TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, March 11, 2026, 3:00 p.m.
Courtroom 16 – Hon. Patrick M. Broderick
3035 Cleveland Avenue, Suite 200, Santa Rosa

TO JOIN "ZOOM" ONLINE,
Courtroom 16
Meeting ID: 161-460-6380
Passcode: 840359
https://sonomacourt-org.zoomgov.com/j/1614606380?pwd=NUdpOEZ0RGxnVjBzNnN6dHZ6c0ZQZz09

TO JOIN "ZOOM" BY PHONE,
By Phone (same meeting ID and password as listed above):
(669) 254-5252 US (San Jose)

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, YOU MUST notify the Court by telephone at **(707) 521-6725**, and all other opposing parties of your intent to appear by 4:00 p.m. the court day immediately before the day of the hearing.
Parties in motions for claims of exemption are exempt from this requirement.

PLEASE NOTE: The Court WILL NOT provide a court reporter for this calendar. If there are any concerns, please contact the Court at the number provided above.

1. 23CV01351, Pierce v. WNJT Homes LLC.

Application for Pro Hac Vice of Olivia R. Beale CONTINUED to the law and motion calendar of July 22, 2026, in Department 16 at 3:00 p.m. because there is no proof of service. Prior to the new hearing, the moving party must file timely proof of service in accord with California Rule of Court 3.1300, demonstrating service of the application and notice of the hearing.

Facts

On November 1, 2023, Plaintiff filed her class action complaint against Defendant WJNT Homes, LLC, dba Monte Verde Home ("Defendant") for failure to pay overtime; failure to provide timely and accurate itemized wage statements; and for unlawful business practices. The complaint alleges Defendant has employed Plaintiff as a Psychiatric Technician since approximately March 2019. Plaintiff alleges Defendant paid its employees the same hourly rate for all hours worked, including those worked over 8 hours in a workday and 40 hours in a workweek. Plaintiff alleges that her overtime hours are paid to her in a second paycheck to mask that these hours should be paid at an overtime rate.

Plaintiff filed a motion for preliminary approval of class action which this court granted. The final fairness hearing on that motion is still pending.

Plaintiff filed an application to allow Olivia R. Beale ("Beal") appear pro hac vice as counsel for Plaintiff. At the hearing of February 11, 2026, on that application, the court continued the matter to March 11, 2026, because Plaintiff had not filed proof of service for the application.

Motion

This matter is on calendar for Plaintiff's application to allow Olivia R. Beale ("Beale") appear pro hac vice as counsel for Plaintiff.

There is no opposition.

Service and Notice

Plaintiff has still not filed a proof of service for the application or the hearing. The court therefore continues the application once more.

Substantive Discussion

According to CRC 9.40, an attorney must meet 3 requirements to appear *pro hac vice*. The attorney must: 1) be admitted to practice law in a U.S. court, or in the highest court of any state or territory; 2) not be a California resident nor regularly engaged in practice or business here; and 3) a member of the California bar must be associated as attorney of record in the case. CRC 9.40(a). Normally, repeated appearances *pro hac vice* is grounds to deny the petition. *Walter E. Heller Western, Inc. v. Sup. Ct.* (1980) 111 Cal.App.3d 706, 709-710.

Therefore, the attorneys must give a verified application 1)giving their residential and business addresses; 2)giving the courts where they are entitled to practice; 3)that they are in good standing; 4)that they have not been suspended or disbarred; 5)the cases in which they have appeared *pro hac vice* in California during the past 2 years; and 6)the name, address, and phone number of the California Bar member who is attorney of record. CRC 9.40(d). In addition, the application must be served on every party who has appeared and on the State Bar.

This application complies with the requirements. It shows the attorney's residential and business addresses, courts where admitted, that he is in good standing and not suspended or disbarred, the case in which admitted pro hac vice in California, and the information for the California attorney of record.

Should the court find notice to be sufficient and accordingly reach the merits, the court will grant the application.

Conclusion

The court CONTINUES the application as explained above.

2. 25CV00322, Sonoma Valley Next 100 v. California Department of General Services

Demurrer OVERRULED.
Motion to Strike DENIED.

Facts

Plaintiffs and Petitioners ("Plaintiffs") in their First Amended Complaint for Declaratory Relief and Petition for Writ of Traditional Mandamus ("FAC") seek several judicial determinations and a writ of mandate regarding the property of the Sonoma Development Center ("SDC"), the management and disposition of which are under the control of Defendant and Respondent California Department of General Services ("Defendant"). Specifically, they seek the following judicial determinations and relief:

1. A determination, through declaratory relief and writ of mandate, that when it procures a developer and transfers ownership of the SDC, Defendant must comply with both Government Code ("Gov. Code") sections 11011.1 and 14760.10.5, governing the disposition and transfer of SDC from state control;
2. A determination, through declaratory relief and writ of mandate, that Gov. Code section 14670.10.5 (the "Enabling Legislation" or "Special Statute"), governing the planning process for the closure and use of the SDC, requires Defendant to prepare a Specific

Plan for the SDC property before proceeding with, submitting, or signing, a development proposal which involves transfer or sale of the SDC;

3. A determination, through declaratory relief and writ of mandate, that Pursuant to Public Resources Code ("PRC") section 5024.5, Defendant must obtain prudent and feasible measures to protect historical resources from the California Office of Historic Preservation ("OHP") prior to signing an application with Real Parties in Interest ("RPIs), private developers seeking to obtain and develop the SDC;
4. And a writ of mandate directing Defendant to continue funding and maintaining the SDC as required under the Enabling Legislature in order to protect the assets at SDC and prevent vandalism and deterioration.

They assert two causes of action, 1) traditional writ of mandate; and 2) declaratory relief.

Motion

Defendant demurs to the FAC and both causes of action therein on the ground that 1) the complaint fails to state facts sufficient to constitute a cause of action are not quasi-legislative or ministerial and were not arbitrary or capricious; 2) Gov. Code section 11011.1 is inapplicable to the disposition process at issue; 3) the claims regarding PRC section 5024.5 and RPIs' preliminary application are not ripe and cannot be imputed to Defendant merely because it signed the application as the current landowner; 4) the cause of action for declaratory relief does not allege a ripe, actual controversy; and 5) the doctrine of laches bars Petitioners' allegations regarding Defendant's selection of RPIs as the "Selected Buyer" for the SDC.

Plaintiffs oppose this demurrer. They argue that the statutes do create the alleged duties, they have alleged a violation, and the claims are ripe.

Defendant replies to the opposition.

Defendant also moves to strike certain portions of the complaint. They seek to strike allegations that Defendant violated Gov. Code section 11011.1 on the basis that a more specific statute, section 14670.10.5, controls its duties; the allegations regarding violations of that very statute, section 14670.10.5, on the ground that it fails to state facts sufficient to constitute a cause of action; allegations regarding Gov. Code section 65041.1 and Public Resources Code section 5024.5 because Plaintiffs cannot state a valid claim since no development has yet occurred; allegations linking the conduct of Defendant and RPIs because its allegations are incorrect or improperly impute certain conduct to Defendant.

Plaintiffs also oppose the motion to strike.

Defendant also replies to this opposition.

Request for Judicial Notice

For both the demurrer and motion to strike, Defendant in its opening papers seeks judicial notice of various government records. The court judicially notices these and their contends and their purported legal effect but not the truth of factual assertions made therein. To this extent, the court grants the request.

Defendant in its reply also seeks judicial notice of documents. However, it is improper for it to introduce new documents and matters such as this on reply when it should have provided these in support of its opening arguments. These are not merely in response to opposition but directly are related to Defendant's opening arguments so Defendant was obligated to introduce them at that time. The court denies this request on this basis. Moreover, the documents, which this court has reviewed, will not alter the outcome.

Demurrer

Applicable Authority

A demurrer can only challenge a defect appearing on the *face* of the complaint, exhibits thereto, and judicially noticeable matters. CCP section 430.30; *Blank v. Kirwan* (1985) 39 Cal.3d

311, 318. The grounds for a demurrer are set forth in CCP section 430.10. The grounds, as alphabetically identified in the statute, are: (a) the court lacks subject-matter jurisdiction; (b) the person filing the complaint lacks legal capacity to sue; (c) another action pending between the same parties on the same cause of action; (d) defect or misjoinder of parties; (e) the pleading fails to state facts sufficient to constitute a cause of action; (f) uncertainty; (g) it is unclear, in an action founded upon a contract, whether the contract is written, oral, or implied; and (h) no certificate has been filed in accordance with CCP section 411.35, which governs professional-negligence actions against architects, engineers, and land surveyors.

The demurring party must *separately* state each demurrer ground in a separate paragraph and must expressly state whether each demurrer is to the whole complaint or only part of it. CRC 3.1320(a).

The demurrer grounds must also be distinctly specified or the court may disregard them. CCP section 430.60 states "A demurrer shall distinctly specify the grounds upon which any of the objections to the complaint, cross-complaint, or answer are taken. Unless it does so, it may be disregarded."

Demurrer for failure to state facts sufficient to constitute a cause of action is a general demurrer, which must fail if there is *any* valid cause of action. CCP section 430.10(e); *Quelimane Co., Inc. v. Steward Title Guar. Co.* (1998) 19 Cal.4th 26, 38-39; *Fox v. JAMDAT Mobile, Inc*. (2010) 185 Cal.App.4th 1068, 1078 ("as long as a complaint consisting of a single cause of action contains any well-pleaded cause of action, a demurrer must be overruled even if a deficiently pleaded claim is lurking in that cause of action as well"). For example, if a party directs a general demurrer against a cause of action labelled "fraud" based on failure to state that cause of action, the demurrer will fail if the complaint sets forth a valid cause of action for malpractice. *Saunders v. Cariss* (1990) 224 Cal.App.3d 905, 908

On a demurrer, all facts properly pleaded are treated as admitted, but contentions, deductions and conclusions of fact or law are disregarded. *Serrano v. Priest* (1971) 5 Cal.3d 584, 591. Similarly, opinions, speculation, or allegations contrary to law or facts which are judicially noticed are also disregarded. *Coshow v. City of Escondido* (2005) 132 Cal.App.4th 687, 702.

