 24.) On June 4, 2024, Cabrera filed an answer to Rebeiro's complaint and a cross-complaint. On October 3, 2024, Cabrera filed a First Amended Cross-Complaint (FACC) in which she alleges, inter alia, causes of action for breach of contract and fraud. Cabrera likewise alleges that she asked Rebeiro to agree to a partition sale of the Property and Rebeiro refused, claiming more of the sale proceeds than Cabrera believes Rebeiro is entitled to. (FACC ¶ 20.)

On December 6, 2024, Cabrera filed this Motion. Rebeiro, who is represented by counsel, did not file an opposition. Thus, Rebeiro does not appear to dispute the overall merits of the Motion, or his joint tenancy with Cabrera. It also appears from Cabrera's submissions that the parties agree the Property should be sold to protect against foreclosure while they resolve their differences as to a division of the sale proceeds.

If the parties agree that a partition is appropriate and neither party demands a trial, then it appears the Court has the power to issue an interlocutory judgment via noticed motion, as would obviously be efficient in this case. As Rebeiro has not opposed the motion, the Court assumes that Rebeiro agrees to the entry of an interlocutory judgment for partition and the appointment of a referee, with the allocation of sale proceeds to be determined after the sale. Accordingly, Counsel are ordered to meet and confer regarding (1) the appointment of a partition referee to take control of, market, and sell the Property pursuant to the procedures delineated in the CCP governing partition, and (2) a stipulated proposed interlocutory order of partition by sale to be submitted to the Court. Nothing in this order prevents the parties from agreeing to a broker or listing agent to sell the Property (and potentially a referee to act as decision maker should the parties fail to reach agreement on important decisions regarding the sale).

The parties shall file a stipulation, or a joint status report regarding these matters if they cannot agree, no later than April 21, 2025. The parties shall each propose two partition referees who are unaffiliated with either party, along with their curriculum vitaes and fee schedules, with any status report. The Court will appoint a referee from the submitted names via unreported minute order."

The matter is now on calendar for April 23, 2025 at 9:00 a.m. The Parties are ordered to appear via Zoom or in person in Department 16 to present proposed names of a referee to coordinate the partition sale of the property consistent with this Court's April 2, 2025 order.

15. 9:00 AM CASE NUMBER: C24-01269
CASE NAME: KYANNA NEAL VS. ALEXANDRA GUEVARA
***HEARING ON MOTION IN RE: TO VACATE DISMISSAL AND TO REINSTATE COMPLAINT**
FILED BY: NEAL, KYANNA
****TENTATIVE RULING:****

The hearing on this Motion is vacated by the moving party.

16. 9:00 AM CASE NUMBER: C24-01476
CASE NAME: G.A. CAPELLI CONSTRUCTION VS. NA LI
***HEARING ON MOTION IN RE: FOR LEAVE TO AMEND COMPLAINT**
FILED BY: G.A. CAPELLI CONSTRUCTION
****TENTATIVE RULING:****

Before the Court is a motion for leave to amend complaint filed by plaintiff G.A. Capelli Construction. For the reasons set forth, the motion is **granted.**

Background

This action arises out of a dispute over an agreement to plaintiff G.A. Capelli Construction ("Capelli") to perform construction on a project located at 739 Summerwood Drive in Brentwood (the "Property"). Capelli filed its complaint initiating this action on June 5, 2024. The complaint asserts five causes of action including a cause of action for foreclosure of its mechanic's lien. Capelli moves for leave to amend to file a first amended complaint ("FAC") to assert a cause of action to enforce a mechanic's lien release bond which Capelli alleges was recorded by defendants on August 19, 2024 and served on Capelli on October 24, 2024.

Legal Standards

The Court has broad discretion to grant leave to amend a pleading at any stage in a case. (*See* Code Civ. Proc. § 473(a) [court may allow amendment "in furtherance of justice, and on any terms as may be proper"].) (*See also* Code Civ. Proc. § 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 or pretrial conference order."].) "If the motion to amend is timely made and the granting of the motion 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 or a meritorious defense, it is not only error but an abuse of discretion. [Citations omitted.]" (*Morgan v. Superior Court of Los Angeles County* (1959) 172 Cal.App.2d 527, 530.) California has a liberal policy of allowing amendments to pleadings; it is a rare case when leave to amend should be denied, particularly when there is no showing of prejudice to the other side. (*Douglas v. Superior Court* (1989) 215 Cal.App.3d 155, 158; *Hong Sang Market, Inc. v. Peng* (2018) 20 Cal.App.5th 474, 488.)

