TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, April 22, 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. 23CV00639, Walker v. From the Heart Home Care Inc.

Plaintiff Angela Walker ("Plaintiff") moves for an order compelling Defendant MBK Senior Living, LLC ("MBK") to serve further responses to Plaintiff's Request for Production of Documents (RFPD) Set Two. Plaintiff seeks monetary sanctions. **The motion is GRANTED. Sanctions are granted in the amount of $1,560.**

Code of Civil Procedure § 2031.300 (b) states that if a party to whom a demand for inspection, copying, testing, or sampling is directed fails to serve a timely response to it, the party making the demand may move for an order compelling a response to the demand. Failure to respond waives any objection to the demand, including one based on privilege or on the protection for work product. (CCP section 2031.300(a).) Monetary sanctions are required unless this court finds the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (CCP section 2031.300(c).)

On January 23, 2026, Plaintiff served MBK with Requests for Production of Documents, Set 2. (Karpilow decl., ¶3.) The deadline to respond has passed and MBK has not responded. (*Id.,* ¶4.) Accordingly, the motion is GRANTED.

Plaintiff's counsel states he spent a total of 3 hours researching the issues, drafting, editing, and proofreading this motion. (Karpilow decl., ¶6.) He requests $600 per hour. (*Ibid*.) The cost to file the motion was $66.74. (*Ibid*.) The court will award $1,560 in sanctions against MBK.

Plaintiff's counsel is directed to submit a written order to the court consistent with this ruling.

2. 23CV02197, Philbin v. Saksen

APPEARANCES REQUIRED.

3. 24CV00531, Knoop v. Knoop

Motion dropped from calendar per request of moving parties.

4. 24CV04869, County of Sonoma v. Odbert

Plaintiff County of Sonoma ("County") moves pursuant to CCP sections 2030.290, et seq., 2031.010, and 2033.010 for an order compelling Defendant Global Capital Trust ("GCT") to provide full and complete, verified responses to the County's[1] (1) Form Interrogatories, Set One; (2) Special Interrogatories, Set One; and (3) Request for Production of Documents, Set One. The County also moves to deem admitted all facts set forth in the County's Requests for Admissions, Set One; or, to compel full and complete responses thereto. And, the County moves to compel the deposition of Larry Odbert and Defendant's Person Most Qualified ("PMK").

1. Discovery

On November 17, 2025, the County's counsel, Michael King, served discovery requests on defendant Larry Odbert, individually, and as Trustee of GCT; and on defendant GCT. (King decl., ¶2.) The discovery requests consist of 18 Request for Admissions, Form Interrogatories, 29 Special Interrogatories, and 21 categories of Requests for Production of Documents. (*Ibid*.) The discovery requests are attached as Exhibit 1 to the King declaration. (King decl., ¶ 10, Exhibit 1.)

On December 22, 2025, the date the County states the responses were due, Defendants requested and were granted a one-week extension to respond. (King decl., ¶ 3.) On December 30, 2025, the County followed up with Defendants' counsel indicating that a motion to compel would be filed if responses were not received by January 6, 2026. (*Id.,* ¶ 4.)

On January 6, 2026, the County received responses from Larry Odbert, as Trustee. (King decl., ¶ 5.) After additional meet and confer efforts, on February 18, 2026, Defendants served amended responses from Larry Odbert, as Trustee of GCT, and initial responses from Larry Odbert, individually. (*Id.,* ¶ 7.) The County informed Defendants' counsel that GCT had not responded. (*Ibid*.)

Defendants' counsel, Angela Hooper, first associated into this matter with attorney Ameet Sharma on January 5, 2026. (*Id.,* ¶ 2.) Ms. Hooper states she was not aware of the discovery requests served upon GCT. (Hooper decl., ¶ 6.) She requested a copy from the County after receiving the County's meet and confer correspondence and informed County counsel that Mr. Sharma's law office had had some problematic staffing issues. (*Id.,* at ¶ ¶ 2, 3, 6, 7.)

On March 24, 2026, GCT served its discovery responses. (Hooper decl., ¶ 8, Exhibit K.) Accordingly, **the motion as to these discovery requests is MOOT.**

While the County complains in its reply that the discovery requests are deficient and that no documents were produced, this motion was only filed pursuant to CCP sections 2030.290, et seq.,

[1] The Notice of Motion states that the County seeks to compel responses to the Defendant's discovery requests. This court assumes the County means to compel Defendant to respond to the County's discovery requests.

