TENTATIVE RULINGS **WILL BE CALLED IN DEPT. 16**
LAW & MOTION CALENDAR
Wednesday, June 25, 2025 3:00 p.m.
Courtroom 17 – Hon. Patrick M. Broderick for Jane Gaskell
3035 Cleveland Avenue, Santa Rosa

PLEASE NOTE: In accordance with the Order of the Presiding Judge, a party or representative of a party may appear in Department 17 in person or remotely by Zoom, a web conferencing platform.

CourtCall is not permitted for this calendar.

If the tentative ruling is accepted, no appearance is necessary via Zoom unless otherwise indicated.

TO JOIN D17 ZOOM ONLINE:
Meeting ID: 161 126 4123
Passcode: 062178
https://sonomacourt-org.zoomgov.com/j/1611264123

TO JOIN ZOOM BY PHONE:
By Phone (same meeting ID and password as listed for each calendar):
+1 669 254 5252

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** Judge Gaskell's Judicial Assistant by telephone at **(707) 521-~~6723~~ 6725**, and all other opposing parties of your intent to appear, and **whether that appearance is in person or via Zoom**, by ***4:00 p.m. the court day immediately preceding the day of the hearing.***

1. 24CV00335, Kruppa, JR v. Dowell, DVM

Plaintiff/Cross-Defendant Richard J. Kruppa, Jr.'s ("Plaintiff") motion to strike the entire Cross-Complaint filed by Defendants/Cross-Complainants Peter Dowell, DVM and Julie Dowell ("Defendants") is **DENIED**. Plaintiff's objection to sanctions is **OVERRULED**. Requested sanctions are awarded in the amount of **$8,795.00**.

I. PROCEDURAL HISTORY

Plaintiff's First Amended Complaint ("FAC") alleges that Plaintiff submitted intellectual property in the form of building plans and applications to the County of Sonoma, Building and Planning Departments, and Defendants sent him a false invoice for services not authorized or performed by him. (FAC, Attachment 5, ¶ FR-2(a).) Plaintiff claims that Defendants knowingly worked together and changed Plaintiff's building plans and put their names on it and then sent Plaintiff an invoice for it. (*Id*. at Attachment 5, ¶ FR-2(b).)

Defendants filed their Cross-Complaint on April 10, 2024, alleging causes of action for breach of contract, defamation, intentional infliction of emotional distress, and negligence. (Cross-Complaint, ¶¶ 5-34.) They allege that Plaintiff represented that he was a licensed contractor and was experienced in, and qualified to perform, remodeling of their home. (*Id*. at ¶ 9.) The parties never signed a contract and, in the

end, Defendants allege that Plaintiff failed to perform the services which he contractually agreed to perform. (*Id*. at ¶¶ 9-10.)

In response, Plaintiff filed two motions to strike: (1) Motion to Strike Defendants' Cross-Complaint filed on April 8, 2025; and (2) Motion for Sanctions, for Stay or to Continue Further Discovery or Depositions, and to Strike the Cross-Complaint filed on April 28, 2025. Defendants filed an opposition to the April 8, 2025, motion to strike, which the Court now considers. The Court will later consider the April 28, 2025, motion filed by Plaintiff on the assigned hearing date of August 13, 2025.

II. ANALYSIS

Legal Standard

The court may, "upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper: (a) Strike out any irrelevant, false, or improper matter inserted in any pleading. (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." (C.C.P. §§ 435, 436.) Any party may serve and file a notice of motion to strike the whole or any part of a pleading within the time allowed to respond to the pleading, within the notice specifying the hearing date on a motion to strike the complaint. (*Id*. at § 435(a)-(b).)

Plaintiff's Motion

Plaintiff argues that the Cross-Complaint is vague, irrelevant, improper, and filed for an improper purpose. (Motion to Strike, 1:21-23.) Plaintiff also argues that the Cross-Complaint lacks evidentiary support and is mainly intended to harass or needlessly increase the costs of litigation. (*Id*. at 1:23-25.) Plaintiff finds issue with the causes of action alleged in the Cross-Complaint because they are contract-based and no written contract was attached to the Cross-Complaint. (*Id*. at 2:16-20.)