Defendants' Request for Judicial Notice

Defendants request the Court take judicial notice of the Complaint and a motion by Plaintiff for relief from certain discovery admissions. The Court **denies** the request as unnecessary as the pleadings are part of the Court's file in this action.

Analysis

Defendants oppose the motion only on the ground that Plaintiff's mechanic's lien claim is unmeritorious, that Plaintiff allegedly made admissions in discovery that suggest the claim is not meritorious, and that as a result, the claim in the proposed amended complaint for enforcement of the mechanic's lien release bond is also not meritorious. Arguments regarding the merits of the claims alleged in the proposed FAC are more properly addressed in a challenge to the FAC after it is filed, whether by demurrer, motion for judgment on the pleadings, or motion for summary judgment. (*Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 760-761; *Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048 ["[T]he preferable practice would be to permit the amendment and allow the parties to test its legal sufficiency by demurrer, motion for judgment on the pleadings or other appropriate proceedings."].)

Plaintiff's motion and supporting declaration support granting Plaintiff leave to amend under the provisions of Code of Civil Procedure sections 473(a) and 576. The case has been pending less than a year. There is no trial date set, and discovery is ongoing. There is no prejudice to Defendants by allowing the amendment, as they will have ample opportunity to contest its merits "by appropriate proceedings." (*Kittredge Sports Co., supra,* 213 Cal.App.3d at 1048.)

The motion is **granted**.

17. 9:00 AM CASE NUMBER: C24-02597
CASE NAME: BRYAN RANCH HOMEOWNERS' ASSOCIATION, INC. VS. GAIL FUGERE
***HEARING ON MOTION IN RE: TO CORRECT JUDGMENT NUNC PRO TUNC TO CORRECT CLERICAL ERROR**
FILED BY: BRYAN RANCH HOMEOWNERS' ASSOCIATION, INC.
****TENTATIVE RULING:****

Summary: Plaintiff's Motion to Correct Judgment *Nunc Pro Tunc* is **granted** as unopposed.

Background:

On January 2, 2025, Plaintiff Bryan Ranch Homeowners' Association, Inc. ("Plaintiff") filed a Notice of Motion and Motion to Correct Judgment *Nunc Pro Tunc*. ("Motion") The Motion seeks to correct a clerical error in the Default Judgment entered on December 27, 2024 The Judgment erroneously lists the subject property enjoined from operating a carwash and detailing services as 3000 Golden View Drive, Alamo, CA." The actual general description of the subject property is: 3000 Golden Meadow Drive, Alamo, CA 94507. The Motion is unopposed. Separately, the Court has an interest in ensuring that the Judgment entered into Court records reflects the accurate address for the property.

Ruling: As it is unopposed, the Court finds there is good cause to grant Plaintiff Bryan Ranch Homeowners' Association, Inc. Motion to Correct the Judgment *Nunc Pro Tunc*. Accordingly, the Motion is **granted**. The Court will execute the proposed order lodged by Plaintiff's Counsel on January 2, 2025.

18. 9:00 AM CASE NUMBER: MSC18-01895
CASE NAME: KENT/WOLLMAN VS WCCUSD/JUV INC.
***HEARING ON MOTION IN RE: FOR DETERMINATION OF GOOD FAITH SETTLEMENT**
FILED BY:
****TENTATIVE RULING:****

Summary

The motion of Bay Cities Paving & Grading, Inc. ("Bay Cities") for a determination of good faith settlement is **granted**. The Court finds that the settlement between Bay Cities and plaintiffs was made in good faith.

Factual Background

In this complicated construction case, the plaintiffs, Greg and Beverly Kent and Jeff Wollman, are the owners of single-family homes, adjacent and just uphill from a high school where the construction work was performed. Plaintiffs filed suit against West Contra Costa Unified School District ("District") in 2018, alleging that the District's excavation and construction activities at the high school caused property damage to their homes. In January of 2019, plaintiffs amended their complaint to add causes of action against the District's contractors, Bay Cities and JUV, Inc., for negligence, trespass, public nuisance, and private nuisance. Plaintiffs allege, inter alia, that "[t]he District engaged in large tree removal, grading, and trench work adjacent to the two Subject Properties in order to assist in building a school and related improvements." (First Amended Complaint, ¶7.)