Pleading must ordinarily go beyond mere conclusory allegations and include facts, but the fact pleading required is generally pleading of "ultimate" facts, those constituting the basis for liability, rather than the specific evidence supporting those facts. *Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 550; *Careau & Co. v. Security Pac. Business Credit, Inc.* (1990) 222 Cal.App.3d 1371, 1390. This distinction between evidentiary, ultimate-fact, and conclusory allegations is based on determining whether the allegations give sufficient notice to inform the other party of the bases for the claims. *Perkins v. Sup.Ct.* (1981) 117 Cal.App.3d 1, 6; *Doheny Park Terrace Homeowners Ass'n, Inc. v. Truck Ins. Exch.* (2005) 132 Cal.App.4th 1076, 1099. Accordingly, "each evidentiary fact that might eventually form a part of the plaintiff's proof need not be alleged." *C.A. v. William S. Hart Union High School Dist*. (2012) 53 Cal.4th 861, 872. A plaintiff need only plead the facts necessary to put the defendant on notice as to the "nature, source and extent of [the] claims" and provide "notice of the issues sufficient to enable preparation of a defense." *Doe v. City of Los Angeles, supra*, 549-550.

Conclusory pleadings are permissible and appropriate where supported by properly pleaded facts. *Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6. "The distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree." *Burks v. Poppy Const. Co*. (1962) 57 Cal.2d 463, 473.

Authority Governing Traditional Mandamus

CCP section 1085 governs "traditional" mandamus. It provides that a writ of mandate may issue to "compel the performance of an act which the law specifically enjoins, as a duty resulting

from an office, trust, or station; or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled and from which he is unlawfully precluded by such... person." However, in addition to ministerial actions without discretion, CCP section 1085 also governs judicial review of discretionary legislative and quasi-legislative acts. *CV Amalgamated LLC v. City of Chula Vista* (2022) 82 CA5th 265, 279-280; see also *Stauffer Chemical Co. v. Air Resources Board* (1982) 128 Cal.App.3d 789, 794 (stating, "judicial review of a *quasi-legislative* action is limited to ordinary mandamus… rather than administrative mandamus....")

CCP section 1085 is used to compel performance of clear, present, ministerial duties. *California Educ. Facilities Auth. v. Priest* (1974) 12 Cal.3d 593, 598. A ministerial duty is one that must be performed in a required manner without regard to an official's or agency's judgment or opinion. *Rodriguez v. Solis* (1991) 1 Cal.App.4th 495, 501. CCP section 1085 is appropriate to control the exercise of discretion only if "under the facts, discretion can only be exercised in one way." *Ghilotti Construction Co. v. City of Richmond* (1996) 45 Cal.App.4th 897, 904.

Therefore, in an action for traditional mandamus under CCP section 1085, "judicial review is limited to an examination of the proceedings before the agency to determine whether its actions have been arbitrary or capricious, entirely lacking in evidentiary support, of whether it failed to follow proper procedures or… give notice as required by law. *Taylor Bus Service v. San Diego Bd. Of Ed.* (1987)195 Cal.App.3d 1331, 1340.

Thus, a decision such as a contract award may be overturned if arbitrary or capricious [*Taylor Bus Service, supra,*195 Cal.App.3d at 1340]; the agency fails to provide a proper hearing or follow procedures [*ibid*.]; or bidding instructions are not applied the same to all bidders [*Baldwin Lima Hamilton Corp. v. Sup.Ct.* (1962) 208 Cal.App.2d 803].

Authority Governing Declaratory Relief

In order for a party to seek declaratory relief, there must be 1) an actual controversy about justiciable questions regarding the rights or obligations of a party which 2) involves a proper subject of declaratory relief. Code of Civil Procedure ("CCP") section 1060; *City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 80; *Alameda County Land Use Assn. v. City of Hayward* (1995) 38 Cal.App.4th 1716, 1722; see also See 5 Witkin, Cal.Proc. (6th Ed. 2021, March 2025 Update), Pleading, section 859.

"Strictly speaking, a demurrer is not an appropriate weapon to attack a claim for declaratory relief inasmuch as the plaintiff is entitled to a declaration of its rights, even if adverse." *Farmers Ins. Exchange v. Zerin* (1997) 53 Cal. App. 4th 445, 460; see also *Maguire v. Hibernia Savings & Loan Soc.* (1944) 23 Cal.2d 719, 729; *Bennett v. Hibernia Bank* (1956) 47 Cal.2d 540, 549; see also 5 Witkin, Cal.Proc. (6th Ed. 2021, March 2025 Update), Pleading, section 875. According to the Supreme Court in *Bennett*, "the complaint is sufficient if it sets forth facts showing the existence of an actual controversy relating to the legal rights and duties of the respective parties.... If these requirements are met, the court must declare the rights of the parties whether or not the facts alleged establish that the plaintiff is entitled to a favorable declaration." Accordingly, as explained in Witkin, supra, with respect to a cause of action for declaratory relief, "the rule is now established that the defendant cannot, on demurrer, attack the merits of the plaintiff's claim. The complaint is sufficient if it shows an actual controversy; it need not show that the plaintiff is in the right."

Nonetheless, there must be an actual controversy in order for a party to seek declaratory relief. CCP section 1060; see also *Alameda County Land Use Assn. v. City of Hayward* (1995) 38 Cal.App.4th 1716, 1722; 5 Witkin, Cal.Proc. (6th Ed. 2021, March 2025 Update), Pleading, section 859. "It must be a real and substantial controversy admitting of specific relief through a decree of a conclusive character, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts." (*Pacific Legal Foundation v. California Coastal Com.* (1982) 33 Cal.3d 158, 171... quoting *Aetna Life Ins. Co. v. Haworth* (1937) 300 U.S. 227, 240-241....) *Alameda*

County, supra, 38 Cal.App.4th 1722. CCP section 1061 states that "[t]he court may refuse to exercise the power granted by this chapter in any case where its declaration or determination is not necessary or proper at the time under all the circumstances." See 5 Witkin, Cal.Proc. (6th Ed. 2021, March 2025 Update), Pleading, section 864.

The result is that the court may sustain a demurrer to declaratory relief where no actual controversy exists because the claims underlying declaratory relief are insufficiently alleged on the merits. *Bardin v. DaimlerChrysler Corp*. (2006) 136 Cal. App. 4th 1255, 1277; see also *Meyer v. Sprint Spectrum L.P.* (2009) 45 Cal.4th 634, 647-648 (court did not abuse discretion in sustaining demurrer where no particular allegations that declaratory relief would have any "practical consequences.").

Procedural Issues Regarding the Demurrer

Preliminarily, Defendant presents its demurrer defectively and unclearly. It merely presents, together in one sentence, a demurrer to both causes of action, i.e., the entire complaint, along with several purported demurrer grounds. The sentence appears on its face to present a single demurrer to the entire complaint, with the result that the court may only sustain the demurrer if it can sustain the demurrer to each cause of action in its entirety. The demurrer also purports to set forth a general demurrer for failure to state a cause of action to the cause of action for traditional mandamus, followed by several other "grounds" as set forth above. The court notes that none of the "grounds" is a cognizable demurrer ground but merely argument which may potentially support a demurrer. Despite the defective, unclear, and even confusing nature of the demurrer as presented, the court will not reject the demurer entirely on this basis, as it could do, but interprets this as presenting a single demurrer for failure to state facts sufficient to constitute a cause of action, directed to the FAC in its entirety. The court accordingly will consider the merits but will be forced to overrule the demurrer unless it can sustain the demurrer as to each cause of action in its entirety.

Cause of Action for Traditional Mandamus

Whether Plaintiffs State Facts Sufficient to Constitute a Claim for Traditional Mandamus

Defendant first contends that the cause of action for traditional mandamus fails because Plaintiffs have failed to state facts sufficient to constitute a cause of action for traditional mandamus. Defendant bases this on the argument that traditional mandamus is only "appropriate to challenge quasi-legislative or ministerial agency actions" but because it had "wide discretion for its various decisions and actions in the SDC disposition process," this means that its "actions were neither ministerial nor quasi-legislative, and traditional mandate is not appropriate." Memorandum of Points and Authorities in Support of Demurrer ("Ps&As") 10:13-25.

Confusingly, Defendant follows this statement of its argument by essentially admitting that this apparent crux of its argument is incorrect. It states that where the actions challenged are not ministerial but do not involve a hearing subject to administrative mandamus under CCP section 1094.5, a party may nonetheless seek a writ for traditional mandamus under CCP section 1085, as Plaintiffs here have done. This is more or less correct because, as stated in the authority above, traditional mandamus applies not only to purely ministerial actions but also to "compel the performance of an act which the law specifically enjoins, as a duty resulting from an office, trust, or station; or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled and from which he is unlawfully precluded by such... person." As a result, in addition to ministerial actions without discretion, CCP section 1085 also governs judicial review of discretionary legislative and quasi-legislative acts.

After having refuted its own basic, and fundamentally incorrect, argument that the cause of action must fail solely because its actions involved discretion, Defendant then argues that the cause of action in fact fails, not because Defendant's actions involved discretion but because its actions

were not arbitrary, capricious, or entirely without evidentiary support. This argument also is entirely groundless here on demurrer.

As is also explained in the authority above, a party may seek a traditional writ in order to compel performance of a mandatory or ministerial duty, which is exactly what Plaintiffs here seek. In their FAC, they contend that applicable statutory authority requires Defendant to do certain things, discretion otherwise notwithstanding.

Whether Gov. Code section 11011.1 Applies

Plaintiffs seek a writ of mandate directing Defendant to comply with the alleged mandatory duty that Gov. Code section 11011.1(b)(2)(B) requires Defendant to offer the SDC to qualifying non-profit bidders over private entities. The first real question, therefore, is whether Plaintiffs state a valid claim for compelling compliance with a mandatory duty based on this provision.

Gov. Code section 11011.1 generally governs Defendant's actions in disposing of surplus state property. Subdivision (a) states, in full,

> Notwithstanding any other provision of law, except Article 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of Division 2 of Title 5, the disposal of surplus state real property by the Department of General Services shall be subject to the requirements of this section. For purposes of this section, "surplus state real property" means real property declared surplus by the Legislature and directed to be disposed of by the Department of General Services, including any real property previously declared surplus by the Legislature but not yet disposed of by the Department of General Services prior to the enactment of this section.

It includes various provisions governing the disposal of such surplus property, the procedures, and other requirements. One of these provisions is Subdivision (b)(2)(B), which states, in pertinent part and with emphasis added, "Surplus state real property that has been determined by the department not to be needed by any state agency *shall be offered to any local agency… and then to nonprofit affordable housing sponsors, prior to being offered for sale to private entities or individuals*."

Defendant relies on the Special Statute at Gov. Code section 14670.10.5 to argue that it creates more specific requirements for disposal of the SDC specifically which control over the general provisions of section 11011.1. This means Defendant contends, that the mandate in section 11011.1 requiring Defendant to offer property to qualifying non-profits before offering it to private entities is not applicable. Defendant bases this argument entirely on subdivision (a)(3) which states, in full, "In the October 2015 Plan for the Closure of the Sonoma Developmental Center, the State Department of Developmental Services recognized the unique natural and historic resources of the property and acknowledged that it was not the intent of the state to follow the traditional state surplus property process." It offers no other explanation or authority for the proposition that this provision renders the general provision of section 11011.1 inapplicable.