Opposition

In the Opposition, Defendants request the Court to deny the motion and impose sanctions of $8,795.00 against Plaintiff pursuant to C.C.P. section 128.5. Defendants argue that the motivation behind Plaintiff's motion is to prevent Defendants from defending themselves against the FAC and to prevent their prosecution of the Cross-Complaint. (Opposition, 2:8-13.) As examples, Defendants point to how Plaintiff has already been avoiding having his deposition taken, avoiding responding to discovery, and avoiding paying sanctions already imposed upon him by this Court. (*Id*. at 2:8-13.) Defendants also note that since the beginning of this litigation, Plaintiff has inundated their office with hundreds emails, some of which include threats of disbarment or purposeful lack of engagement with the discovery process. (Opposition, 7:15-22.) The $8,795.00 requested in sanctions is broken down as follows:

1. 10.8 hours of Counsel McCormick's work at a rate of $400.00 per hour reviewing the moving papers, preparing the Opposition, and preparing a declaration.
2. 4.5 hours of Counsel McCormick's work at a rate of $400.00 per hour looking through over 500 emails to find excerpts to offer in support of the Opposition and Requests for Sanctions.
3. 5 hours anticipated for Counsel McCormick's review of any reply, preparation for and attending the hearing on this matter at a rate of $400.00 per hour.
4. 1.5 of Counsel Martin's work at a rate of $450.00 per hour preparing a declaration in support of the Opposition.

Reply Brief

In the Reply, Plaintiff objects to the imposition of sanctions and for the first time requests a protective order that was not mentioned in the motion. Plaintiff claims discovery abuse against Defendants and states that their claims may be time-barred because no dates were provided in the Cross-Complaint. Plaintiff separately objected to the sanctions requested.

Application

The Court finds that the motion to strike lacked merit and was not sufficiently supported by legal argument to support striking the Cross-Complaint. The protective order sought for the first time in the Reply is not properly before the Court as a matter of procedure and the arguments that Defendants' Cross-Complaint contains causes of action that are time-barred would more appropriately have been argued in a demurrer, which was not filed by Plaintiff. Due to Plaintiff's conduct sending hundreds of emails to Defendants, some of which contained threats of seeking Defendants' counsels' disbarment, and due to Plaintiff's outright refusal to participate in the discovery process or to pay the discovery sanctions already awarded by this Court's prior order, the Court finds that the sanctions requested by Defendants is warranted. Therefore, Plaintiff's objection to the sanctions is overruled.

III. CONCLUSION

The motion is **DENIED**. Plaintiff's objection to sanctions is **OVERRULED**. Defendants' request for sanctions of $8,795.00 is **GRANTED**. Defendants shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

2. 24CV06652, Looney v. Bart Lounge LLC

Plaintiff Looney moves to compel Defendants Bart Lounge, LLC ("Bart Lounge") doing business as Bart Lounge, and Michael Murphy, individually and as personal guarantor of Bart Lounge (together "Defendants") to provide full and complete responses to post-judgment interrogatories and demand for production. Plaintiff's unopposed motion is **GRANTED**. Sanctions are awarded as to the $60.00 cost of filing. Defendants shall provide complete, objection-free verified responses to Plaintiff and pay $60.00 in sanctions within 30 days of service of the notice of entry of order.

I. PROCEDURAL HISTORY

Plaintiff Looney propounded post-judgment written interrogatories and demands for production on Defendants on January 27, 2025. (Looney Declaration, ¶ 1.) Defendants never responded to the discovery requests, never requested any extensions, and never acknowledged Plaintiff's efforts to meet and confer regarding the discovery. (*Id*. at ¶¶ 2-4.) Plaintiff notified Defendants of intent to file this motion to compel on March 10, 2025. (*Id*. at Exhibit B.) Plaintiff now moves to compel Defendants' objection-free and complete verified responses and for sanctions. Defendants have not opposed the motion.

II. ANALYSIS

A judgment creditor may propound interrogatories and requests for documents to a judgment debtor. (C.C.P. § 708.010, et seq.) These may be served on the judgment debtor any time while the judgment is enforceable, except not within 120 days after the judgment creditor examined the judgment debtor, or after the judgment debtor responded to an earlier set of such discovery. (C.C.P. §§ 708.010(a), 708.020(b).)