2031.010, and 2033.010 to compel GCT to respond. A motion to compel a further response requires the filing of a separate statement and a showing of good cause for production of the requested documents. (See CCP section 2031.310, Cal. Rules of Court, Rule 3.1345.)

2. Deposition

On February 18, 2026, the County noticed the deposition of defendant Odbert as the PMK for GCT for March 24, 2026. (King decl., ¶8, Exhibit 3.) As of the date of the declaration, February 26, 2026, the County had not received a response. Mr. King states that Ms. Hooper did not respond to his request for dates for the deposition. (*Ibid*.)

CCP section 2025.450 allows for an order compelling a party who, "without having served a valid objection under Section 2025.410, fails to appear for examination, or to proceed with it, or to produce for inspection any document, electronically stored information, or tangible thing described in the deposition notice, the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document, electronically stored information, or tangible thing described in the deposition notice." (CCP section 2025.450(a).)

A motion under section 2025.450 requires the moving party to set forth "specific facts showing good cause justifying the production for inspection of any document, electronically stored information, or tangible thing described in the deposition notice." (CCP section 2025.450(b).) The County has not made this showing.

In opposition, Defendants' counsel states that the notice of deposition was served on a prior paralegal and she was not aware of it. (Hooper decl., ¶7.) Ms. Hooper states that when she learned of the deposition notice, she realized she was unavailable for the date scheduled. (*Ibid*.) On February 26, 2026, she requested the County provide additional proposed dates. (*Ibid*.)

On March 24, 2026, Ms. Hooper confirmed defendant Larry Odbert is available for his deposition on April 30, 2026. (Hooper decl., ¶8, Exhibit L.)

In reply, the County complains that a promise to cooperate is insufficient.

3. Conclusion and Order

Defendants' counsel has indicated that Larry Odbert is available for a virtual deposition on April 30, 2026. The parties are directed to proceed with his deposition on that date.

County's 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.

5. <u>25CV00998, Middleton v. County of Sonoma</u>

Defendant County of Sonoma ("County") moves for an order granting summary judgment against Plaintiff Elaine Middleton ("Plaintiff") or, in the alternative, summary adjudication of each cause of action alleged in the complaint based upon the following issues: (1) No dangerous condition existed when the street was used with due care; (2) Plaintiff cannot satisfy the requirements of Government Code §835; (3) The road maintenance of Denmark Street is reasonable as matter of law; (4) Defendant County did not create the alleged dangerous condition; (5) Defendant County had no actual and no constructive notice of the alleged dangerous condition; (6) The alleged dangerous condition was open and obvious; and (7) No cause of action for "Negligence" exists against the County as alleged in the First Amended Complaint. **As to the cause of action for negligence and the issue that the County did not create the dangerous condition, the motion for summary adjudication is GRANTED. The motion is otherwise DENIED.**

1. Complaint

Plaintiff's First Amended Complaint ("FAC") alleges causes of action for: 1) Dangerous Condition of Public Property and 2) Negligence. The FAC alleges on April 9, 2024, Plaintiff was walking on Denmark Street in Sonoma between 9 and 10 a.m. The street does not have sidewalks so Plaintiff was walking on the street. She alleges she tripped and fell into and over a large pothole (the "Pothole") that was not visible upon approaching.

2. Plaintiff's Evidentiary Objections

a. Declaration of Rob Houweling - Road Operations Division Manager for the County

Plaintiff's objection numbers 1, 2, 4, 5, and 7 are sustained. Plaintiff's objection numbers 3 and 6 are overruled.

b. Declaration of Kathleen Mackay - Risk Management Analyst employed by the County

Plaintiff's objection numbers 8, 9, and 10 are overruled.

c. Declaration of Janice Thompson – Sonoma Public Infrastructure Dept. employee

Plaintiff's objection numbers 11 and 12 are overruled.

d. Declaration of Michael King and Exhibits

Plaintiff's objection numbers 13 and 14 are overruled.

3. County's Evidentiary Objections

The County's objections numbers 1, 2, 3, 5, 7, 9, and 12 are sustained. Objection numbers 4, 6, 8, 10, and 11 are overruled.

4. Government Code section 835

Government Code section 835 sets forth the exclusive conditions under with a public entity may be held liable for a dangerous condition of its property. (*Zelig v. County of Los Angeles* (2002) 27 Cal.4th 1112, 1132.) Thus, the only valid cause of action alleged against the County is Plaintiff's first cause of action for Dangerous Condition of Public Property.