In March of 2019, the District filed a general denial, as well as cross-complaints against Bay Cities and JUV, Inc. The District asserts claims for indemnity (express, comparative, and equitable), contribution, and declaratory relief.

The parties dispute when damage to the residences occurred, when it was noticed, whether certain parties performed activities capable of causing the sort of vibration damages alleged, whether the timing of such vibration activity aligns with plaintiffs' noticing such damage, etc.

Parties have retained consultants and conducted at least two mediation sessions overseen by mediator, Robert Bellagamba. The settlement at issue in this motion follows a mediation held on July 29, 2024. The settlement agreement was not finalized until December 2024. In developments that followed the settlement, plaintiffs' estimate for repair substantially increased from their estimate in July.

In this motion, Bay Cities asks the Court to determine that its settlement, which does not include any other parties besides the plaintiffs, was made in good faith pursuant to Code of Civil Procedure section 877.6(a)(2). The motion explains that Bay Cities will pay the homeowner plaintiffs $120,000 in exchange for plaintiffs releasing their claims related to Bay Cities' scope of work. Bay Cities discusses the criteria for such determination and argues it has already satisfied its contractual indemnity obligations to the District since its insurer has accepted the tender of defense and indemnity pursuant to the written subcontract and insuring agreements. (Memorandum of Points and Authorities in Support of Motion, 8:1-5.)

Bay Cities supports its motion with a declaration from its counsel, Paul Walsh, who attaches the settlement agreement, along with other exhibits, and describes the (arms-length, adversarial) process by which settlement was reached. The settlement agreement includes payment of $120,000 evenly split between plaintiffs' homes, as well as an "issue release" by plaintiffs, which releases the

right to recover damages against the District related to Bay Cities' "scope of work." Further, the plaintiffs agree:

> to waive their right to full compensation from the non-settling parties for any proven damages attributable to BAY CITIES and to permit the judge or jury allocate fault as against BAY CITIES and to learn of the terms and value of this settlement outlined herein.

(Declaration of Paul Walsh in Support of Motion, Ex. G, p. 8.)

The motion is also supported by a declaration from retained engineering expert, Scott Thoeny, who opines that any damages were not caused by Bay Cities' work, as well as a declaration from operations manager, Eric Barker, who attaches excerpts of Bay Cities' contract with the District, as well as plans related to Bay Cities' work.

The motion is opposed by three of the non-settling parties: the District, JUV, and Collins Electrical. A March 26th hearing date was first set by Judge Marquez when Bay Cities appeared *ex parte* to request an expedited schedule due to the impending trial date of June 9, 2025. At that hearing, the Court continued the motion to allow Collins Electrical additional time to obtain discovery documents that predated its involvement in the case.

Standard

A determination by a court that a settlement was made in good faith bars any other joint tortfeasor or co-obligor from asserting further claims against the settling party for equitable comparative contribution, or partial or comparative indemnity, based on comparative negligence or comparative fault. (Code Civ. Proc. §877.6(c).)

The criteria for the determination of a good faith settlement were originally set out by the California Supreme Court in *Tech-Bilt, Inc. v. Woodward-Clyde & Assoc.* (1985) 38 Cal.3d 488 ("*Tech-Bilt*"). *Tech-Bilt* identifies six nonexclusive factors for making a determination of good faith settlement:

(1) a rough approximation of plaintiffs' total recovery and the settlor's proportionate liability;

(2) the amount paid in settlement;

(3) the allocation of settlement proceeds among plaintiffs;

(4) the recognition that a settlor should pay less in settlement than he would if he were found liable after a trial;

(5) the financial conditions and insurance limits of settling defendants; and,

(6) the existence of fraud, collusion, or tortious conduct aimed to injure the interests of nonsettling defendants.

(*Tech-Bilt, supra*, 38 Cal.3d at p. 499.)

Once the settling party has demonstrated that a settlement exists, a presumption of good faith exists. A party asserting a lack of good faith bears the burden of proof on that issue. (Code Civ. Proc. § 877(d).) The party asserting lack of good faith must demonstrate that the settlement is "so far out of the ballpark in relation to [the *Tech-Bilt* factors] as to be inconsistent with the equitable objectives of the statute." (*Tech-Bilt, supra*, 38 Cal.3d at pp. 499-500.)