A responding party who fails to serve timely responses to interrogatories waives all objections, including privilege and work-product based objections, and the propounding party may move for an order compelling responses. (C.C.P. § 2030.290(a)-(b); *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 404.) Likewise, failure to serve timely responses to requests for production of documents results in waiver of all objections and allows for a motion to compel responses. (C.C.P. § 2031.300(a)-(b).) Additionally, the Court "shall" award sanctions for failure to respond. (C.C.P. § 708.020.)

Plaintiff properly served the discovery requests to Defendants who failed to ever respond or request any extensions. Defendants have not been examined by Plaintiff or the judgment creditor, or responded to any other discovery, within 120 days before this motion was filed. (Looney Declaration, ¶ 5.) Accordingly, the Court will grant the motion.

III. CONCLUSION

Based on the foregoing, Plaintiff's motion is **GRANTED** and sanctions are awarded in the amount of $60.00 for filing costs. Defendants shall serve complete, objection-free verified responses to Plaintiff and pay $60.00 in sanctions within 30 days of service of the notice of entry of order. Plaintiff shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

3. 24CV07689, Snowden v. Ainsworth

Self-represented Defendant Laura Ainsworth's motion to dismiss Complaint filed by Plaintiffs Cary Snowden, Michael Irvine, Dawn Holman, and Boys & Girls Clubs of Sonoma Valley ("BGCSV")(together "Plaintiffs") due to improper service is **DENIED**. Plaintiffs' requests for judicial notice are **GRANTED**. Sanctions are **DENIED**.

I. PROCEDURAL HISTORY

In 2016, Paul Kilgore, who was a former employee of BGCSV from 2002 to 2013, was arrested for child sexual abuse. (Complaint, ¶ 14.) In the aftermath of Kilgore's conviction, the investigating managers and board members of Plaintiffs voluntarily or involuntarily left the BGCSV and later other named Plaintiffs became employees of the BGCSV. (*Id*. at ¶ 15.) Plaintiffs allege that Defendants since approximately March of 2018 have inundated Plaintiffs and various third parties with emails and other correspondences claiming that Plaintiffs and their agents conspired or were conspiring to cover up child sexual abuse, were failing to report child sexual abuse, were facilitating and participating in child abuse including pedophilia and grooming and were violating State and Federal employment laws. (Complaint, ¶ 21.)

As a result of Defendants' alleged conduct, Plaintiffs commenced this defamation action against them. Plaintiffs allege causes of action for: (1) defamation; (2) false light; (3) intentional infliction of emotional distress; (4) negligent infliction of emotional distress; (5) intentional interference with contractual relationships; (6) intentional interference with prospective economic advantage; and (7) injunctive relief. (Complaint, ¶¶ 46-125.)

Per Plaintiffs' Proof of Service of Summons and Complaint filed with the Court on March 17, 2025, Defendant Ainsworth was served by personal service on March 12, 2025, at the her address. Defendant Ainsworth filed a motion to dismiss for lack of jurisdiction and improper service. Plaintiffs oppose the motion.

II. REQUEST FOR JUDICIAL NOTICE

Plaintiffs request judicial notice of the following items:

1. The content of the Sonoma County Superior Court's Registry of Action and Docket in this matter identified as Case No. 24CV07689.

2. The dates associated with filings in the Sonoma County Court's Registry of Action and Docket in this matter identified as Case No. 24CV07689.

3. The moving or filing parties of the motions currently set for hearing of the Sonoma County Superior Court's Docket in this matter identified as Case No. 24CV07689.

4. The hearing dates of the Sonoma County Superior Court's Docket in this matter identified as Case No. 24CV07689.

5. The fact Defendant Laura Ainsworth filed a Motion to Recuse Judge Jane Gaskell in this current matter identified as Case No. 24CV07689 on April 25, 2025, under Cal. Code of Civ. Proc. §§ 170.1 and/or 170.3.

6. The fact the Court served Defendant Laura Ainsworth in this current matter identified as Case No. 24CV07689 using the mailing address 122 Calistoga Road, PMB #185, Santa Rosa, CA 95409.

7. Cal. Code of Civ. Proc. § 422.10.

8. Cal. Code of Civ. Proc. § 422.30.

9. California Rules of Court, Rule 2.111.

Judicial notice of official acts and court records is statutorily appropriate. (Evid. Code §§ 452(c)-(d).) The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under C.C.P. § 452. (C.C.P. § 453.)

