TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, July 8, 2026, 3:00 p.m.
Courtroom 16 – Hon. John Tomberlin for 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. 24CV04758, Sangiacomo v. State Farm General Insurance Company

Pursuant to CCP section 2031.320, Plaintiff Susan Sangiacomo ("Plaintiff") moves to compel Defendant State Farm General Insurance Company ("State Farm") to comply with its agreement to produce documents in response to Plaintiff's Request for Production of Documents, Set One.

1. Discovery

Plaintiff served her first set of Request for Documents (RPDs) on State Farm on February 11, 2025. (Jacobellis decl., ¶2, Exhibit 1.) Plaintiff granted State Farm several extensions to respond. (*Ibid*.) Plaintiff's counsel states State Farm promised to produce its privilege log on May 14, 2025, but did not actually produce it until February 25, 2026. (*Id.,* ¶3, Exhibit 2.) Thereafter, by letter dated March 2, 2026, Plaintiff's counsel requested State Farm update its privilege log and produce documents Plaintiff's counsel claimed were improperly withheld.

2. Timeliness

State Farm argues this motion is untimely because notice of this motion was provided after the discovery cut-off date. Plaintiff asserts this motion is timely because CCP section 2031.320 does not fix a time limit on the motion.

Except as otherwise provided in this chapter, any party shall be entitled as a matter of right to complete discovery proceedings on or before the 30th day, and to have motions concerning discovery heard on or before the 15th day, before the date initially set for the trial of the action. (CCP 2024.020(a).) Except as provided in Section 2024.050, a continuance or postponement of the trial date does not operate to reopen discovery proceedings. (CCP section 2024.020(b).)

Trial in this case was initially set for March 27, 2026. Therefore, all discovery motions should have been filed and served by February 25, 2026, and heard by March 12, 2026. Plaintiff's motion was filed after the discovery cut-off date and is being heard after the initial trial date making it untimely.

Plaintiff argues that there is no time limit on a motion to compel compliance. The case cited, *Standon Co. v. Superior Court* (1990) 225 Cal.App.3d 898, dealt with the time for filing the motion. A motion to compel compliance is not subject to the same time limit to file a motion to compel a further response. *Standon Co.* did not address the discovery cut-off date.

3. Motion to reopen discovery – CCP section 2024.050

A trial court has discretion to hear a discovery motion after the discovery motion cutoff date, but the exercise of that discretion is governed by section 2024.050, which requires the court to consider various factors in determining whether to hear a discovery motion after the cutoff date. (*Pelton-Shepherd Industries, Inc. v. Delta Packaging Products, Inc.* (2008) 165 Cal.App.4th 1568, 1571.) CCP section 2024.050 requires the party seeking to reopen discovery to file a motion, which must be accompanied by a meet and confer declaration.

The parties did not agree to reopen discovery, and this motion was not brought pursuant to CCP section 2024.050. In reply, Plaintiff requests this court grant leave to have the motion concerning discovery heard closer to the initial trial date. New arguments and authority in reply are not proper.

Plaintiff knew by May 15, 2025, that State Farm had not complied with its agreement to produce the privilege log. (See CCP section 2024.050(b)(2) [The court must consider the diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion.]) This motion should have been filed soon thereafter—not 10 months later.

4. Conclusion and Order

The motion is DENIED as untimely.

State Farm'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.

2. 24CV04975, Looney v. Amerigo, LLC.

Defendants Amerigo, LLC dba Kirway Express and Joseph Ismael ("Defendants") filed a motion for reconsideration of this court's order on Defendants' motion to set aside the default judgment entered against them in this case. The motion is made on the grounds that Defendants were not properly served with summons and complaint.

1. Procedural History

Default judgment was entered in this case on December 10, 2024. On January 28, 2025, Defendants filed a Motion to Set Aside the Default Judgment. The hearing on that motion was set for April 30, 2025. On that date, this court continued the matter because defendant Amerigo, LLC, was unrepresented. Defendant Ismael had filed the motion in pro per on behalf of himself and the LLC; however, defendant Ismael is not an attorney and may not represent an LLC. As a result, the hearing was continued to August 20, 2025.

On August 20, 2025, this court denied the Motion to Set Aside the Default Judgment as proof of service of the Motion on Plaintiff Gary E. Looney had not been filed and no additional documents had been filed substituting in an attorney to represent Amerigo, LLC.