Ultimately, for the Court to grant the Motion, the "settlement figure must not be grossly

disproportionate to what a reasonable person, at the time of the settlement, would estimate the settling defendant's liability to be." (*Tech-Bilt, supra*, at p. 499.) Trial courts have "broad discretion in determining whether a settlement was entered in good faith and within the *Tech-Bilt* ballpark, and in allocating potential liability and exposure between or among joint tortfeasors." (*Norco Delivery Service, Inc. v. Owens-Corning Fiberglass, Inc.* (1998) 64 Cal.App.4th 955, 962.)

Evidentiary Objections

Bay Cities' objections to the Declaration of Thomas W. Blackburn in Support of District's Opposition are **overruled**.

Analysis

A settling party's burden in applying for a good faith determination is to prove there has been a settlement. (*Fisher v. Superior Court* (1980) 103 Cal.App.3d 434, 447; see also, *City of Grand Terrace v. Superior Court* (1987) 192 Cal.App.3d 1251, 1261-1262.) Bay Cities meets this burden by providing a copy of the agreement between plaintiffs and Bay Cities whereby Bay Cities will pay to plaintiffs the sum of $120,000. Because Bay Cities met this burden, the burden shifts to contesting parties to show that the settlement was not made in good faith. (*Fisher, supra,* 103 Cal.App.3d at 447.)

Opposition by WCCUSD

The District contends that "Bay Cities' settlement, funded by [its insurer], will terminate the School District's defense if this motion is granted, less than three months before trial." The District argues, therefore, this motion should not be granted. The premise is incorrect. The District is entitled to contractual express indemnification from Bay Cities. The scope of what sort of claims are extinguished by way of granting this motion is limited to the types of claims listed in Code of Civil Procedure, section 877.6, subd. (c). "It is well-established a good faith settlement would not preclude an indemnity action based on an express indemnity agreement. " (*Willdan v. Sialic Contractors Corp.* (2007) 158 Cal.App.4th 47, 55, citing *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1019, 1032.) As *Bobrow/Thomas & Associates v. Superior Court* (1996) 50 Cal.App.4th 1654 ("*Bobrow*") explains,

> [a] trial court's decision that a settlement was made in good faith . . . does not absolve a settling defendant from a subsequent indemnification claim in all circumstances. For example, when the settling defendant has previously entered into a contractual agreement to indemnify a nonsettling defendant, a settlement-even if in good faith-does not relieve the settling defendant from performing the contractual indemnification obligations.

(*Bobrow, supra*, 50 Cal.App.4th at 1660.)

Bay Cities' reply cites *Bobrow*, claiming it has sufficiently obtained a release from plaintiffs as to the District for its portion of work. To the extent the *Bobrow* case suggests contractual indemnification rights can be terminated through a motion for good faith settlement under certain circumstances, the Court has not located any authorities that take that approach in the nearly three decades since *Bobrow*.

The District also contends that the settlement amount is outside the "ballpark" at less than 4% of the damages plaintiffs will be presenting at trial. While the Court agrees with the District that the amount is rather small compared to the amount claimed, the value would appear to account for weaknesses in proof against Bay Cities. Any fears by the District that it will be burdened by damages

actually caused by Bay Cities should be ameliorated by the District's retained right to contractual indemnification.

Opposition by Collins Electrical

Collins Electrical argues the motion should be denied because the parties are not joint tortfeasors, nor are they jointly liable on a contract. It also argues the settlement fails to satisfy the *Tech-Bilt* factors. Specifically, Collins Electrical calls attention to the financial condition and insurance of Bay Cities, as well as its contention that the settlement is the result of collusion, prejudicing the non-settling defendants. Alternatively, Collins Electrical seeks a continuance of the hearing to allow it time to conduct discovery, a continuance the Court granted. (This motion was continued from March 26, 2025 to April 23, 2025)

Collins Electrical supports its contention that the settlement is the result of collusion with one case citation: *Long Beach Memorial Medical Center v. Superior Court* (2009) 172 Cal. App. 4th 865, wherein the appellate court vacated a trial court's granting of a doctor's motion for determination of good faith settlement in a medical negligence lawsuit. The appellate court held payment of $200,000 in settlement for a $10 million claim was wholly disproportionate to the physicians' share of liability for plaintiffs' damages. However, the case is distinguishable in that the doctor's settlement had only been reached after another settlement (by co-defendants) had been reached. The doctor joint tortfeasor in that case was shown to have "enter[ed] into a disproportionately low settlement with the plaintiff solely to obtain immunity from the cross-complaint" and therefore, "the inference that the settlement was not made in good faith [wa]s difficult to avoid." (*Id*. at 876.) Here, in contrast, the cross-complaint by the District (at least as to express indemnity claims) will continue to be in effect. Further, the District itself was involved in the negotiations with Bay Cities and plaintiffs, even if Collins Electrical was not.