Under section 835 a public entity is liable for an injury if the plaintiff establishes: (1) that the property was in a dangerous condition at the time of the injury; (2) that the injury was proximately caused by the dangerous condition; (3) that the dangerous condition created a reasonably foreseeable risk of the kind of injury which was incurred; and (4) either (a) that a public employee negligently or wrongfully created the dangerous condition or (b) that the public entity had actual or constructive notice of the dangerous condition under section 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous condition. (*Ducey v. Argo Sales Co.* (1979) 25 Cal.3d 707, 715–716.)

5. Incident

Plaintiff was walking on Denmark Street near 7th Street East in Sonoma on April 9, 2024, between 9 a.m. and 10 a.m. (County's Undisputed Material Fact ["UMF"] No. 6.) She was walking with her small dog on a leash on her right side. (UMF No. 6.) Denmark Street does not have sidewalks. (Hultin Decl. Ex. A, Middleton Depo. at 40:5-6; 43:12-14.) She testified that she remembered walking and the next thing she knew she was face-down on the road. Plaintiff testified that she did not see the Pothole before she fell. (UMF 7.) (Plaintiff's depo., p. 40.) Shortly after the incident, Plaintiff was photographed sitting next to the large Pothole. (UMF 11.) The Pothole was apparently 4 inches deep, almost 2 feet long and 18 inches wide. (UMF No. 13.)

6. Arguments

The County argues that the Pothole did not constitute a dangerous condition at the time of the incident but then interweaves various arguments pertaining to different elements of the cause of action. This court attempts to disentangle them and addresses them as follows: (1) causation; (2) whether the Pothole constituted a dangerous condition; (3) whether Plaintiff used the street with due

care; and (4) whether the County had constructive knowledge of the Pothole. Plaintiff concedes that the County did not create the alleged dangerous condition.

7. Causation

The County argues that Plaintiff cannot prove she fell *as a result of* the Pothole. Much of the County's argument, e.g. that Plaintiff could have lost her footing due to her sandals or her dog, is speculation. From the evidence presented and viewed in the light most favorable to Plaintiff as required on a motion for summary judgment, it can be inferred that the most likely cause of Plaintiff's fall was the Pothole. The County has not provided evidence that establishes, as a matter of law, that the Pothole was not the cause of Plaintiff's fall.

8. Dangerous Condition

A dangerous condition is statutorily defined as "a condition of property that creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury when such property or adjacent property is used with due care in a manner in which it is reasonably foreseeable that it will be used." (Gov. Code § 830(a).)

In addressing a dangerous condition claim of a place used to walk, the Court must consider, among other things, the "location, extent, and character of use of the walk in question." (*Nicholson v. County of Los Angeles* (1936) 5 Cal.2d 361, 367.)

When considering a depression giving rise to an injury, a court considers the size of the depression as one of the most relevant factors and any circumstances surrounding the accident which might have rendered the defect more dangerous than its mere abstract depth would indicate. (*Fielder v. City of Glendale* (1977) 71 Cal.App.3d 719, 734.)

Even if there is a dangerous condition on public property, a public entity is liable for injuries caused by it only if the entity was negligent. (*Martinez v. City of Beverly Hills* (2021) 71 Cal.App.5th 508, 518.) This requirement of negligent behavior is critical; without it, public entities would become the "insurer[s] of [their] public ways," a result at odds with public policy. (*Ibid*.) The public entity is negligent if it created the dangerous condition, did not take measures to protect against the dangerous condition that it did not create, or if it had actual or constructive notice of that dangerous condition. (*Ibid*.)

a. Nature of the Defect

Aside from the size of the defect, the court should consider whether the walkway had any broken pieces or jagged edges and other conditions of the walkway surrounding the defect, such as whether there was debris, grease or water concealing the defect, as well as whether the accident occurred at night in an unlighted area or some other condition obstructed a pedestrian's view of the defect. (*Caloroso v. Hathaway* (2004) 122 Cal.App.4th 922, 927.)

The Pothole was apparently 4 inches deep, almost 2 feet long and 18 inches wide. (UMF No. 13.) The photos of the Pothole show jagged edges and loose gravel. (County's Exhibit 5.) The photos show the Pothole is partially shaded from a nearby tree. (*Ibid*.)