Per Evidence Code sections 452 and 453, Plaintiffs' requests for judicial notice are **GRANTED**.

III. ANALYSIS

Legal Standard

Code of Civil Procedure ("C.C.P.") section 418.10 allows a defendant to file a motion to quash service of summons or stay or dismiss the action based on, among others, lack of personal jurisdiction. When a defendant moves to quash a summons for lack of personal jurisdiction, the plaintiff has the burden of proving personal jurisdiction by the preponderance of the evidence. (*Mihlon v. Sup. Ct.* (1985) 169 Cal.App.3d 703, 710.) An unverified pleading has no evidentiary value for determining personal jurisdiction but can be used to determine whether the cause of action arises out of defendant's alleged local activities. (*Ibid*.)

Defendant's Motion to Dismiss

Defendant Ainsworth moves to dismiss arguing that legal service was not executed properly and that the Court in the County of Sonoma does not have subject matter jurisdiction due to the nine-year delay and

the fact that she is on leave from her public employment. (Motion to Dismiss, 2:6-9.) Defendant Ainsworth provides no other argument or legal authority in support of the motion, but emphasizes the severity of the claims she is making against Plaintiffs regarding the child sexual abuse allegations.

Plaintiffs' Opposition

In the Opposition, Plaintiffs first note that Plaintiff's motion should be considered as a motion to quash service of summons and that Defendant never actually declares that she was not served with the Summons and Complaint. (Opposition, 3:26-28, 4:1-2.) Plaintiffs argue that Defendant Ainsworth's motion is moot because she appeared in this action already to challenge the assignment of Hon. Jane Gaskell per C.C.P. sections 170.1 or 170.3. (*Id*. at 4:3-12.) Furthermore, Plaintiffs note that the caption on the moving papers is the same address listed in their Proof of Service of Summons, which is a U.P.S. mailing box that her and her husband Brett Ainsworth share. (*Id*. at 4:14-19.) Finally, Plaintiffs argue that, even though Plaintiffs substantially complied with the requirements of service of summons, Defendant Ainsworth also had actual notice of the Complaint. (*Id*. at 6:1-8.)

Plaintiffs request sanctions against Plaintiffs arguing that there was implicit bad faith behind filing this motion and that she has threatened via the emails attached to counsels' declarations to contact the FBI, the State Bar of California, and other third-parties that are not involved in this matter. (Opposition, 7:7-16.)

Application

The Court does not find sufficient basis in Defendant Ainsworth's motion to grant dismissal as she did not argue that Plaintiffs failed to actually serve her under the required procedural guidelines. However, the Court does not find that there was implicit bad faith in bringing this motion. The Court will deny the motion due to this, but not award sanctions.

IV. CONCLUSION

Based on the foregoing, Defendant Ainsworth's motion is **DENIED**. Plaintiffs shall submit a written order to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

4. 25CV00790, 891 Grove Street LLC v. City of Healdsburg

Respondent/Defendant City of Healdsburg (the "City") demurs to the Verified Petition for Writ of Mandate and Complaint (the "Petition") filed by Petitioner/Plaintiff 891 Grove Street, LLC ("Petitioner"). The Demurrer is **SUSTAINED without leave to amend.**

I. PROCEDURAL HISTORY

Petitioner owns real property located at 891 and 892-895 Grove Street in Healdsburg (the "Property"). (Petition, ¶ 2.) The Property contains two separate parcels that are in different zoning districts with different applicable zoning regulations. (*Ibid*.) There was a Bed & Breakfast ("Inn") being operated on the Property. (*Ibid*.) The City learned that Petitioner planned to renovate the Inn and establish a new private club, which was not allowed by zoning regulations unless Petitioner obtains a Conditional Use Permit ("CUP"). (*Id*. at ¶ 3.)

Petitioner applied for a CUP for their proposed club on September 1, 2022, but the City determined that to proceed with the proposed club, Petitioner could apply for a CUP, a general plan amendment, a specific

plan amendment, and a rezoning of the Property, and notified Petitioner that the City decided the proposed club was the wrong specification, but that the decision was appealable. (Demurrer Memorandum of Points and Authorities ["Demurrer MPA"], 8:11-20.)