On October 20, 2025, defendant Joseph Ismael filed this Motion for Reconsideration of the August 20, 2025, order on behalf of himself and defendant Amerigo, LLC. The hearing was set for

February 25, 2026. On that date, the court continued the hearing to allow defendant Amerigo, LLC, to obtain counsel and to file proof of service of this motion on Plaintiff.

Defendants are now both represented by Michael Danner. Douglas Provencher has substituted in as counsel for Plaintiff.

2. Motion to Reconsider Motion to Set Aside

As noted above, this motion was continued to this calendar for two reasons. The first was to allow Amerigo, LLC to obtain counsel, which it has done. The second was to file proof of service of the motion on the Plaintiff. As of the time the court reviewed this matter, proof of service had not been filed. Regardless, in reviewing the motion itself, Defendants have only provided argument—none of which complies with the requirements of Civil Code of Procedure section 1008, as Defendants do not present any new or different facts, circumstances, or law. In addition, Defendants have not provided evidence supporting their position.

3. Conclusion and Order

The motion is DENIED.

Due to the lack of opposition, the court's minute order shall constitute the order of the court.

3. 24CV07661, Clark v. Singh

This matter is on calendar for the motion of Plaintiff Gregory M. Clark ("Plaintiff") to (1) deem Plaintiff's first set of Requests for Admissions ("RFA"), served on Defendants Harjit Singh and RJ 13, Inc. ("Defendants") admitted or, in the alternative, to require Defendants to provide a response; and, (2) to require Defendants provide a response to Plaintiff's Form Interrogatories, Set One. Plaintiff requests sanctions in the amount of $2,600.

1. Original Motion, Continuance, and additional requests

This motion was initially heard on February 25, 2026. The court continued the matter to this calendar to allow Plaintiff to provide crucial missing evidence supporting the motion. Unbeknownst to the court, Defendants filed an untimely opposition to the motion on February 23, 2026, indicating discovery had been served. Defendants state verified responses to the Requests for Admission and Form Interrogatories were served on February 20, 2026. (Miller decl., ¶7.)

Despite receiving responses to Plaintiff's RFA, Set One, and Form Interrogatories, Set One, on June 9, 2026, Plaintiff filed a document titled Notice of Motion and Motion to Compel Discovery and for Monetary Sanctions against Defendants containing a hearing date for this calendar. The Notice of Motion indicates Plaintiff's request relates to RFA, Set One, and Plaintiff's first set of form interrogatories. However, it also includes RFA, Set Two, and RFA, Set Three.

Plaintiff acknowledges receipt of responses to form interrogatories; although he states they are "incomplete" apparently because they contain objections. (Clark decl., ¶25.) Plaintiff states he received responses to his RFA, Set One, and RFA, Set Two. (*Ibid*.) Plaintiff's counsel states no response has been received to RFA, Set Three. However, RFA, Set Three, was not part of the original motion on calendar. Therefore, this court will not address that issue.

2. Sanctions

Plaintiff requests sanctions for having to bring the motion. The original motion sought fees in the amount of $2,600. Plaintiff's counsel states his regular hourly rate is $650. Despite that it was Plaintiff's counsel's failure to provide sufficient evidentiary support which caused this motion to be continued, Plaintiff requests an additional $1,300 for the supplemental filing, for a total of $3,900. Review of the motion does not support the amount requested.

In opposition, Defendants' counsel states the failure to serve timely responses was due to counsel's inability to maintain consistent communication with Defendants. (Miller decl., ¶4.) This

vague statement is insufficient. No facts support finding Defendants' inability to communicate was justifiable.

Sanctions are awarded in the amount of $900.

3. Conclusion and Order

Plaintiff's motion requesting responses to his first set of form interrogatories and RFAs is moot. Sanctions are granted in the amount of $900.

Plaintiff's second motion pertaining to his RFA, Set Two, is also moot. With respect to the outstanding issue of Plaintiff's RFA, Set Three, this court did not grant Plaintiff leave to add additional discovery issues to the initial motion. As such, the issue has not been properly noticed. The hearing on this calendar was only to address the first set of RFAs and form interrogatories. In addition, Plaintiff's subsequent Notice of Motion is confusing as it incorporates the prior issues as well as new issues, which may have been overlooked by Defendants. Therefore, as to Plaintiff's request pertaining to his third set of RFA, the motion is denied without prejudice. If necessary, Plaintiff may re-file the motion confining the issue to that set of RFAs. Plaintiff should also note that omnibus discovery motions are not supported by the Discovery Act.