Based upon the Pothole's depth exceeding 2 inches in diameter and exceeding 18 inches across, Plaintiff's expert opines that the Pothole meets the ASTM D6433 classification for a "High-Severity Pothole." (Rosescu Decl., ¶ 9.)

b. Obstruction of View

The County argues that nothing in this case obstructed Plaintiff's view of the Pothole.

Photos taken shortly after the incident show the Pothole was shaded by a nearby tree. It is not clear from the evidence presented whether and to what extent the dappling of light and shadow on the Pothole worked to conceal it.

c. Prior Injuries

In determining whether a defect is not dangerous as a matter of law, one factor for the court's consideration is any evidence that other persons have been injured on this same defect. (*Fielder, supra,* at 734.)

The County has no record of any prior incidents, accidents, complaints, or injuries sustained by any pedestrian at this location in the 10 years prior to the Incident. (UMF 15.)

Plaintiff argues that the County does not collect the volume of pedestrian traffic on their streets. (Dep. Of Robert Houweling, employed by County of Sonoma Public Infrastructure, p. 62.) This is a different issue. The County's argument pertains to the number of accident reports made to the County—not the number of pedestrians who traverse the roadway.

Overall, the County has not provided authority and evidence establishing that the Pothole does not create a substantial risk of injury.

9. Due Care

The County argues, as a matter of law, Plaintiff did not use the street with due care. It argues that the Pothole was sufficiently open and obvious such that Plaintiff could have, with due care, avoided it.

Whether a condition is dangerous, or whether the danger is open and obvious, are ordinarily questions of fact, but those issues may be "resolved as a question of law if reasonable minds can come to but one conclusion." (*Peterson v. San Francisco Community College Dist.* (1984) 36 Cal.3d 799, 810.)

The County's argument is based upon speculation that Plaintiff would have seen the Pothole if she was using the street with due care and was actually looking in front of her as she testified. The County argues Plaintiff's testimony, that she had previously seen repairs made to Denmark in a different areas, supports finding Plaintiff must have been distracted and not using due care when she fell. The County also argues that the street is not heavily traveled, was primarily meant for vehicular travel, and the only public report of potholes on Denmark Street in 2023 indicated that the potholes were not a walking hazard.

Plaintiff argues that the Pothole was not readily apparent to a pedestrian walking along Denmark Street because the lack of sidewalks required pedestrians to divide their attention between the road surface, oncoming traffic, and safe navigation, and because tree coverage along the road created shadows that diminished visibility.

The County has not provided authority that, as a matter of law, the failure to observe the Pothole under the circumstances of this case establishes that Plaintiff was not using the street with due care. On a motion for summary judgment, a moving party must provide more than mere speculation to meet its burden.

10. Constructive Knowledge

The County argues it did not have actual or constructive knowledge of the alleged dangerous condition.

a. Constructive Knowledge - Legal Standards

To be held liable, the public entity must be shown to have had actual or constructive notice of the dangerous condition a sufficient time prior to the injury to have taken measures to protect against the dangerous condition. (*Metcalf v. County of San Joaquin* (2008) 42 Cal.4th 1121, 1130.)

A public entity had actual notice of a dangerous condition if it had actual knowledge of the existence of the condition and knew or should have known of its dangerous character. (Gov. Code section 835.2(a).)

A public entity had constructive notice of a dangerous condition if the plaintiff establishes that the condition had existed for such a period of time and was of such an obvious nature that the public entity, in the exercise of due care, should have discovered the condition and its dangerous character. (Gov. Code section 835.2(b).) A public entity will be charged with constructive notice of

a dangerous condition only if (1) the dangerous condition existed for a sufficient period of time before the plaintiff's injury, and (2) it was sufficiently obvious that the entity acted negligently in not discovering and repairing it. (*Martinez v. City of Beverly Hills* (2021) 71 Cal.App.5th 508, 514.)

Courts treat the question of whether a defect is too trivial to qualify as a dangerous condition as distinct from the question of whether the defect is obvious enough to impart constructive notice. (*Id.* at p. 520.)

On the issue of due care, admissible evidence includes but is not limited to evidence as to: (1) Whether the existence of the condition and its dangerous character would have been discovered by an inspection system that was reasonably adequate (considering the practicability and cost of inspection weighed against the likelihood and magnitude of the potential danger to which failure to inspect would give rise) to inform the public entity whether the property was safe for the use or uses for which the public entity used or intended others to use the public property and for uses that the public entity actually knew others were making of the public property or adjacent property; or (2) Whether the public entity maintained and operated such an inspection system with due care and did not discover the condition. (Gov. Code section 835.2(b)(1),(2).)