Plaintiff correctly argues that "[i]t is a well-recognized rule that for purposes of statutory construction the various sections of all the codes must be read together and harmonized if possible." Channell v. Super. Ct. of Sacramento County (1964) 226 Cal.App.2d 246, 252; see also *People v. Derby* (1960) 177 Cal.App.2d 626, 630.

As Plaintiff points out, nothing indicates that the Special Statute in any way removes the application of section 11011.1(b)(2)(B)'s mandate to the SDC. No language in the Special Statute states that the mandate does not apply, or in any way conflicts with this mandate. The Special Statute is silent on this specific issue and instead sets forth other terms regarding the disposition of the SDC. As noted above, section 11011.1 also presents other terms regarding the disposition of

surplus state property, so, reading both together, it is apparent on the face of the two provisions that the Special Statute controls over section 11011.1 where the two differ or conflict, which would be amongst the provisions not at issue.

Defendant is silent on the issue of conflict between the statutes in its moving papers, makes no effort to show that there is a conflict, and very tersely relies solely on the language in the Special Statute quoted above. It provides no more authority or analysis.

In its reply, Defendant then actually argues that it is *not* trying to show a conflict and instead asserts that it does not need to because the Special Statute clearly indicates that section 11011.1 does not apply to the SDC at all, based on the language discussed above. Specifically, Defendant states, at Reply 4:1-2, "Petitioners allege that DGS is trying to find a conflict between the two statutes, but that is not the case." As in its own moving papers on the issues of whether traditional mandamus applies, however, in an effort to prove its argument, it immediately proceeds to contradict itself, arguing, at Reply 4:5-14, that the mandate on which Plaintiffs rely in 11011.1 does not apply because the Special Statute *does* conflict. It contends that the Special Statute's statement that Defendant should "maximize interested third-party potential purchasers" conflicts with the mandate on which Plaintiffs rely.

Aside from the fact that Defendant persists in contradicting its own explanation of its argument, it is still not persuasive. The language about maximizing interested purchasers is vague and open-ended. The import of that statement is not entirely clear and nothing about it necessarily conflicts with the mandate on which Plaintiffs rely. Contrary to Defendant's claimed argument, in the absence of statutory language stating that section 11011.1 does not apply to the SDC at all, Defendant does need to show a conflict in the application of the two provisions and, contrary to its apparent actual argument, there is indeed no clear or inherent conflict. The result is that the language that "the State Department of Developmental Services recognized the unique natural and historic resources of the property and acknowledged that it was not the intent of the state to follow the traditional state surplus property process" refers to the specific provisions in the Special Statute. These include express language requiring the DGS to maintain the SDC site, how to conduct planning for future use, transfer, or alteration, and language setting froth a policy to ensure special care for the site's special historical and natural resources.

Whether a Specific Plan is Required for Defendant to Proceed

Plaintiffs argue that the Special Statute requires a Specific Plan to govern development of the SDC. The applicable provisions of the Special Statute on this point state, in full and with emphasis added,

> (c)(1) *The director may*, upon those terms and conditions that the director deems to be in the best interests of the state*, enter into an agreement with the county for the county to develop a specific plan for the property and to manage the land use planning process integrated with a disposition process for the property, to be carried out by the department.* The disposition may include the sale, lease, exchange, or other transfer of all or part of the property or property interest the director deems to be in the best interests of the state. The *planning process shall facilitate the disposition of the property by amending the general plan* of the county and any appropriate zoning ordinances, completing any environmental review, and addressing the economic feasibility of future development.
>
> (2) In carrying out the land use planning and disposition process pursuant to the agreement, *the director and county shall provide for the expeditious planning of future land uses for the site* and an opportunity for community input, with the intent to reduce

uncertainty, increase land values, expedite marketing, and maximize interested third-party potential purchasers.

…

(e)

…

(2) A *transfer, sale, or final disposition* of any portion of the property or property interest authorized pursuant to this section *shall not occur until the director has determined that the county has* granted necessary approvals to rezone the property*, approved a specific plan or plans for the property,* and approved any necessary development agreements needed for disposition of all or any portion of the property, or the director has determined that the transfer, sale, or final disposition is in the best interests of the state.

Gov. Code section 14 states '"Shall" is mandatory and "may" is permissive.'

The FAC cites this statutory language and asserts that it requires a Specific Plan to be in place prior to entering into an agreement for the sale and development of the SDC. It also alleges that Defendant violated the requirement by entering into the agreement at issue, for the sale and development of the SDC, prior to adoption of a Specific Plan.

Defendant acknowledges the statutory language and makes no effort to contend that a Specific Plan has been adopted, but it contends that the provisions require the County of Sonoma ("County"), not Defendant, to create a Specific Plan.

Plaintiffs' argument is persuasive. The Special Statute's language is clear. Regardless of the involvement of the County in the adoption of a Specific Plan, it expressly states that the "transfer, sale, or final disposition" by Defendant "*shall not* occur until the director has determined that the county has… *approved a specific plan* or plans for the property…." Emphasis added. Nothing more is necessary for the outcome to be clear. In any case, it also states that the "planning process," which includes working with the County on development of a Specific Plan, "*shall* facilitate the disposition of the property," and "the director and county *shall* provide for the expeditious planning of future land uses for the site…." Emphasis added.

PRC Section 5024.5

Plaintiffs also contend that under PRC section 5024.5, Defendant must notify and consult with the OHP prior to transferring or developing the SDC, and that Defendant failed to do so.

PRC section 5024.5 governs state-owned historical resources and notice to the OHP. Subdivision (a) states, in full and with emphasis added,

No state agency shall alter the original or significant historical features or fabric, *or transfer, relocate, or demolish historical resources* on the master list maintained pursuant to subdivision (d) of Section 5024 *without,* early in the planning processes, *first giving notice* and a summary of the proposed action to the officer who shall have 30 days after receipt of the notice and summary for review and comment.

Defendant acknowledges this language and that it applies to the SDC but contends that it did not need to give notice to the OHP because Defendant "is not proposing to alter any historic resources and did not the Preliminary Application to the County" because it is RPIs who submitted the application and it is RPIs who are planning to make any development or alterations. Ps&As 13:28-14:3. However, as noted above and as Defendant itself acknowledges, the statute states that Defendant may not "alter… or transfer, relocate, or demolish" the historical resources to which the provision applies. The fact that Defendant is not itself the project applicant or bidder or purchaser is not itself dispositive. This applies to any decision by Defendant which will result in a "transfer,"

which Defendant itself acknowledges may occur as a result of its decision, or a decision which will effect of the events listed. Moreover, all of the statutory language discussed above makes it clear that Defendant is involved in the "planning process" for the SDC, even if the actual project proponents are RPIs, and therefore Defendant is involved in that very decision-making process.
Maintenance of the SDC

Plaintiffs also contend that Defendant has violated a statutory duty to maintain and protect the SDC. They rely on the Special Statute's language at Gov. Code section 14670.10.5(a)(5) and (8). These provisions state, in full and with emphasis added,

> (5) With the campus closed for developmental services, *the property will be maintained* and managed by the Department of General Services and a process to determine the future of the site is needed.
> …
> (8) It is the intent of the Legislature to establish a partnership between the Department of General Services and the County of Sonoma that provides for a priority land use planning process. During this process, the Department of General Services *will maintain* the Sonoma Developmental Center and the County of Sonoma will manage the planning process. The planning and disposition process is expected to be of a three-year duration.

The FAC alleges that Defendant's budget planning resulted in "cessation of annual finding and reassignment or release of all employees that could maintain the SDC site" and that as of June 30, 2025, Defendant ceased all funding for maintaining the site.

Defendant argues that the Special Statute does not require any specific level or degree of maintenance. While this may be true, the fact is that the statute clearly requires maintenance and the FAC alleges that Defendant has stopped maintaining the SDC altogether.

Defendant also contends that Plaintiffs offer no "specific evidence" in support of the allegations and instead base their claims on information and belief only, but this is immaterial for purposes of demurrer. As explained above, no such evidence is required in pleading, for a complaint merely needs to include ultimate facts and not specific evidentiary facts. Pleading also need not be based on personal knowledge or admissible evidence. Finally, the FAC does set forth more than general, vague conclusions, but includes specific factual allegations on this claim, set forth above.

Defendant also makes factual arguments that it has been maintaining the SDC site. These are unclear and beyond the scope of this demurrer. Although Defendant in part relies on evidence for which it seeks judicial notice, this still is only a part of what must be a more complete factual determination impossible at this time and beyond the scope of a demurrer. Even assuming that the court could here consider everything the Defendant claims about its maintenance, that it still insufficient to demonstrate that Plaintiffs have no valid claim as a matter of law.

Transfer of 52 Acres to CalFire

Plaintiffs also claim that Defendant violated Gov. Code section 65041.1(b) in transferring 52 acres of the SDC site to CalFire because it was devoid of any consideration of the state's planning priorities this provision.

Defendant contends that it complied with the Special Statute section 14670.10.5 and Gov. Code section 14670.10.6, which allows sale, lease, exchange or other transfer of all or part of the site that Defendant deems to be in the best interests of the state, while section 14670.10.6 expressly anticipates the relocation of a CalFire headquarters to a portion of the SDC site.

Gov. Code section 65041.1 sets forth state planning priorities generally. It states, in pertinent part,

> The state planning priorities, which are intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety in the state, including in urban, suburban, and rural communities, shall be as follows:
> …
> (b) To protect environmental and agricultural resources by protecting, preserving, and enhancing the state's most valuable natural resources, including working landscapes such as farm, range, and forest lands, natural lands such as wetlands, watersheds, wildlife habitats, and other wildlands, recreation lands such as parks, trails, greenbelts, and other open space, and landscapes with locally unique features and areas identified by the state as deserving special protection.