Collins Electrical argues the factor regarding Bay Cities' insurance limits and financial condition was not addressed by Bay Cities. Bay Cities responds that the factor was addressed and that the settlement was not affected at all by these issues. The moving papers did discuss this factor. (See Memorandum of Points and Authorities, 15:1-6.) This is sufficient.

Opposition by JUV, Inc.

Besides arguing that the settlement does not fall within the ballpark of Bay Cities' share of liability, JUV also argues that the moving papers fail to address the insurance limits and financial condition of Bay Cities, which has disclosed general liability insurance policy limits of $2 million per occurrence/$2 million general aggregate. JUV also cites the lack of effect this motion would have on the contractual indemnity claim by WCCUSD. These arguments are addressed above.

Ruling

The motion of Bay Cities Paving & Grading, Inc. ("Bay Cities") for a determination of good faith settlement is **granted**. The Court finds that the settlement between Bay Cities and plaintiffs was made in good faith. Bay Cities is directed to prepare and e-file a conforming order, approved as to form by all counsel, no later than ten (10) days from the date of this hearing.

19. 9:00 AM CASE NUMBER: N24-2302
CASE NAME: CLAIM OF: RUDY RAMIREZ LOPEZ

***HEARING ON MINOR'S COMPROMISE PETITION FOR APPROVAL OF COMPROMISE OF CLAIM FILED BY INGRID PAOLA LOPEZ MENDEZ-RAMIREZ ON 12/30/24**
FILED BY:
****TENTATIVE RULING***

Summary: The Court approves the Petition for Approval of Compromise of Minor's Claim as set forth below.

Background

On December 30, 2024, Ingrid Paola Lopez Mendez-Ramirez filed a Petition for Approval of Compromise of Claim for a Minor with a Disability through her counsel, David P. Bernstein, Esq. She seeks to approve, on behalf of her son, Rudy Jose Ramirez Lopez, to compromise an administrative Federal Tort Claims Act complaint filed with United States Department of Homeland Security. This claim alleges that in June 2018, when Rudy Jose Ramirez Lopez ("Rudy Jr") was nine years old, he and his father, Rudy Migdael Ramirez Mendez ("Rudy Sr."), came to the United States seeking refuge from life-threatening violence in Guatemala. The US government separated and detained Rudy Jr. and Rudy Sr. before deporting Rudy Sr. Ingrid Lopez Mendez-Ramirez ("Ingrid") remained separated from her son, Rudy Jr., for approximately 2 months. The U.S. Government entered into a stipulation for compromise of settlement and release with the Minor Rudy Jr. and Rudy Sr. in the amount of $231,000. Petitioner seeks approval of the proceeds of the settlement for Rudy Jr. in the amount of $115,500 pursuant to the terms of the settlement agreement with the U.S. Government.

The Court notes that the packet for approving the Petition for Compromise is of this claim in incomplete, as it lacks a Proposed Order (MC-351), Order to Deposit Money into Blocked Account (MC-355) and Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account (MC-356) (which will be filed after deposit of the proceeds into Minor's blocked account.)

Ruling: After reviewing the foregoing packet, and there being no opposition to the Petition, the Court approves the Petition for Compromise of Minor Rudy Jr's claim on the following conditions: Counsel is directed to (1) comply with the terms of the settlement agreement with the U.S. Government and (2) is also ordered to prepare and submit a fully completed Order Approving Compromise of Disputed Claim (MC-351), (3) Order to Deposit Money into Blocked Account (MC-355) and (4) Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account (MC-356) once the funds have been deposited into the Minor's account. All funds held for Minor Rudy Jr. shall be deposited into the Blocked Account established for him pursuant to the Order. Attorney's fees shall not exceed 20% of the total compromise. The Court will set a compliance hearing date of **September 19, 2025 at 8:30 a.m.** via Zoom in Department 16 to submit the Receipt and Acknowledgment of Order for the Deposited of Money into Blocked Account (MC 356). If the MC 356 form is filed with the Court, the hearing will be vacated and no appearance will be required of Counsel.