A public entity's failure to discover and repair an obvious defect makes it appropriate to impute knowledge of that defect to the entity, which is what renders that entity negligent for failing to correct a defect despite that imputed knowledge. (*Martinez, supra,* at p. 519.) Because it is the failure to discover and repair an obvious defect that renders the public entity negligent (and hence potentially liable for injuries caused by that defect), it becomes relevant whether (1) the entity had a "reasonably adequate" "inspection system" in place "to inform [it] whether the property was safe for the use or uses for which [it] used or intended others to use the public property and for uses that the public entity knew others were making of the public property" and (2) the entity "operated such an inspection system with due care" and *still* "did not discover the" defect. (*Ibid*.)

A defect is not obvious just because it is visible or nontrivial. (*Id.,* at p. 520.) Whether a nontrivial defect is sufficiently obvious, conspicuous, and notorious that a public entity should be charged with knowledge of the defect for its failure to discover it depends upon all of the existing circumstances. (*Id*. at p. 521.)

Those circumstances include (1) the location, extent, and character of the use of the walk or, more generally, the public property in question, which looks to both its intended use for travel as well as the actual frequency of travel in the area; and (2) the magnitude of the problem of inspection, and more specifically, the practicability and cost of inspection weighed against the likelihood and magnitude of the potential danger to which failure to inspect would give rise. (*Ibid*.)

In addition, the standard for assessing when a defect is so obvious to impart constructive notice to a public entity depends upon its location. A pedestrian using a sidewalk, meant for perambulation, has the right to assume the surface would be safe without having to keep their eyes fixed on the ground. (*Ibid*.) "Given the very likely danger to pedestrians and others from all but the most trivial of defects in sidewalks, the 'likelihood and magnitude of potential danger' due to failure to maintain sidewalks in good condition justifies a requirement that public entities apply more rigorous scrutiny to searching sidewalks for defects, even if that means greater cost." (*Ibid*.) If, for example, it is located in an alley, it is less obvious because an alley is most often used to access and service abutting businesses and residences. (*Id.,* at p. 523.)

Whether a defect is sufficiently obvious such that notice can be imputed to a public entity is typically a factual question reserved for a jury. (*Id.,* at p. 525.)

b. Constructive Knowledge - Argument and Evidence

The County argues there are no facts to suggest it had actual or constructive notice of the Pothole. They argue that Plaintiff has not provided evidence showing when the Pothole first appeared, and when and how it grew. Mr. Houweling asserts that how potholes appear depends

upon many factors including the weather, and the size and number of vehicles driving on it. (UMF No. 18.) The County argues it is impossible to determine when the Pothole first appeared.

The Road Maintenance Division of the County's Public Infrastructure Department keeps records of "Work Requests" and "Work Orders" for the County roads, including Denmark Street and the section of that road including the Pothole. (UMF No. 17.) When alerted by the public or members of the road crews of the existence of potholes, initial scheduling of repairs is set at the discretion of the supervisor of the district where the repair is located. (UMF 30.) Scheduling is based upon numerous factors and criteria, including type and scope of work, availability of crews, number of other jobs, when an issue was noticed, availability of funds, and urgency based on a report or inspection. (UMF 31.)

The County Road Operations Division is generally aware of potholes appearing at times on the entire length of the part of Denmark Street that it maintains. (UMF No. 29.) Potholes were reported on Denmark Street in March and May of 2023. (UMF Nos. 16, 19.) Potholes were repaired in May and June of 2023. (UMF Nos. 19, 23.) More pothole maintenance occurred on Denmark Street in February and April of 2024. (UMF No. 20.) The pothole repairs on Denmark Street in 2023 and 2024 included inspection and repair along the section of Denmark that included the location where Plaintiff fell. (UMF No. 35; Plaintiff's Additional Material Facts ["PAMF"] No. 36.) Other maintenance was not in the same area where the Pothole existed. (UMF No. 25; Disputed UMF No. 20.) The work that took place on February 13, 2024, covered postmiles 10.90- 11.97, while the incident occurred at postmile 10.69. (Disputed No. 20.) The crew patched "both sides" but stopped 0.21 miles past the intersection. (*Ibid*.) County employees were at the intersection on February 5 and 6, 2024 and February 13, 2024. (*Ibid*.)