Petitioner appealed the decision, and after a public hearing, the appeal was denied and the resolution contained a detailed analysis supporting the denial. (Demurrer MPA, 8:21-25, 9:1-7.) Regardless, Petitioner began to operate a club on the Property. (Petition, ¶¶ 7-8.) The City issued a notice to the Petition that it was in violation of the municipal code because Petitioner had been hosting lunch and dinner events, hosting noisy pickle ball tournaments, hosting loud parties extending beyond 11:00 P.M., serving alcoholic beverages without required permits, and actively marketing memberships for a club on the Property. (Demurrer MPA, 9:14-19.) Petitioner did not pursue the prescribed administrative process for challenging the notice of violation before filing this lawsuit. (*Id*. at 9:20-22.)

Petitioner filed the Petition on February 4, 2025, against the City. Per Code of Civil Procedure ("C.C.P.") section 430.41, the City met and conferred with Petitioner before filing the demurrer, but the parties could not resolve their issues. Petitioner filed an opposition to the demurrer.

II. REQUEST FOR JUDICIAL NOTICE

Judicial notice of official acts and court records is statutorily appropriate. (Evid. Code §§ 452(c)-(d).) The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under C.C.P. § 452. (C.C.P. § 453.) Courts may take notice of public records, but not take notice of the truth of their contents. (Herrera v. Deutsche Bank National Trust Co. (2011) 196 Cal.App.4th 1366, 1375.) Judicial notice of regulations and legislative enactments by any public entity is statutorily appropriate. (Cal. Evid. Code § 452(b).) Yet since judicial notice is a substitute for proof, it "is always confined to those matters which are relevant to the issue at hand." (*Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301.)

The City requests judicial notice of the following:

1. The Community Development Director's ("Director's) Land Use Determination dated September 16, 2022, issued by City of Healdsburg Community Development Director to Petitioner.

2. City of Healdsburg Planning Commission Agenda Staff Report, October 25, 2022.

3. Planning Commission Resolution No. 2022-15, adopted by the Planning Commission of the City of Healdsburg on October 25, 2022.

4. Notice of Violation, issued October 4, 2023.

5. City of Healdsburg Municipal Code Sections 1.12.110, 1.12.120, 1.12.180, 20.04.030, 20.28.005 – 20.28.040, and 20.28.085.

6. Petitioner's Appeal of the Planning Commission's October 25, 2022, adoption of Resolution No. 2022-15.

7. Petitioner's February 14, 2023, Letter withdrawing Appeal of the Planning Commission's October 25, 2022, adoption of Resolution No. 2022-15.

III. ANALYSIS

Legal Standard

Demurrer

A demurrer can be used only to challenge defects that appear on the face of the pleading under attack or from matters outside the pleading that are judicially noticeable. (C.C.P. § 430.30(a).) Leave to amend should generally be granted liberally where there is some reasonable possibility that a party may cure the defect through amendment. (*The Swahn Group, Inc. v. Segal* (2010) 183 Cal.App.4th 831, 852; *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

Administrative Writ

Writ proceedings on administrative decisions are governed by C.C.P. § 1094.5. In such proceedings, the trial court's review "shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion." (C.C.P. § 1094.5(b).) An abuse of discretion can occur three different ways: (1) "the respondent has not proceeded in the manner required by law," (2) the "decision is not supported by the findings," or (3) "the findings are not supported by the evidence." (*Ibid*.) An application for a Writ of Mandate is subject to the general rules of pleading applicable to civil actions. (*Gong v. City of Fremont* (1967) 250 Cal.App.2d 568, 573.) Accordingly, the petition must plead facts that establish a right to relief under CCP § 1094.5. (*Ibid*.)

Government Code section 65009(c)(1)

Cases challenging zoning decisions must be filed and served within 90 days. Government Code ("Gov. Code") § 65009(c)(1)(formerly Gov. Code § 65907). Failure to file the challenge within the 90-day period means the suit is barred. There is no exception for actions filed under the Political Reform Act. (*Ching v. San Francisco Bd. of Permit Appeals (Harsch Inv. Corp.)*(1998) 60 Cal.App.4th 888, 894–895.) As a result, claims where the gravamen still rests in a zoning decision are still subject to the 90 day statute of limitations. (*AIDS Healthcare Foundation v. City of Los Angeles* (2022) 86 Cal.App.5th 322, 337.)