Gov. Code section 14670.10.6 governs the eventual relocation of the CalFire Sonoma Lake Napa Unit to a portion of the SDC site. It states, in pertinent part,

> (a) The Department of Forestry and Fire Protection and the Department of General Services shall, consistent with Section 14670.10.5 and subdivision (b) of Section 65041.1, develop performance criteria for the design, siting, acquisition, planning, and construction of the Department of Forestry and Fire Protection Sonoma Lake Napa Unit Headquarters and Glen Ellen Fire Station on the former Sonoma Developmental Center property.
> (b) The performance criteria described in subdivision (a) shall ensure that the design, siting, acquisition, planning, and construction of the facilities and related infrastructure described in subdivision (a) conserve and protect to the greatest extent feasible the habitat, open space, and wildlife resources of the area within the former Sonoma Developmental Center property that is designated as a Habitat Connectivity Corridor and Community Separator in the Sonoma County General Plan, hereinafter the "habitat connectivity corridor."
> (c) The design and location of the facilities and related infrastructure described in subdivision (a), including, but not limited to, the placement of the facilities, lighting, and fencing, shall avoid and minimize impacts to the habitat connectivity corridor to the greatest extent feasible.
> (d) The Department of Forestry and Fire Protection and the Department of General Services shall mitigate any other environmental impacts related to the design, siting, acquisition, planning, and construction of the facilities and related infrastructure described in subdivision (a).

Defendant is not persuasive. Although Defendant is correct that section 14670.10.6 expressly provides for, and anticipates, turning over a portion of the SDC site to CalFire for this headquarters, it is apparent from the language in the provision that this must be done with requisite planning in accord with both sections 65041.1 and 14670.10.5. The language is inf act express, clear, and mandatory on this point. As discussed above, section 65041.1 sets forth certain policies which Defendant must take into account and promote while section 14670.10.5 expressly governs transfer of all or part of the site and requires Defendant to comply with certain requirements for any such action. The FAC alleges that Defendant failed to do any of this.

Declaratory Relief

Much of Defendant's argument against the cause of action for declaratory relief is essentially a repeat of its arguments above regarding mandamus. It contends, as it did in attacking

the mandamus cause of action, that Plaintiff's contentions regarding duties of Defendant are incorrect. However, first, as set forth above, the court disagrees with respect to what Defendant's duties are. Second, as also set forth above, it is generally not proper to demur to a cause of action for declaratory relief on the basis that the Plaintiff is incorrect. The point of the cause of action is to obtain a declaration on the issues in question, even if the result is against the plaintiff.

Ripeness

Defendant, finally, contends that the claims are not ripe. It contends that the County is still reviewing the application. However, Plaintiff alleges, and Defendant acknowledges, that Defendant has already alleged action and is continuing to do so. They also contend that what Defendant already has done or is doing violates the law as set forth in the FAC. Therefore, on their face, the claims are ripe.

Conclusion: Demurrer

The court OVERRULES the demurrer in full.

Motion to Strike

A motion to strike may attack any "irrelevant, false, or improper matter" in any pleading, or to strike a pleading that is "not drawn or filed in conformity with the laws of this state." CCP §436. As with demurrers, the defect must appear on the face of the pleading or in matters judicially noticeable. CCP §437. The policy is to construe pleadings liberally "with a view to substantial justice." CCP §452.

Defendant also moves to strike certain portions of the complaint. They seek to strike allegations that Defendant violated Gov. Code section 11011.1 on the basis that a more specific statute, section 14670.10.5, controls its duties; the allegations regarding violations of that very statute, section 14670.10.5, on the ground that it fails to state facts sufficient to constitute a cause of action; allegations regarding Gov. Code section 65041.1 and Public Resources Code section 5024.5 because Plaintiffs cannot state a valid claim since no development has yet occurred; allegations linking the conduct of Defendant and RPIs because its allegations are incorrect or improperly impute certain conduct to Defendant.

Preliminarily, those arguments based on failure to state facts sufficient to constitute a cause of action or improper and a repetition of the demurrer. They are simply a demurrer in guise of a motion to strike, but a motion to strike applies differently. It is improper and unnecessary to use a motion to strike for the purposes of a demurrer. Moreover, as explained above in the demurrer discussion, Defendant is not persuasive.

Otherwise, Defendant is basing the motion on claims, and even factual interpretations, beyond the scope of the motion and not supported by the face of the complaint.

Conclusion

The prevailing party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

3. 25CV01947, Saad v, Stephens

Defendant Benjamin K. Stephens and Crystal D. Stickney ("Defendants") move for an order compelling further responses from Plaintiffs Michael J. Saad and Jason Schyler ("Plaintiffs") to Defendants' Form Interrogatories, Set One, and to compel compliance with Defendants' inspection

demand. Defendants request sanctions. Defendants seek sanctions in the amount of $18,060. **The motions are DROPPED as MOOT** due to the supplemental responses. However, even if the motions were not moot, **the court would DENY them** as explained herein.

Defendants specifically seek to compel further Responses from Plaintiffs to the following Form Interrogatories: 2.3, 2.4, 2.5, 2.6, 2.7, 2.11, 2.12, 4.1, 4.2, 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 7.1, 7.2, 7.3, 8.1, 9.1, 9.2, 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 13.1, 13.2, 14.1, 14.2, 17.1, 50.1 and 50.2.

1. Complaint

Defendants are alleged to have purchased real property located at 4864 Blank Road in Sebastopol, California in Sonoma County (the "Property") on or around April 2020 and owned the property until they sold the Property to Plaintiffs. Plaintiffs allege that after the purchased the Property from Defendants, they began discovering a number of undisclosed defects including a serious gopher infestation in the yard, overflow of the septic tank, electrical issues, a burned out fuse on the furnace, rusted out washing machine and dryer, a refrigerator that needed repair, and faulty water spigot next to the garage.

As against Defendants, Plaintiffs allege causes of action for Nondisclosure of Material Facts; Fraud-Concealment; Fraud-Intentional Misrepresentation; Fraud-Negligent Misrepresentation; Unjust Enrichment; Breach of Written Contract; Breach of Implied Covenant of Good Faith and Fair Dealing; and Common Law Breach of Duty of Disclosure-Grounds for Rescission on Sale of Real Property.

2. Discovery

It appears that Defendants' form interrogatories were served on May 5, 2025. (Shklovsky decl., ¶3.) On or about May 30, 2025, Plaintiffs' counsel asked for a blanket 30-dayextension to respond to all pending discovery. (*Id.,* ¶5.) Defendants agreed to an extension of time to June 20, 2025. (*Ibid*.) On June 6, 2025, Plaintiffs served their Response and Objections to the Demand for Inspection. (*Id.,* ¶6.) On June 20, 2025, Plaintiffs served their written responses to Defendant's discovery requests. (*Id.,* ¶7.)

The hearing on Defendants' motion to compel further responses to this discovery was originally set for December 3, 2025, but shortly before the hearing they submitted a stipulation to continue the hearing. The stipulation states that the parties were entering into the stipulation because new counsel substituted into the litigation to represent Plaintiffs and informal resolution efforts following the change in counsel had resulted in an agreement that Plaintiffs would provide new responses. The day before the hearing, the court entered an order on that stipulation to continue the hearing to March 11, 2026.

Plaintiffs provided supplemental responses on November 21, 2025, and February 9, 2026, with verifications, and are now discussing a mutually agreeable date for the property inspection. (Glaubiger decl.¶¶8-11)

3. Separate Motions

Defendants' requests should have been filed as two separate motions; Defendants have intermingled two completely different requests for relief.

4. Responses and Supplemental Responses

The court notes that the supplemental responses now render this motion moot. The motion addressed only the original responses and therefore does not provide any analysis regarding the new responses or required notice of a motion regarding such responses.

That said, the court's discussion below regarding the sufficiency of the responses is based fundamentally on the original responses, on which the court has based its basic conclusions. As explained below, the court finds the motion to have been unpersuasive on the original responses and

accordingly the supplemental responses, even if they had not rendered the motion moot, merely provide stronger basis for denying the motion as explained below.

5. Form Interrogatories

a. Nos. 2.3, 2.4

These interrogatories seek to know whether, at the time of the INCIDENT—meaning discovery of the undisclosed defects on the Property and efforts to correct and mitigate the impacts of those defects—Plaintiffs had a driver's license or driver's permit and if so, to provide certain details. Plaintiffs objected that this interrogatory is not applicable.

Defendants argue that the objections "not applicable" is not valid. They conclude that this request is reasonably calculated to lead to the discovery of relevant and admissible evidence such as Plaintiffs' ability to drive a car in connection with matters at issue in the complaint. Defendants state Plaintiffs' ability to drive is relevant to possible efforts and available methods to obtain materials required to address the alleged conditions on the property and mitigate damages.

Defendants' request for Plaintiffs' driver's license number, the date of its issuance, and all restrictions thereon is too attenuated to the issues at hand. If Defendants seek to learn whether Plaintiffs attempted to mitigate their damages, they can ask that question directly. The motion as to this interrogatory is DENIED.

b. No. 2.5

This interrogatory seeks to know Plaintiffs' present address, addresses for the past five years, and the dates each lived at those properties in the past five years. Plaintiffs responded with their present address, indicated that they have lived at their present address since March of 2023, and that, prior to that, they lived in San Francisco and Cazadero.

Defendants take issue with the statement form of the answer; Plaintiffs' merely responded >5 years instead of stating, for example, March 2020 through March 2023.

Defendants do not explain why this matters. The request is for places of residence within the last five years. Plaintiffs have indicated that they lived in San Francisco and Cazadero for more than five years. Thus, the response is equivalent to stating they lived there from the five year cut-off through March 2023. It is not clear how any additional information is relevant to the issues in this case. The motion as to this interrogatory is DENIED.

c. Nos. 2.6, 2.7

These interrogatories seek Plaintiffs' employment information and defendant Schlyer's education history. Plaintiffs objected that the requests were "not applicable," i.e., irrelevant. Defendants argue that Plaintiffs' background, training and experience, as well as exposure to various geographies and locales, is relevant to Plaintiffs' allegations of undisclosed conditions regarding the landscaping, irrigation, and wildlife at the property at issue in this case.

This court does not seek a relevant connection. Moreover, Defendants may simply ask Plaintiffs about their experience with, for example, spotting gopher infestations or dealing with rural properties. The motion as to this interrogatory is DENIED.

d. No. 2.11

This interrogatory seeks to know whether Plaintiffs were acting as agents or employees of any person at the time of the INCIDENT. Plaintiffs' response was: "Defining "INCIDENT" as the nondisclosure and other acts of Defendants as set forth in the Complaint, no."

Defendants argue that Plaintiffs have improperly attempted to redefine the term INCIDENT rendering the response evasive and intentionally ambiguous.

It is unclear why Plaintiffs' counsel would redefine the term. Because the way INCIDENT is defined, it incorporates Defendants' alleged actions of knowingly failing to disclose certain defects. Therefore, it appears that Plaintiffs' counsel is attempting to point out this problem with the

interrogatory and how its incorporation of Defendants' actions makes it not possible for Plaintiffs to respond to.