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.

4. 24CV07820, Pfendler v. City of Petaluma

Defendants City of Petaluma ("City"), Larry Modell ("Modell"), and Matt Maguire ("Maguire")(together "Defendants") demur to the Verified Second Amended Complaint ("SAC") filed by Plaintiffs Nicholas Pfendler, Donald McKinney, James Heppelmann, Mary Hable, Richard Tavernetti, and Randal Smith ("Plaintiffs") on the grounds of failure to state facts sufficient to constitute a cause of action; uncertainty; standing; as a result of the City's abutter, necessity, and/or Danielson rights; and as being barred by governmental immunities.

1. SAC

Plaintiffs' SAC alleges that they own land next to or in the vicinity of a parcel of real property owned and controlled by defendant City. The City's property is commonly referred to as the "Lafferty Ranch." Plaintiffs allege that on February 20, 2024, the City obtained Encroachment Permit No. ENC23-0369 ("the Encroachment Permit") from Sonoma County by making material misstatements and/or omissions concerning the existence and/or location of a driveway and the extent of any right-of-way, and thereafter engaged in conduct that interfered with Plaintiffs' property rights. (SAC, ¶¶14-15.) Plaintiffs administratively appealed the issuance of the February 20, 2024, permit, but the administrative appeal was denied on March 11, 2024. (SAC, ¶16.) On March 15, 2024, Plaintiffs submitted a claim to the City alleging nuisance conditions affecting Plaintiffs' properties, including trespass and/or encouragement of trespass, destruction and disturbance of survey monuments, disrupting surrounding environmental habitat, increasing fire risk, and other damages that have occurred and will allegedly continue to occur unless enjoined. (SAC, ¶¶17-21.)

Plaintiffs allege the Encroachment Permit materials describe limited authorized work in the County Road right-of-way, including adding rock from the shoulder/backing of Sonoma Mountain Road toward an existing gate for year-round accessibility. (SAC, ¶28.) Plaintiffs allege that City authorized, coordinated, and/or ratified programs and have been conducting docent-led hiking programs which have caused people to trespass over Plaintiffs' land and that these programs go beyond what is allowed by the Encroachment Permit and the City's April 22, 2021, Notice of Exemption for a project titled "Lafferty Ranch Park: Docent Led Hikes." (SAC, ¶¶30-35, 39-46.)

Plaintiffs also allege the City's construction activities have not complied with the Encroachment Permit. (SAC, ¶¶36-38.) Plaintiffs allege damages, including, to the quiet use and enjoyment of their adjacent properties; damage to environmental conditions; interference with natural drainage patterns; and, interference with Plaintiffs' ability to manage their defensible space for wildfires. (SAC, ¶¶47-52.)

Plaintiffs also allege that individual defendants Modell and Maguire personally participated in, organized, directed, encouraged, assisted, or facilitated access-related conduct and incursions affecting Plaintiffs' Properties. (SAC ¶¶ 4–7, 33–35, 116–121.)

Plaintiffs allege causes of action for: (1) Public Nuisance; (2) Private Nuisance; (3) Negligence; (4) Intentional Interference with Prospective Economic Advantage; (5) Trespass; (6) Intentional Infliction of Emotional Distress; (7) Quiet Title; (8) Declaratory Relief; (9) Inverse Condemnation; and (10) Dangerous Condition of Public Property.

2. New Causes of Action

Defendants' demurrer to the Plaintiffs' first amended complaint ("FAC") was sustained as to all causes of action against the City, and as to all but the trespass cause of action against defendants Modell and Maguire. Plaintiffs were given leave to amend the allegations in that complaint. Plaintiffs' SAC contains three new causes of action not alleged in the FAC.

Following an order sustaining a demurrer or a motion for judgment on the pleadings with leave to amend, the plaintiff may amend his or her complaint only as authorized by the court's order. (*Harris v. Wachovia Mortgage, FSB* (2010) 185 Cal.App.4th 1018, 1023.) The plaintiff may not amend the complaint to add a new cause of action without having obtained permission to do so, unless the new cause of action is within the scope of the order granting leave to amend. (*Ibid*.)

Here, the new causes of action are for Quiet Title, Inverse Condemnation, and Dangerous Condition of Public Property. Plaintiffs' quiet title cause of action seeks to quiet title to the City's public roadway easement and any right the public may have to access the Lafferty Ranch. Plaintiffs' causes of action for inverse condemnation and for dangerous condition of public property arises out of the same trespass and expansion of the City's activities from its own property onto Plaintiffs. While this court did not approve additional causes of action, these are based upon the same set of facts and circumstances such that this court finds they are within the scope of leave granted by this court's ruling on Defendants' prior demurrer. However, these causes of action fail for other reasons.