Plaintiff argues County's own records demonstrate Denmark Street had chronic, recurring potholes requiring repeated patching. Plaintiff's expert opines the Pothole shows "long-term deterioration" with "worn and rounded" edges meaning it is more likely than not that the Pothole existed prior to February 13, 2024. (*Ibid*.)

The majority of cases cited by the County pertain to other issues and circumstances, or are distinguishable, such as those presented in *Restivo v. City of Petaluma* (2025) 111 Cal.App.5th 267. In that case, the plaintiff fell while riding a skateboard. The City's motion for summary judgment provided evidence that, subsequent to the receipt of an independent pavement report, the City's employees inspected the subject street and found no concerns. No prior incidents had been reported, and none were subsequently made. In opposition, the plaintiff produced zero evidence that the City had actual or constructive notice of the defect.

Here, neither party has provided sufficient evidence to establish how long the Pothole existed prior to the subject incident. The County has not shown that it is so recent that County employees were not negligent in failing to discover and repair it. (See *Martinez, supra,* 71 Cal. App. 5th at 514.)

Neither party has discussed the precise standard for a public entity's duty to inspect streets that do not contain sidewalks. Street surfaces deteriorate faster than sidewalks. (See *Martinez, supra,* at p. 524.) The lack of sidewalks requires pedestrians to walk on the street, which would support finding a greater need for inspection. However, a less-used country road requires greater cost and less benefit; therefore, public entities may reasonably elect to apply less rigorous scrutiny when inspecting such roads for defects. (*See ibid*.) It is not clear from the authority and evidence presented what precise standard should be applied in this case.

The County has not shown this court can make a determination, as a matter of law, in the County's favor on the facts of this case. Construing the evidence in the light most favorable to Plaintiff, County employees were likely working on Denmark Street after the Pothole had started to

develop and at a time when they were inspecting the road for maintenance issues. A trier of fact could find that they should have discovered the Pothole.

11. Conclusion and Order

As to the cause of action for negligence and the issue that the County did not create the dangerous condition, the motion for summary adjudication is GRANTED. The motion is otherwise DENIED.

Plaintiff's 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.

6. <u>25CV08769, Cupp v. Adams</u>

Petitioner Ron Cupp ("Petitioner") moves for an order granting his First Amended Petition to Confirm Arbitration Award ("FAP").

On December 23, 2025, Petitioner filed a Petition to Confirm Arbitration Award, and on December 29, 2025, Petitioner filed the FAP. The FAP seeks to confirm the award by a panel of three arbitrators in the matter of Nature's Way 12778 Dupont Road, LLC v. Mark Adams (the "Award"). Petitioner states he was assigned the Award and now seeks to confirm it.

The Award, signed by the arbitrators in May of 2025, is attached to the FAP. It pertains to the confirmation of an express grant easement and a lease agreement. Claimant, Nature's Way 12778 Dupont Road, LLC, alleged that Respondent, Mark Adams, interfered with the use and enjoyment of the easement, caused a nuisance, and breached the terms of a lease contract related to the easement. The arbitrators found that the lease agreement between the Claimant and its tenant is binding upon all title-holders, including Respondent. The Award orders the current title-holder to execute all necessary documents, deliver keys, and take any actions required to fulfill the terms of the lease agreement and provide possession of the property.

The arbitrators confirmed the existence of an express grant easement in favor of the Claimant, as set out in the written agreement, which they found to be binding upon all title-holders. They ordered the Claimant to execute all necessary documents and take any action required to take possession.

The arbitrators found that Mark Adams breached the easement contract and is in violation of the terms agreed upon in the contract. They found his conduct caused a nuisance by unlawfully interfering with the Claimant's use and enjoyment of the easement and lease.

The arbitrators ordered Respondent to pay the Claimant liquidated damages in the amount of $250.000 00 for interfering with the easement contract; to pay Claimant $7500.00 for each month of lost rents beginning in March 2024 and accruing to present day; and, to pay reconstruction costs of $358.312 94.

In opposition, Respondent argues the Award was vacated in the case of *County of Sonoma v. Castagnola,* SCV-265714 and is a nullity. He argues that there is nothing to confirm. This issue is the subject of Respondent's demurrer which is set for hearing on July 22, 2026. If sustained, the demurrer will be dispositive on the issue of the confirmation of the Award. Accordingly, the hearing on **this motion is CONTINUED to July 22, 2026, at 3:00 p.m., in Department 16, to be heard alongside Respondent's demurrer.**

7. <u>SCV-270409, Fischer v. Fischer</u>

APPEARANCES REQUIRED.