In addition, Defendants' counsel appears to be using the discovery requests in a harassing manner. In removing any response regarding Defendants' alleged nondisclosure of defects from the term INCIDENT, if Plaintiffs are the owners of the Property and are allegedly discovering defects, how would it be that they would be agents or employees of others?

The definition of INCIDENT makes this interrogatory overly burdensome and harassing.

e. No. 2.12

This interrogatory seeks to know whether, at the time of the INCIDENT; i.e., the discovery and possible mitigation efforts, Plaintiffs had any physical, emotional, or mental disability or condition that may have contributed to the occurrence of the INCIDENT.

Apparently showing Plaintiffs' counsel's frustration with the interrogatories, the response was: "Defining "INCIDENT" as the nondisclosure and other acts of Defendants as set forth in the Complaint; no as to Plaintiff, unknown as to Defendants."

This interrogatory is harassing and not relevant to the issues in this action. The motion as to this interrogatory is DENIED.

f. No. 4.1

This motion seeks to know if Plaintiffs had any insurance policy at the time they discovered or attempted to mitigate damages at the Property (i.e., the INCIDENT). The question includes whether Plaintiffs had medical insurance, liability coverage, etc.

Plaintiffs responded: "Defining "INCIDENT" as the nondisclosure and other acts of Defendants as set forth in the Complaint, no."

This interrogatory is overbroad. Whether Plaintiffs have medical insurance or the like is not relevant to the issues at hand.

g. No. 4.2

This interrogatory sees to know whether the Plaintiffs are "self-insured" under any statute for damages. Defendants' response was its usual: Defining "INCIDENT" as the nondisclosure and other acts of Defendants as set forth in the Complaint, no."

Plaintiffs' counsel is directed to read the definition of INCIDENT. Whether Plaintiffs have coverage for the damages discovered at the Property is relevant to the issues at hand.

h. Nos. 6.1, 6.2, 6.3, 6.4, 6.5, 6.6, 6.7, 8.1, 14.1, 14.2, 17.1

While Plaintiffs' responses are not appropriate as they do redefine the term INCIDENT, these interrogatories have no relevance to the issues and hand. Plaintiffs have not alleged any physical, mental, or emotional injury. Nor do Plaintiffs allege any loss of wages, or that Defendants violated any statute.

i. Nos. 7.1, 7.2, 7.3, 9.1, 9.2

It appears that Defendants' attempt to use these interrogatories to discover Plaintiffs' estimate or evaluation of their damages. However, as they are drafted, they do not function in that matter. They request Plaintiffs identify "losses of or damage to a vehicle or other property" because of the INCIDENT. Plaintiffs respond identifying the Property. Defendants complain that they have not listed the description of the nature and location of the damage, the amount claimed for each, and the location. If Plaintiffs were to respond fully to these interrogatories, it would appear they would have to locate each gopher hole and each plant killed by each gopher. Defendants need to restate their discovery requests in a manner that makes sense to the litigation.

j. No. 12.1

This interrogatory is overbroad and seemingly impossible to provide a full response based upon the allegations in the complaint. Part of the interrogatory seeks to know the identity of witnesses of the INCIDENT or "the events occurring immediately before or after the INCIDENT."

The INCIDENT is the discovery of the undisclosed defects on the Property and efforts to correct and mitigate the impacts of those defects. This interrogatory is meant for a single occurrence—not a series of discoveries based upon the alleged non-disclosure of defects. The way this interrogatory is presented, incorporating Defendants' alleged non-disclosure of defects, it would require the Plaintiffs to provide the names, addresses, and telephone numbers of any person who may have just been a guest at the Property and, for example, noticed gophers; or, any witness to Defendants' knowledge of the alleged defects, which Plaintiffs would not have a reason to know.

k. Nos. 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 13.1, 13.2

Due to the allegations in the complaint, Plaintiffs' objections are appropriate as a full response would incorporate information protected by the attorney work product privilege and the attorney-client privilege. These interrogatories are not designed to apply to the type of issues raised by this litigation. Many are just irrelevant and go beyond the scope of appropriate discovery requests based upon the allegations in the complaint.

l. No. 50.1

This interrogatory requests that Plaintiffs identify "each agreement alleged in the pleadings" and to identify, for example, each person who has the document. The interrogatory goes on to request any modifications of the agreement and whether any were not put in writing. It would appear that Defendants are equally likely to have this information as the only contract discussed in the complaint is the parties' real estate agreement, which is not really the issue at the heart of the litigation. The pertinent issue is the alleged non-disclosure of defects.

m. No. 50.2

This interrogatory requests that Plaintiffs describe and give the date of every act or omission they claim are a breach of the agreement. Plaintiffs allegations are that Defendants failed to disclose defects in the Property. How are Plaintiffs expected to know won what date each of these occurred? While it appears that Defendants are attempting to obtain a list identifying all the alleged defects, the question as presented is defective.

6. Motion to Compel Compliance with Inspection Demand

The inspection demand is listed in the separate statement, it states: Pursuant to Code of Civil Procedure section 2031.010(d), et seq., the PROPOUNDING PARTY hereby makes demands for inspection to be conducted on June 13, 2025, at 10:00 a.m., as follows: 1. That the RESPONDING PARTY allow the PROPOUNDING PARTY and his agents to inspect, photograph, measure and survey the real property located at 4864 Blank Road, Sebastopol, California 95472 ("the Property"), including all land, as well as the outside and inside of all buildings and structures on the Property. The PROPOUNDING PARTY and his agents do not intend to conduct destructive testing at the June 13, 2025 inspection."

Plaintiffs responded: "The following General Statement and Objections are incorporated in full into Responding Party's response to Propounding Party's Demand for Inspection ("Demand") separately set forth below. Responding Party has not completed its investigation of this case, has not completed discovery, and has not completed preparation for trial. All of the responses contained herein are based only on the information that is presently available to and specifically known to Responding Party. It is anticipated that further discovery, independent investigation, legal research, and analysis will supply additional facts, add additional meaning to the known facts, and establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in, and variations from the responses herein set forth.

"The following response is given without prejudice to Responding Party's right to provide evidence of any subsequently discovered fact or facts that Responding Party may later develop. The response contained herein is made in a good faith effort to supply as much factual information as is

presently known but should in no way lead to the prejudice of Responding Party in relation to further discovery, research or analysis.

"In addition to any specific objections that may be made on an individual basis in the separate response set forth below, Responding Party objects generally to Propounding Party's Demand to the extent it seeks to elicit information subject to and protected by the attorney client privilege and/or the attorney work-product doctrine and/or other applicable privilege. Nothing contained herein is intended to be or should be construed as a waiver of the attorney client privilege, the attorney work-product doctrine or any other applicable privilege, protection or doctrine.

"This response is made solely for the purpose of this action. This response is subject to all objections to competence, authenticity, relevance, materiality, propriety, admissibility and any and all other objections and grounds which would or could require or permit the exclusion of any information from evidence, all of which objections and grounds are reserved and may be interposed at the time of trial."

"Responding Party objects to the Demand to the extent it seeks information that is neither relevant to the subject matter of this action, nor reasonably calculated to lead to the discovery of admissible evidence.

"Responding Party objects to the Demand to the extent it seeks the disclosure of information protected by the right of privacy under the U.S. Constitution, the California Constitution art. I, §1, and be federal and/or state statutory or common law.

"Responding Party objects to the Demand to the extent it calls for information not in its possession, custody, or control. Responding Party objects to the Demand to the extent it seeks information that pertains to period(s) of time that are not at issue in this action.

"Responding Party objects to the Demand to the extent it is contrary to the California Code of Civil Procedure. Responding Party is not obligated to, and declines to, comply with any instructions or directions that conflict with the Code of Civil Procedure.

"Responding Party objects to the Demand to the extent it seeks disclosure of sensitive, proprietary, or confidential business information or trade secrets.

"Responding Party objects to the Demand to the extent it calls for information equally available to Propounding Party."

In addition to these general objections, in response to Defendants' first demand for inspection they object as follows:

"Responding Party incorporates the general statement and objections to this Demand for Inspection as if they were fully stated herein. Responding Party further objects to Propounding Party's Demand on the grounds that counsel for Responding Party is unavailable on the date noticed for the site inspection, and on the grounds that this site inspection was set unilaterally without any prior communication or attempt to schedule the site inspection on a mutually convenient date.

"Responding Party further objects to the Demand on the grounds it is vague, ambiguous, and overbroad in that Propounding Party has failed to state with specificity what will be photographed, measured, or surveyed, and the purpose of the photographs, measurements, or surveying is not described.

"Responding Party further objects to the Demand on the grounds that no survey is required to investigate the claims set forth in this action, any such survey would not provide relevant evidence, and any such survey is not reasonably calculated to lead to the discovery of admissible evidence. For this reason, a survey will not be allowed.

"Responding Party further objects to the Demand on the grounds that no measurements are required to investigate the claims set forth in this action, such measurements would not provide

relevant evidence, and such measurements are not reasonably calculated to lead to the discovery of admissible evidence. For this reason, measurements will not be allowed.

"Responding Party further objects to the Demand on the grounds that entry into "all buildings and structures on the Property" is not required to investigate the claims set forth in this action, such entry would not provide relevant evidence, and such entry is not reasonably calculated to lead to the discovery of admissible evidence. For this reason, entry will only be allowed for those buildings, and portions of buildings for which claims are being made.

"Responding Party further objects to Propounding Party's Demand on the grounds it is vague, ambiguous, and overbroad in that Propounding Party has failed to identify all persons who will be present on the property for inspection, including "experts" and their professional license status and liability coverage for any inadvertent damage to the property and or to items located on the property.

"Responding Party further objects to Propounding Party's Demand on the grounds that this blanket demand is unduly burdensome, oppressive and intended to harass and intimidate Responding Party.

"Responding Party further objects to Propounding Party's Demand on the grounds the demand is premature, as all named parties to this lawsuit have not yet appeared, which will necessitate a duplicate inspection.

"Responding Party further objects to the Demand to the extent that portions of the Demand are irrelevant to the subject matter of this lawsuit, and the information sought is therefore not reasonably calculated to lead to the discovery of admissible evidence. Based on the foregoing objections, and as previously indicated to counsel for the Requesting Party, Responding Party will not make the property available for inspection on June 13, 2025."

Defendants devote one paragraph to this request in their memorandum. It fails to cite and discuss the authority in support of the request. A "memorandum must contain a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, cases, and textbooks cited in support of the position advanced." (Cal. Rules of Court, Rule 3.1113(b).)