3. Causes of Action outside of Plaintiff's Government Claim

Defendants argue that the allegations go beyond the scope of the claim presented to the City. The factual circumstances set forth in the written claim must correspond with the facts alleged in the complaint; even if the claim were timely, the complaint is vulnerable to a demurrer if it alleges a factual basis for recovery which is not fairly reflected in the written claim. (*Nelson v. State of California*, *supra,* 139 Cal.App.3d at p. 79.)

The Claim presented to the City states: "Appeal of Encroachment Permit No. ENC23-0369, applied for by the City of Petaluma, was denied by Permit Sonoma on March 11, 2024. [¶] Claimants are aggrieved by the approval of the Encroachment Permit because its proposed project exceeds the public right of way (if such even exists at the site), inaccurately states that Lafferty Ranch has a driveway at the site, would place improvements on Claimants' private property, and will destroy both recent and historic survey monuments. Public officials and agents have encouraged and facilitated ongoing trespass and action constituting public and private nuisance, such as fire risk, disruption of environmental habitat and other actions." (*Ibid*.)

It also states: "The Encroachment Permit requests that the applicant (City of Petaluma) be allowed to '[a]dd rock, from shoulder backing of Sonoma Mountain Rd to existing gate" and its approval is expressly conditioned upon the work staying "entirely within the public R[ight] O[f] W[ay].' Claimants contend that Sonoma Mountain Road at Postmile 13.01 is not actually a county-

maintained road and that no public right of way exists there. The Encroachment Permit would place improvements on Claimants' private property, destroy both recent and historic survey monuments, create risk for slides, fire, and trespassing as well as putting Claimants at risk for potential liability, denial of insurance, increased operating expenses, emotional distress, and breach of quiet enjoyment." (*Ibid*.)

a. Public and Private Nuisance, Intentional Interference with Prospective Economic Advantage and IIED

Defendant argue that Plaintiffs' claims for nuisance in the SAC are based upon alleged failure to erect signage and restrict the number of visitors to Lafferty Ranch in accordance with an Exemption Permit dated April 21, 2021 ("2021 Permit") which is not the Encroachment Permit dated February 20, 2024, that is the subject of the Claim.

Plaintiffs' first cause of action for public nuisance alleges, in part, that "The City's encroachment permit issued on February 20, 2024, authorizes the physical installation of rocks and uses a street improvement plan for road work created in 2014, but it does not refer to the restrictions in the April 22, 2021, Exemption Permit, and these conditions are being openly violated, creating a nuisance." (SAC, ¶ 65.) The gist of this cause of action appears to be Plaintiffs' loss of privacy and quiet enjoyment of their residences due to the numbers of visitors at Lafferty Ranch, many of which are alleged to trespass on Plaintiffs' properties. (SAC, ¶ 73.)

Plaintiffs' second cause of action for private nuisance alleges that the City has created conditions that have promoted and facilitates increased public access without taking measures to prevent the public from trespassing onto Plaintiffs' properties, creating a nuisance. (See SAC, ¶ ¶ 79-88.)

As noted above, the Claim states: "Public officials and agents have encouraged and facilitated ongoing trespass and action constituting public and private nuisance, such as fire risk, disruption of environmental habitat and other actions."

Plaintiffs' other causes of action are also based upon the City's alleged facilitation of ongoing trespass and damage to Plaintiff's property, which are identifiable in the Claim.

4. Standing to Contest Ownership of Driveway

Under this heading, Defendants argue Plaintiffs' SAC continues to allege Defendants have infringed, trespassed, and encouraged the public to trespass onto Plaintiffs' properties without the necessary specificity. Defendants argue that Plaintiffs fail to allege the dates of trespasses, the "agents," employees, or persons who allegedly trespassed or where specifically the trespasses occurred. Defendants argue that despite removing explicit references to the driveway to Lafferty, Plaintiffs' true grievance continues to be the driveway providing access to Lafferty but that Plaintiffs lack standing to quiet title to the driveway.