Moving Papers

The City demurs to the First and Second Causes of Action in the Writ stating that they fail to allege facts sufficient to constitute a cause of action per C.C.P. § 430.10. The City argues that Petitioner failed to exhaust administrative and judicial remedies, that the claim is not ripe, and because the Writ was not filed within 90 days of the denial.

Failure to Exhaust Administrative Remedies

The City argues that Petitioner failed to exhaust their administrative remedies by not appealing the denial. (Demurrer MPA, 12:17-22, 13:1-2.) The City also argues that Petitioner's claims are not ripe yet because the notice of violation issued was not a final decision, but a first step in a state-mandated process designed to bring violators into compliance with the municipal code. (*Id*. at 15:1-9.) Furthermore, Petitioner abandoned the administrative process before any final decision could be issued. (*Id*. at 15:10-14.) Petitioner initially filed an appeal, but withdrew the appeal, and the City Council never had the opportunity to consider what the determination would have been on Petitioner's CUP application. (*Id*. at 15:23-27.)

Petitioner argues that administrative exhausting is inapplicable because the City's argument is without merit. (Opposition, 11:16-17.) Petitioner state that the City's argument is premised on a mistaken belief

that the Petition is a backdoor challenge to the City's 2022 decision and is therefore barred. (*Id*. at 12:4-6.) Petitioner also argues that the dispute is ripe for judicial resolution because the City did not allow an opportunity to challenge the City's decisions, but the "wrongful" notice of violation was not able to be challenged. (*Id*. at 15:7-25, 16:1-24.)

The City replied by stating that it is Petitioner's burden to allege facts showing that it exhausted administrative remedies, and because Petitioner failed to plead facts establishing that it exhausted those administrative remedies, the Petition should be dismissed with prejudiced. (Reply, 9:16-27.)

Failure to Exhaust Judicial Remedies

The City also argues that Petitioner failed to exhaust judicial remedies because Petitioner did not file any petition within the 90 days required under Government Code section 65009. (Demurrer MPA, 17:1-10.)

Petitioner argues in the Opposition that judicial exhaustion is inapplicable for the same reasons as those stated in opposition to the administrative exhaustion agreement. (Opposition, 12:23-25.)

In the Reply, the City reaffirms the arguments made in the motion and emphasizes that Petitioner failed to timely bring the petition.

Time-Barred by Government Code section 65009(c)(1)

The City notes that section 65009(c)(1)'s 90-day limitations period applies to both writ and non-writ actions in which a petitioner challenges a city's decision regarding a planning or land use permit. (Demurrer MPA, 18:7-13.) As Petitioner filed the action over two years after the decision was issued, the City argues that Petitioner's writ and declaratory relief claim are time-barred. (*Id*. at 19:28, 20:1-7.)

Petitioner argues that the statute of limitations are inapplicable for the same reasons as those stated in opposition to the administrative and judicial exhaustion arguments. (Opposition, 13:18-24, 14:1-2.)

In the Reply, the City reaffirms the arguments made in the motion that the motion is time-barred by Government Code section 65009's 90-day limitation.

Application

The Court finds that the arguments made in the demurrer have merit because the Petition failed to allege that Petitioner satisfied the administrative exhaustion requirement and because the Petition was not timely filed within the 90-day time limit required under Government Code section 65009.

IV. CONCLUSION

The Demurrer is **SUSTAINED without leave to amend** as time-barred without exception under Government Code section 65009. The City shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

5. SCV-270261, Arikat v. Grocery Outlet, Inc.

Defendant Basin Street Properties, Inc.'s ("Basin") unopposed motions to compel further responses to Requests for Admission, Set Two, numbers 17, 18, 21, and 22 from Plaintiffs Michael Arikat ("Arikat"), Suhair Erikat ("Erikat"), and Sawsan Abu Halawa ("Halawa") are **GRANTED**. Arikat, Erikat, and

Halawa shall serve further responses to Request Nos. 17, 18, 21, and 22 within 20 days of receipt of the notice of entry of this Court's order on these motions.