The notice of motion does contain the legal authority relied upon, as does Defendants' separate statement on page 34, except in the latter it is listed as Cal. Civ. Code § 2031.320(a), instead of Code of Civil Procedure section 2031.320(a). CCP section 2031.320(a) provides: "If a party filing a response to a demand for inspection, copying, testing, or sampling under Sections 2031.210, 2031.220, 2031.230, 2031.240, and 2031.280 thereafter fails to permit the inspection, copying, testing, or sampling in accordance with that party's statement of compliance, the demanding party may move for an order compelling compliance."

Here, as noted above, Plaintiffs objected to the inspection and did *not* state they would comply with the inspection demand.

In their separate statement, Defendants argue that the objections are "boilerplate and without merit." They provide what they consider is four examples of the boilerplate and meritless objections.

Plaintiffs' complaint was filed on March 19, 2025. Defendants have not even obtained the basic discovery in this case to determine each alleged defect in the property. They complain that the need for inspection is urgent because landscaping changes over seasons. Yet they waited until August 6, 2025, to file this motion despite receiving Plaintiffs' response on June 6, 2025. Regardless, how is it not premature to inspect the Property when Defendants are uncertain as to all alleged defects? Plaintiffs' objections have merit; the request is overly broad and seeks access into all areas of the Property and its outbuildings regardless of whether each is at issue in this action. Defendants will not be allowed unfettered entry to the Property without providing a specific scope

of the inspection. Moreover, it is the Plaintiffs' burden to establish undisclosed defects. As such, they will be required to produce evidence of those defects which they must provide to Defendants. Why any additional inspection may be necessary is unclear.

7. CONCLUSION

The proper scope of discovery is determined by the allegations in the complaint. Defendants' interrogatories are overbroad as they are not confided to the issues in dispute in this case. They are also largely irrelevant and are also overly burdensome. They awkwardly define INCIDENT in a manner that makes them nonsensical. Based upon the above, the motions are DENIED.

Plaintiffs' counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

4. 25CV04283, Lucatero v. Kaiser Foundation Hospitals

Motion to Transfer, Coordinate, and Consolidate GRANTED pursuant to Plaintiff's statement that he does not oppose the motion.

The moving party shall prepare and serve a proposed order consistent with this tentative ruling within five days of the date set for argument of this matter. Opposing party shall inform the preparing party of objections as to form, if any, or whether the form of order is approved, within five days of receipt of the proposed order. The preparing party shall submit the proposed order and any objections to the court in accordance with California Rules of Court, Rule 3.1312.

Facts

Plaintiff, referring to himself as a Latino, complains that when he was an employee of Defendant, working as a journeyman carpenter, he suffered discrimination and harassment due to his race and national origin and was ultimately terminated in retaliation for making complaints about this treatment. He alleges that during his employment from about February 2017 through October 12, 2023, other employes harassed him by calling him a "beaner," making fun of his accent, and sabotaging his work. He allegedly reported this conduct to Defendant's Human Resources department ("HR"), which assigned one Jack Peterson ("Peterson") as investigator. Peterson allegedly found his complaints to be valid and submitted a report to this effect on about October 10, 2023, but two days later Defendant terminated Plaintiff on the pretext that there was a "lack of work" even though it had six open projects to which out could have assigned him. He adds that Defendant laid off three other employees at the same time but "soon after" called them back to work.

Motion

Defendant moves the court to transfer to this court, for purposes of coordinating and consolidation with this action, the Alameda County action of Osmon Moreno Quinonez, et al. v. Kaiser Foundation Hospitals, Alameda County Superior Court No. 25CV137516 (the "Quinonez Action").

Plaintiff has filed a statement of non-opposition. He states that after having reviewed Defendant's motion, he does not oppose the motion.

5. 25CV04416, Christos v. Crane

Plaintiff Cherie Sexton Christos ("Plaintiff") filed the complaint (the "Complaint") in this action against defendants Leslie jo Crane ("Crane"), Dan Larson ("Larson"), River Time("River

Time"), James Xavier Kiernan ("Kiernan"), Rhonda Hall ("Hall"), Chirstina Hulsey ("Hulsey", together with all other named defendants, "Defendants"), and Does 1-25 for causes of action for: 1) assault; 2) battery; 3) negligence; 4) premises liability; 5) intentional infliction of emotional distress; 6) harassment; 7) defamation; and 8) interference with potential business opportunity.

This matter is on calendar for the motion by Crane, Larson, River Time, Hall and Hulsey ("Moving Defendants") to set aside their defaults, which were entered on October 13, 2025; and for sanctions under CCP § 128.5.

As an initial matter, there is no proof of service in the file reflecting the Plaintiff was served the hearing date of the above motions by Moving Defendants. There is no proof of service after filing of the motion on November 17, 2025, and the clerk did not assign the hearing date until December 4, 2025. Parties are required to provide notice of a motion, including the hearing date assigned by the Clerk. See Code of Civil Procedure §§ 1005, 1010; Cal. Rule of Court, Rule 3.1300(a); Sonoma Court Local Rule 5.1 (B). The proof of service was required to be filed on March 4, 2026, and no proof of service is on file. Cal. Rule of Court, Rule 3.1300(c). The motion not being served in accordance with CCP § 1010, the Court cannot consider the merits.

Moving Defendants' motion is **CONTINUED to July 22, 2026, at 3:00 p.m.** for Moving Defendants to provide service of the hearing date.

6. 25CV06228, Cupp v. Preciado

The Demurrer to Cross Complaint and the Motion to Strike Cross Complaint are DROPPED as moot. After the moving party filed these on November 5, 2025, attacking the Cross-Complaint of Melissa Michelle Preciado ("Preciado") Cross-Complainant, Preciado filed a First Amended Cross-Complaint ("FACC") on December 18, 2025. A new demurrer and motion to strike directed to the FACC are currently pending and set for May 20, 2026.

7. SCV-267587, Felker v. JRK Residential Group, Inc.

Plaintiffs Sharon Felker, Herman Grishave, Edgar Cruz Soriano, and Jeanace Zetino ("Plaintiffs") move for an order granting preliminary approval of parties' Settlement Agreement. Defendants JRK Residential Group, Inc. and JRK Property Holdings, Inc. ("Defendants") support the motion. **The motion is GRANTED.**

1. Plaintiff's allegations

Plaintiffs commenced this action on December 22, 2020. They filed their first amended complaint ("FAC") on June 1, 2021. Plaintiffs allege that JRK Residential is a large residential property owner, manager, operator, and lessor, which owns 25,273 multifamily units in the United States and 12 apartment complexes in California (the latter collectively referred to as "JRK California Apartments"). JRK Residential is a subsidiary of JRK Holdings. Plaintiffs allege that Defendants have used common form leases for JRK California Apartments ("the Leases"), that the Leases are contracts of adhesion, and that Defendants have charged their tenants unlawful rent increases, charges, and fees. Plaintiffs allege that the Leases prohibit tenants from performing any repairs or alterations to their apartments. In approximately April 2020 and May 2020, Defendants sent form letters to their tenants requesting that tenants use federal COVID relief funds to timely pay rent.

With respect to the issue of price gouging, Plaintiffs allege that in 2017 massive wildfires destroyed thousands of homes and a state of emergency was declared in several California counties,

including Los Angeles, Sonoma, and Ventura. As a result, Penal Code section 396 prohibited increasing the rental price advertised, offered, or charged for housing to an existing or prospective tenant by more than 10 percent. Plaintiffs allege that section 396 has applied to rental housing since at least January 2017. Despite this, and also in violation of the Tenant Protection Act of 2019, in September 2020, Defendants began to charge $2,353 a month for plaintiff Felker's apartment. This was more than a 10 percent increase as she had previously paid $2,008. Likewise, plaintiff Grishaver's monthly rent increased in October 2019 from $2,666 to $3,054. Plaintiff Cruz's rent increased in September 2018 from $2,000 a month to $2,229.

Additionally, Plaintiffs allege that plaintiff Cruz gave notice on or around July 26, 2019, of his intent to vacate his apartment effective August 31, 2019. Defendants refused to accept the notice as adequate and required 60 days' notice to terminate the lease. His rent after August 2019 was raised to $2,927. Plaintiffs also allege that Defendants' notice of the rent increase was less than 60 days and thus violated Civil Code section 827.

Regarding illegal fees, Plaintiffs allege that the Leases required tenants to maintain renter's liability insurance and that they were fined an unreasonably excessive fee of $50 per day for each day that the policy was not in effect. The Leases also called for charges of between $150 to $250 for late rental payments.

2. Litigation and Settlement History

Plaintiffs filed the action on December 22, 2020. The action has seen significant litigation since then, including demurrer and motion to strike directed to both the original complaint and the first amended complaint ("FAC"), a demurrer to the answer, and motion for summary adjudication, among others. These have been heavily contested.

Plaintiffs filed a motion on June 20, 2025, seeking preliminary approval of a class action settlement for a settlement agreement (the "Settlement") which they entered into on June 3, 2025. At the August 7, 2025 hearing on the motion, the court denied the motion without prejudice, noting that the motion failed to set forth the calculations of all civil penalties clearly or lacked specific information; lacked an estimate of punitive damages which are sought in the complaint; failed to given a total number of class members or range of estimated recovery for class members; failed to explain the request for $70,000 in fees for the settlement administration, given that the amount is about 7 times what this court normally sees; failed to show that Plaintiffs reasonably incurred costs of $100,000, much higher than the amounts which this court normally sees in such motions; and failed to provide declarations or evidence showing the work of the named Plaintiffs which would justify the $10,000 service enhancement awarded to each one. The court stated that Plaintiff must provide this missing information.

3. The Instant Motion

Plaintiffs filed a new motion for preliminary approval of the Settlement on October 24, 2025. This is the motion now on calendar and it is effectively a repeat of the prior motion with new papers addressing the issue which this court noted in the ruling on the original motion.

4. Certification of Classes

Plaintiffs request certification of the following classes for settlement purposes: the Late Fee Class: All tenants whose leases for JRK California Apartments provide for a late rent charge and who were charged that late charge on a net basis, from December 22, 2016, to June 27, 2024.

The RINCO Class: All tenants whose leases for JRK California Apartments provide for a fee for a missing renter's liability insurance policy and who were charged that fee on a net basis, from December 22, 2016, to June 27, 2024.

The Section 396 Class: All tenants with initial lease terms of no longer than one year who were charged rental price increases of more than 10 percent for JRK California Apartments in Los

Angeles, Sonoma, or Ventura Counties during Wildfire Section 396 Protection Periods in those counties. Excluded from this class are tenants of The Harrison Glendale.