Statutory causes of action against a government entity must be alleged with specificity. (*Brenner v. City of El Cajon* (2003) 113 Cal.App.4th 434, 439.) Here, the allegations continue to remain vague. Despite the City establishing as part of the prior demurrer that it is entitled to access Lafferty Ranch over the driveway, Plaintiffs again merely argue the contrary. In addition, no specific facts are provided that Plaintiffs actually own land that is being trespassed upon or that property they own was physically damaged. The SAC remains devoid of any such showing. It only states Plaintiffs own property located at 550 and 750 Sonoma Mountain Road, Penngrove, CA, and other properties in the area. (SAC, ¶1.) Lafferty Ranch appears to be accessed at 2061 Sonoma Mountain Road, Petaluma, CA. (SAC, Exhibit G.) The relationship between the Plaintiffs' properties and Lafferty Ranch remains unclear.

Plaintiffs' cause of action for quiet title appears to make the argument that historical documentation relied upon by the City does not establish any public dedication of the land and the

roadway providing the public with access to Lafferty Ranch, and access over Plaintiffs' properties. Ultimately, Plaintiffs' quiet title cause of action seeks a declaration that Plaintiffs are the owners in fee simple of the Plaintiffs' Properties, which is free and clear of any estate, right, title, lien, or interest of Defendants that is adverse to or inconsistent with Plaintiffs title, including, without limitation, any claimed: (i) public roadway easement or right-of-way; (ii) public easement or dedication by implication, prescription, or otherwise; (iii) abutter's rights claimed by the City or the public; and (iv) easement by necessity or similar access right. However, it is not clear from the SAC which land is in dispute or the basis of Plaintiffs' assertion that the public is travelling over Plaintiffs' property to access Lafferty Ranch and that such right does not exist. Plaintiffs may not merely make a vague allegations against a public entity and then assert the public entity must prove otherwise.

5. Claim for Inverse Condemnation

Defendants argue Plaintiffs' ninth cause of action fails because the SAC does not plead facts showing that the City took or damaged Plaintiffs' property for public use within the meaning of Article I, Section 19, of the California Constitution.

Article I, section 19, of the California Constitution (section 19) provides: "Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation."

The "just compensation" clause is concerned, most directly, with the state's exercise of its traditional eminent domain power, guaranteeing that when the state proposes to take private property for public use, the owner of the property promptly will receive just compensation. (*Customer Co. v. City of Sacramento* (1995) 10 Cal.4th 368, 377.)

Section 19 was not intended, and never has been interpreted, to impose a constitutional obligation upon the government to pay "just compensation" whenever a governmental employee commits an act that causes loss of private property. (*Id.,* at p. 378.) Rather, the "just compensation" provision simply was designed to expand the circumstances in which a private property owner may recover when the state takes property for a public use, or when the state's construction of a public work causes damage to adjacent or nearby property owners. (*Ibid*.) Neither the "taken" nor the "or damaged" language ever has been extended to apply outside the realm of eminent domain or public works to impose a Constitution-based liability, unamenable to legislative regulation, for property damage incidentally caused by the actions of public employees in the pursuit of their public duties. (*Ibid*.) On the contrary, such property damage, like any personal injury caused by the same type of public employee activity, has—throughout the entire history of section 19—been recoverable, if at all, under general tort principles, principles that always have been understood to be subject to the control and regulation of the Legislature. (*Ibid*.) The Just Compensation Clause is the requirement that government must pay for property it seizes through an exercise of eminent domain. (*Ibid*.)

Plaintiffs' complaint does not allege a taking supporting a cause of action for inverse condemnation.

6. Immunity

With respect to Plaintiffs' first through seventh causes of action, Defendants argue they have sovereign immunity and did not owe Plaintiffs a duty.

Plaintiffs' third cause of action for negligence, fourth cause of action for intentional interference with prospective economic advantage, fifth cause of action for trespass, sixth cause of action for intentional infliction of emotional distress, and eighth cause of action for declaratory relief purport to be brought under Government Code section 815.2.

Under Government Code section 815, all government tort liability must be based on statute. Government Code section 815 provides in part: "Except as otherwise provided by statute: [¶] (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person." The liability statute upon which Plaintiffs rely is largely Government Code section 815.2, which provides:

> (a) A public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee or his personal representative.
> (b) Except as otherwise provided by statute, a public entity is not liable for an injury resulting from an act or omission of an employee of the public entity where the employee is immune from liability.