I. PROCEDURAL HISTORY

Plaintiff Arikat and the other successors-in-interest and heirs of Decedent Farida Arikat brought this action against Basin and other named defendants alleging causes of action for wrongful death and negligence. (Motion to Compel Arikat, 3:4-6.) Plaintiffs Halawa and Erikat were joined as heirs and necessary parties in the First Amended Complaint. (*Id*. at 3:6-10.)

On October 11, 2022, claimants for Decedent's estate, including Plaintiffs, commenced arbitration against the Kaiser Foundation Health Plan, Inc., the Permanente Medical Group, Inc., and Kaiser Foundation Hospital, concerning the medical treatment of Decedent prior to and after the incident giving rise to this action. (Motion to Compel Erikat, 3:9-13; Motion to Compel Halawa, 3:10-14; Motion to Compel Arikat, 3:11-15.)

On January 7, 2025, Basin served Set Two of Request for Admissions on Plaintiffs electronically via their counsel to investigate information about the Kaiser arbitration as any claim that Decedent's death was caused by medical negligence would impact this litigation. (Motion to Compel Erikat, 3:20-24; Motion to Compel Halawa, 3:21-25; Motion to Compel Arikat, 3:22-26.) They responded on February 10, 2025, but Basin discovered that the responses to Requests No. 17, 18, 21, and 22 all contained the same objection-only answer. (Motion to Compel Erikat, 3:24-26; Motion to Compel Halawa, 3:25-27; Motion to Compel Arikat, 3:26-28.) Although Basin's counsel attempted to meet and confer with Plaintiff's counsel via email and telephone to discuss the deficiencies in the responses, Plaintiff's counsel did not respond to any of the attempts and Plaintiffs never served any further responses. (Wooten Declarations, ¶ 7, Ex. C.)

Basin now moves to compel Plaintiff's further responses to Requests No. 17, 18, 21, and 22 in Requests for Admission, Set Two. Plaintiffs failed to oppose the three motions despite service of the moving papers.

II. ANALYSIS

Legal Standard

A party requesting admissions may move for an order compelling a further response if that party deems that either or both of the following apply: (1) an answer is evasive or incomplete; or (2) an objection is without merit or too general. (C.C.P. § 2033.290(a).) Parties must submit a meet and confer declaration under C.C.P. section 2016.040 when bringing a motion to compel further responses to a request for admissions. (C.C.P. § 2033.290(b)(1).) Monetary sanctions shall be imposed against a party who unsuccessfully makes or opposes a motion to compel further responses, unless the court finds that the party acted with substantial justification or that other circumstances would make the imposition of the sanction unjust. (C.C.P. § 2033.290(d).)

Basin's Motions to Compel

Basin moves to compel Plaintiffs' further responses to Request 17, 18, 21, and 22. The following identical response was given:

> Responding Party objects to the request on the grounds that while the existence of a Kaiser Arbitration is not, in itself, confidential, any and all documents or information transmitted to or

from the Arbitrator or the Office of Independent Administration are confidential. (See, Rules for Kaiser Permanente Member Arbitrations, as Amended, Rule A.3 (2024).)

Rule A.3 of the Rules for Kaiser Permanente Member Arbitrations states that information or documents disclosed to an Arbitrator or Independent Administrator from the parties, their representatives, or witnesses in the course of arbitration shall not be divulged by the Arbitrator or the Independent Administrator. Furthermore, the rule does not apply to communications concerning Arbitrators, disclosures required by law, or statistical information used in annual reports.

Basin argues that Rule A.3 does not prevent Plaintiffs from properly responding to the Requests for Admissions as it only states an arbitrator or independent administrator cannot divulge information or documents, not the parties themselves.

Plaintiffs failed to oppose the motions.

Application

The Court finds that Rule A.3 cited by Plaintiffs in their responses does not apply to them, but rather to arbitrators and independent administrators. The Court also finds that the information sought is relevant to Plaintiffs' claims in this action. As such, the Court will grant all three unopposed motions.

III. CONCLUSION

Based on the foregoing, Basin's motions to compel are **GRANTED.** Plaintiffs shall serve responses to Requests for Admission, Set Two, numbers 17, 18, 21, and 22. Defendant shall serve further responses within 20 days of receipt of the notice of entry of this Court's order on these motions. Basin shall submit a written order to the Court as to each motion consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).