The TPA Class: All tenants who, from January 1, 2020, to June 27, 2024, were charged rent increases based on gross rental rates excluding discounts, incentives, concessions or credits for JRK California Apartments that exceeded the Rental Rate Caps. Excluded from this class are tenants of Parkside Glen Apartment Homes, Somerset Glen Senior Apartments, The Harrison Glendale, and Duo Apartments. Also excluded from this class are tenants of the Serenade at RiverPark whose rent increased in excess of the Rental Rate Caps before the Serenade TPA Dates.

5. Legal Standards

A settlement or compromise of an entire class action, or of a cause of action in a class action, or as to a party, requires the approval of the court after hearing. (Cal. Rules of Court, Rule 3.769(a).) Any party to a settlement agreement may serve and file a written notice of motion for preliminary approval of the settlement. (Rule 3.769(c).) The settlement agreement and proposed notice to class members must be filed with the motion, and the proposed order must be lodged with the motion. (*Ibid*.) The court may make an order approving or denying certification of a provisional settlement class after the preliminary settlement hearing. (Rule 3.769(d).) If the court grants preliminary approval, its order must include the time, date, and place of the final approval hearing; the notice to be given to the class; and any other matters deemed necessary for the proper conduct of a settlement hearing. (Rule 3.769(e).) The court must determine the settlement is fair, adequate, and reasonable. (Rule 3.769(g); *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.) Settlements preceding class certification are scrutinized more carefully to make sure that absent class members' rights are adequately protected. (*Wershba v. Apple Computer, Inc*. (2001) 91 Cal. App. 4th 224, 240.)

In making this determination, the court considers all relevant factors including "the strength of [the] plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction of the class members to the proposed settlement."' (*Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128, citing *Dunk* at 1801.)

A presumption of fairness exists where: 1) the settlement is reached through arm's length bargaining; 2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; 3) counsel is experienced in similar litigation; and 4) the percentage of objectors is small. (*Wershba* at 245, citing *Dunk* at 1802.) The test is not the maximum amount plaintiff might have obtained at trial on the complaint but, rather, whether the settlement is reasonable under all of the circumstances. (*Wershba,* at 250.)

6. Settlement

In this motion, Plaintiffs state that JRK is one of the largest operators of multifamily rental housing in the country. Its portfolio includes 80,000 residential units nationwide and, during the period relevant to this case, it operated 14 apartment properties in California comprising over 4,000 units ("JRK California Apartments").

The proposed Settlement provides three main benefits to the Settlement Class: a gross settlement amount of $4,000,000, equitable relief in the form of ceasing fees for late payment of rent and RINCO fees for a specified period of years, cessation of collection activities against the class members, and debt relief.

JRK will institute or maintain two equitable remedies pursuant to the Settlement Agreement. The Settlement provides that, for a period of two years starting upon the date of the Preliminary Approval Order, neither JRK nor any of its affiliates shall charge fees for late payment of rent to

any resident residing at the JRK California Apartments as of the date of the Preliminary Approval Order. (Ex. A, 2.2.) The Settlement also includes that, for a period of seven years starting upon the date of the Preliminary Approval Order, neither JRK nor any of its affiliates shall charge fees for failure to maintain renter's liability insurance to any resident residing at the JRK California Apartments as of the date of such Order. (*Id.*) A violation of either provision by a JRK affiliate shall be considered a breach of the Settlement Agreement. (*Id.*) These remedial measures will benefit Settlement Class Members and other members of the public. Based on their understanding that JRK currently charges approximately $278,000 in late fees and $142,000 in RINCO charges per year in California and that the average tenure of JRK's California tenants is approximately two years, Class Counsel estimate that the monetary value of this prospective equitable relief is approximately $800,000. (Osborne Dec., ¶ 10.)

JRK has also agreed to provide debt relief to all current and former residents of JRK California Apartments that were sent to collections by JRK or any of its affiliates from January 1, 2017, to December 31, 2021 ("Debt Relief Residents"). (Ex. A, 2.4.) JRK and, as necessary, its affiliates, will instruct its debt collectors to cease all collection efforts against Debt Relief Residents. (*Id.*) JRK will not engage in any new collection efforts for these debts and will also instruct its debt collector(s) to request that any applicable Consumer Reporting Agencies ("CRAs") delete all tradelines for the Debt Relief Residents. (*Id.*) JRK has represented that approximately $1.45 million in unpaid balances for Debt Relief Residents were sent to collections from 2017 to 2021. Recognizing that much of this debt will be time-barred but also acknowledging the benefit of the express cessation of further collections and the benefit of the deletion of tradelines, Class Counsel believe that $350,000.00 is a fair estimate of the monetary value of these Settlement provisions to Debt Relief Residents. (Osborne Dec., ¶ 10.)

Plaintiffs also state that in the Settlement Agreement, JRK represents that it has adopted remedial measures in response to the Litigation, including: (a) reducing the amounts of the individual late fees and RINCO fees charged at the JRK California Apartments; and (b) purchasing and deploying compliance software Entrata CORE. Class Counsel believe that there was a benefit associated with decreasing the amounts of individual fees charged. The value of the software compliance measures may reasonably be estimated to range from $50,000 (based on estimated software licensing and deployment costs over five years) to as much as $2.3 million (which is the estimated total amount of rent overcharges that the compliance software can be expected to avoid over a five-year period, based on approximately $2.1 million in rent increases allegedly in excess of TPA Rental Rate Caps from January 2020 to June 2024). (Osborne Dec., ¶ 10.)

Additionally, JRK represents that no more than 825 Settlement Class Members are in collections for unpaid balances and were sent to collections from January 1, 2022, to June 27, 2024). (Ex. A, 2.4.) JRK will identify each of the Collection Class Members to the Settlement Administrator. (*Id.*) The Settlement Fund will be divided into a Net Settlement Fund and a smaller Set-Aside Fund of $41,250, from which individuals who are in collections for unpaid balances related to the JRK California Apartments and were sent to collections from January 1, 2022, to June 27, 2024, may apply for an additional $50.00. (Ex. A, Ex. 2.)

Plaintiffs state that Settlement Class Members will be advised of their estimated payment amount in the notice, and their actual *pro rata* share of the Net Settlement Fund will be calculated by the Settlement Administrator after the Settlement becomes effective. (Ex. A, Ex. 1.)

7. Arms-Length Bargaining

Plaintiffs show that the parties reached the Settlement after arms-length bargaining and substantial, contentious litigation spanning several years. As noted above, the parties entered into mediation in December 2023, after several years of significant litigation, including a demurrer and motion to strike directed to both the original complaint and the FAC, a demurrer to the answer, and

a motion for summary adjudication. As explained at Osborne Dec., ¶¶3-4, the parties negotiated in the mediation before a neutral mediator and this initially was unsuccessful. The parties agreed to take part in mediation again and conducted a day-long mediation with another mediator in October 2024. This lead to several weeks of additional negotiation and subsequently discussions taking place over several months before the parties entered into the Settlement on June 3, 2025.

8. Estimated Recovery

In the declaration of Class Counsel, Kevin M. Osborne, Osborne estimates the amount of potential recovery on Plaintiff's claims. He states that Plaintiffs' first and second causes of action under the Unfair Competition Law, Business & Professions Code, sections 17200, *et seq*. (the "UCL") and Consumers Legal Remedy Act, Civil Code sections 1750, *et seq*. (the "CLRA") are based on alleged violations of Penal Code section 396(b) following the 2017-2019 wildfire emergency declarations in Los Angeles, Sonoma, and Ventura Counties at JRK California Apartments complexes located in those counties. Osborne states Plaintiffs' data consultant analyzed electronic tenant ledger data and other tenant database reports produced by Defendants in discovery to identify instances of rent increases above the section 396(b) limit during wildfire price gouging protection periods at four of the five JRK California Apartments complexes in those three counties. (Osborne decl., ¶ 9.a.) The Harrison Glendale complex (located in Los Angeles County) was not included in the analysis because sufficient data was not available, and tenants of that complex are excluded from the Settlement Class definition. (*Ibid*.) The current analysis shows approximately $2.8 million in rent charges in excess of the section 396(b) limit at four JRK California Apartments complexes in Los Angeles, Sonoma, and Ventura Counties during the wildfire protection periods. (*Ibid*.)

Plaintiffs' third and fourth causes of action under the UCL and CLRA are based on rent increases allegedly in violation of the Tenant Protection Act of 2019, Civil Code section 1947.12 ("TPA"). (Osborne decl., ¶ 9.b.) Osborne states that the current analysis of Defendants' rent and tenant data by Plaintiffs' data consultant shows approximately $2.1 million in gross rent charges that exceeded TPA limits at ten JRK California Apartments complexes that were subject to the TPA for the period from January 2020 to June 2024. (*Ibid*.)

Plaintiffs' fifth and sixth causes of action under the UCL and CLRA are based on Defendants charging tenants "RINCO" fees for failure to maintain renter's liability insurance allegedly in violation of Civil Code section 1671(d) restrictions on liquidated damages. (Osborne decl., ¶ 9.c.) Plaintiffs' seventh cause of action is asserted under section 1671 based on the same conduct. Plaintiffs' data consultant reviewed database reports of those RINCO fee charges produced by Defendants. (*Ibid*.) Those reports show approximately $770,000 in total net RINCO charges at the JRK California Apartments from December 2016 to June 2024. (*Ibid*.)

Plaintiffs' eighth and ninth causes of action under the UCL and CLRA are based on Defendants charging tenants fees for late payment of rent allegedly in violation of Civil Code section 1671(d). (Osborne decl., ¶ 9.d.) Plaintiffs' tenth cause of action is asserted undersection 1671 based on the same alleged conduct. Plaintiffs' data consultant reviewed Defendants' database reports and found approximately $2.4 million in total net late charges at the JRK California Apartments from December 2016 to June 2024. (*Ibid*.)

Plaintiffs explain that they do not seek statutory damages or civil penalties under CC section 827, and they already dismissed their claims based on this provision, with court approval, in 2022.

Plaintiffs contend that the statutory remedy available under CC section 1780 of the CLRA is for actual damages, but at a minimum of $1,000 per class member, resulting in a minimum of $15.1 million. However, they understand that the statutory minimum many not in fact be per member and that there is uncertainty over this application, with some considering the minimum of $1,000 to be

per class, not per member. They note that, depending on the circumstances, there is no requirement that they provide a calculation of disgorgement remedies.

Based on the above, Plaintiffs' counsel estimate that approximately $8.1 million total in allegedly unlawful rent increases and fees are in controversy in this litigation. (Osborne decl., ¶ 9.e.) This total does not take into account of issues such as use of complex data to prove violations of law and damages on a class-wide basis at trial, different methods of calculating damages and the numerous defenses asserted by Defendants, all of which could affect the ultimate degree of success and recovery if the litigation were to proceed. (*Ibid*.)

In sum, the Settlement Agreement provides for a cash award of $4 million; equitable relief in the form of a two-year cessation of charging late fees and a seven-year cessation of charging fees related to insurance valued at approximately $800,000; debt relief and cessation of debt-collection activities valued at $350,000; remedial measures valued at $50,000 to $2.3 million, for a total of $5.2 million to $7.4 million. The remedial measures include reducing the fees charged as well as obtaining and using compliance software in managing the properties to avoid rent overcharges. From the Settlement Fund applying to the class members generally, $41,250 will be set aside in a separate fund (the "Set-Aside Fund") for payment of $50 to each Collection Class Member beyond they payment they receive from the Net Settlement Fund.

As explained in the Memorandum of Points and Authorities ("Ps&As") at 10:1-7 and Osborne Decl.¶9, the actual monetary recovery will result in a total net settlement cash fund of about $1,813,581. This is based on the payment of $4 million minus the $2 million in attorneys' fees, $98,800 in litigation expenses, $40,000 in the incentive awards, and $47,619 in notice and administration costs.

The court was on the prior motion concerned that the moving papers did not clearly lay out a calculation of all civil penalties. Plaintiffs have now provided sufficient explanation. Plaintiffs do not seek statutory damages or civil penalties under CC section 827, and they already dismissed their claims based on this provision, with court approval, in 2022. Plaintiffs do contend that the statutory remedy available under CC section 1780 of the CLRA is for actual damages, but at a minimum of $1,000 per class member, resulting in a minimum of $15.1 million. However, they understand that the statutory minimum many not in fact be per member and that there is uncertainty over this application, with some considering the minimum of $1,000 to be per class, not per member. They note that, depending on the circumstances, there is no requirement that they provide a calculation of disgorgement remedies. As the court explained in *Wershba, supra*, 91 Cal.App.4th at 250, "disgorgement of profits, even if available as a component of statutory remedies, is not a required element in a settlement context." The court there rejected an argument that this was necessary and pointed out that "[i]n the context of a settlement agreement, the test is not the maximum amount plaintiffs might have obtained at trial on the complaint, but rather whether the settlement is reasonable under all of the circumstances. [Citation.]"

The FAC seeks punitive damages and this court previously felt that the motion did not sufficiently discuss these. Again, the moving papers now rectify this sufficiently. As with disgorgement, the court in *Wershba, supra*, explained that there is no requirement to include punitive damages in a class settlement. Plaintiffs also explain that there is a potential for punitive damages to be as high as $16.2 million, but point out that this requires a showing of oppression, fraud, or malice and they demonstrate that in cases such as this, it is not common for plaintiffs to prevail on that standard. See Ps&As 15-16; Osborne Decl. ¶18. While the Settlement clearly is too small to reflect the potential of punitive damages, the court finds the information now to be sufficient for settlement purposes and an assessment of the propriety of this Settlement.

Class Counsel have also now provided this court with the total number of class members, a factor in estimating the recovery of statutory and punitive damages. Ps&As 3:13-19; Osborne

Decl.¶¶6-7. The information shows that the total number of Class Members is about 15,112, with about 9,505 in the Late Fee Class, 7,802 in the RINCO Fee Class, 2,915 in the Section 396 Class, and 3,301 in the TPA Class. About 6,037 are in more than one class. Counsel estimate that the final total for all members is likely to be somewhat fewer than 15,000 because of duplicate entries in Defendant's records and the fact that some members rented different apartments at different times. As a result, based on the Settlement terms, the estimated average monetary payment to each member is about $120.01.

The court notes that although the cash award to each member appears itself to be small, in this instance the Settlement includes significant equitable and indirect monetary relief which ultimately may be of greater real value to the class members. As noted above in greater detail, in summary, this includes equitable relief in the form of ceasing fees for late payment of rent and RINCO fees for a specified period of years, cessation of collection activities against the class members, and debt relief. This is accordingly not a situation, such as perhaps discount coupons or the like, where the non-payment remedy is simply an addition to bolster the apparent value of the settlement or offers dubious real value. Here, the non-payment component of the Settlement in fact includes the equivalent of a material, if future and indirect, cash payment in the form of cessation of fees and collection activities which means that the class members will not lose money that they otherwise would lose. The members will also receive debt relief, a meaningful monetary gain. Moreover, these components and the end of collection activities will remove a potentially significant source of stress and other problems which the class members would face should they be the subject of continued collection activities. These benefits, although intangible and not monetary, must not be discounted and may be potentially as valuable as any monetary recovery.

9. Settlement Administration

The parties propose Angeion Group ("Angeion") to serve as Settlement Administrator. Class Counsel state they solicited competing bids from settlement administration companies and discussed with them the notice and distribution plans anticipated by the parties. (Osborne Dec., ¶ 5.) Following consultation with defense counsel, Class Counsel ultimately selected Angeion, which originally estimated that the total notice and administration costs for this matter would not exceed $70,000. In the current motion, they explain that Angeion has now revised the estimate to $47,619 based on reduced expenses associated with e-mail notice since counsel have now learned that Angeion has obtained e-mail addresses for about 80% of the class members. Ps&As 8:11-9:8; Osborne Decl.¶¶11-12. This amount consists of $2,000 for initial start-up expenses; $11,720 in costs for paper and e-mail notice to about 15,000 members; website creation and maintenance of $6,150; call center operation costs of $2,675; costs of $9,000 for reporting internally, to the court, and to counsel; costs of $1,674 for receiving and processing claims for payments from the Set-Aside Fund; costs of $10,977 for distributing proceeds to class members, including processing undeliverable distributions, skip tracing, and reissuing distributions; costs of $1,950 for tax filings and forms for the Qualified Settlement Fund; and other costs of $1,473 for miscellaneous items including processing objections or opt-outs.

10. Attorney Fees and Costs

Class Counsel state they will file a motion for an award of attorneys' fees and for reimbursement of litigation expenses. They state they will seek fees not to exceed $2 million and $100,000 in expenses.

The amount requested for fees is 50% of the direct monetary recovery but only approximately 27% to 38% of the total estimated value of recovery. Although half of a recovery is clearly inappropriate, given the meaningful nature and real value of other components for the recovery, this is potentially within the rage of reasonableness.

This court noted in the prior ruling that the $100,000 in expenses is higher than the average amount sought in this court's experience. Class Counsel have now sufficiently demonstrated that expenses totaling this amount were reasonably incurred. Ps&As 9:10-24; Osborne Decl., ¶¶14-15. They break down the costs into various components with some evidence, and they provide more information on approved requests in other litigation for comparison showing the requested amount to be within the range other courts have accepted. They show that the largest share of the costs, $52,350, was incurred for expert analysis of Defendant's leasing data, along with $12,693.47 for ESI collection and hosting, $10,752.38 for mediation fees, $14,239.90 for transcripts, $1,953.35 in filing and service fees, $228.70 for legal research services, $1,025.55 for copying, $1,247.94 for translation, and $4,354.71 for travel. Although there may be some basis for quibbling with some amounts here and there to a small degree, on the face of the matters, types of expenses are clearly reasonable and appropriate while the amount of expenses appears generally within the range of reasonableness. The court further feels that any likely alteration of these amounts would not result in a material change in the outcome for the class members.

The court provisionally finds this sufficient for the purposes of preliminary approval, but the parties will need to provide a final explanation and justification for the fees and costs at the final approval hearing. The court will make the ultimate determination on these at that time.

11. Service Award

Class Counsel will also request that the Court approve service awards not to exceed $40,000 in total—$10,000 to each of the four named Plaintiffs—based on their participation in the litigation. Plaintiffs have now provided a declaration from each of the four named Plaintiff showing the amount of work performed establishing that the award is reasonable. These explain that three spent about 50 hours of time on this litigation and the fourth about 55 hours of time, a significant investment in time and energy, more than the amount which this court typically sees in motions such as this. They detail the work they did, which included collecting and reading documents, communicating with others about the litigation, submitting for depositions lasting several hours, reviewing and signing written discovery responses, and more. For example, Plaintiff Edgar Cruz Soriano specifies that he spent about 10 hours going through documents, 10 hours gathering documents and information, and 15 hours communicating with attorneys and others in this litigation, which included more than 10 meetings with attorneys. The other declarations provide similar statements. Each Plaintiff took part in a deposition which itself lasted several hours and which required additional preparation time. They also personally were involved in responding to the significant written discovery in this litigation. They explain that they were forced to take time off work to engage in this litigation and they underwent the stress of fearing retaliatory treatment while still living at property belonging to Defendant.

The court notes that the enhancement or service awards are significant, at or beyond the high end of what this court has typically seen in comparison to the average cash payout. In this instance, however, the amount and nature of the work they provided, as set forth in detail in the declarations, combined with the threat of retaliation while living as tenants of Defendant, reasonably justifies the enhancement awards. The court is aware that such awards are necessary to help induce parties to take part in such actions, partly on behalf of others who do not bear these risks or burdens. In *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, at 804-807, the court found no basis for an award of $25,000 which was 44 times the average payout, but noted that this was because there was minimal, conclusory evidence insufficient to support such a large enhancement. In *Clark*, the appellate court noted that the trial court's approval of the award offered no rationale and with respect to time pointed out only that the named plaintiffs had spent "several hours" on the case, a short time presented only vaguely. The information on the named Plaintiffs' involvement in this action is more detailed and shows more input of time and effort than in *Clark*. The evidence

here also reasonably, on its face, provides a basis for their fear of retaliation from Defendant, their landlord, whose conduct resulting in this litigation itself warrants such a concern. The appellate court also noted that the benefits to the class amounted to only $550 per person on average with no other lasting benefit, in contrast to *Cook v. Niedert* (7th Cir.1998) 142 F.3d 1004 where the court upheld an enhancement of $25,000 but found lasting benefits including institutional reforms. Again, unlike Clark and like Cook, here the Settlement includes additional changes of potentially greater value in terms of money and avoidance of stress and other lasting or snowballing problems which may result from unwarranted collection activities, overcharges of rent and fees, and more. This Settlement terms, if implemented, will significantly reduce those problems for tenants. This court further notes that this action was highly contested and involved several years of active litigation, with discovery and, among others, a motion for summary adjudication. This litigation was far longer and more involved than the amount of litigation this court typically sees in settlements motions for class or representative actions.

The court provisionally finds the enhancement or service awards to be reasonable but notes that this is one aspect of the Settlement which the court also finds may be vulnerable to a challenge should there be objectors. The court will make a final determination, of course, at the final hearing.

12. Conclusion and Order

Accordingly, the motion is GRANTED.

This court's minute order shall constitute the order of the court.