Plaintiffs negligence cause of action is based upon alleged trespasses by the public—not by any City employee. (See SAC ¶¶ 93-96, 98(a), (b),(f),(g),(h).) Plaintiffs have not explained the basis to hold Modell or Maguire liable for the trespass of third parties in order to allege vicarious liability. In addition, the SAC shows Modell and Maguire are not City employees. The SAC alleges Modell and Maguire are affiliated with the organizations LandPaths and/or Friends of Lafferty Park. (SAC, ¶ 33.)

This cause of action are also based upon Defendants' alleged work exceeding the scope of the Encroachment Permit. (See SAC, ¶¶97, 98(c),(d).) Statutory causes of action against a government entity must be alleged with specificity. (*Brenner v. City of El Cajon*, *supra,* 113 Cal.App.4th at p. 439.)

Plaintiffs' cause of action for negligence vaguely alleges that the City's work performed under the Encroachment Permit was somehow outside of what was allowed; e.g. the City failed to "ensure that any work and activities undertaken under ENC23-0369 remained within the public road right-of-way and within the scope and limitations described in the permit materials and notes." (SAC, ¶98(c).) However, nothing is said about what actual actions were taken based upon the Encroachment Permit that were outside of what was allowed pursuant to that permit or how that impacted Plaintiffs' properties.

Plaintiffs' fourth cause of action for intentional interference with prospective economic advantage alleges: "Defendants failed to implement reasonable routing, boundary identification, warnings, signage/barriers, supervision, or enforcement, and knew or should have known this conduct would foreseeably result in repeated off-route incursions and trespass onto neighboring private parcels, including Plaintiffs' Properties." (SAC, ¶ 106.) Plaintiffs allege additional allegations at paragraph 108, including procuring the Encroachment Permit through misstatements and/or admissions, exceeding the scope of the applicable right of way; authorizing, encouraging, facilitating, or ratifying repeated trespass onto Plaintiffs' property as a result of the City's docent-led hikes. Plaintiffs' fifth, sixth, and eighth causes of action are similarly based upon alleged trespass by the public.

With respect to the negligence cause of action, Plaintiffs do not identify any affirmative duty required of an employee of the City that would give rise to vicarious liability.

With respect to Plaintiffs' interference cause of action, there are no facts supporting the allegations that the alleged trespass onto Plaintiffs' properties were actions taken within the scope of employment of any individual. Tort claims based upon Gov. Code section 815.2 must be based upon actions of an individual within the scope of the employee's employment. Here, Plaintiffs'

allegations are based upon the alleged failure to act based upon some duty—which is a negligence standard. Plaintiffs' cause of action for interference must allege some affirmative interference by a City employee acting within the scope of employment. The other allegations, such as exceeding the scope of the Encroachment Easement, are insufficiently vague to allege a statute-based cause of action.

With respect to the trespass cause of action, Plaintiffs allege Modell and Maguire intentionally entered onto, traveled across, and/or remained on portions of Plaintiffs' properties without permission, and/or intentionally directed, led, encouraged, or assisted others in group travel that resulted in entry onto Plaintiffs' land. (SAC, ¶ 116.)

In their opposition to Defendants' demurrer to the FAC, Plaintiffs acknowledged that neither Modell nor Maguire are City employees. "Here, Plaintiffs argue that they are *not* suing defendants Modell and Maguire as employees of the City: "the City argues Plaintiffs failed to allege Modell and Maguire are City employees. They are not. Plaintiffs sued them in their individual capacities for personally trespassing on Plaintiffs' land." (Oppo., 3:2-4; See also FAC, ¶14.)" (RJN, Exhibit K, p. 4.) In addition, as stated above, the SAC alleges Modell and Maguire are affiliated with the organizations LandPaths and/or Friends of Lafferty Park. (SAC, ¶ 33.)

The term "employee" as used in Government Code section 815.2 is defined in Government Code section 810.2: " 'Employee' includes an officer, judicial officer as defined in Section 327 of the Elections Code, employee, or servant, whether or not compensated, but does not include an independent contractor." (*Munoz v. City of Palmdale* (1999) 75 Cal.App.4th 367, 369–370.) Government Code section 810.2 does not include unpaid volunteers at public agencies and private, nonprofit organizations. (*Id.,* at p. 372.)

Plaintiffs' sixth cause of action for intentional infliction of emotional distress likewise fails to allege any intentional conduct by a City employee or servant.

Plaintiffs' eighth cause of action for declaratory relief is based upon the above failed allegations.

7. Dangerous Condition of Public Property

Plaintiffs' allegations do not allege any dangerous condition of public property. Rather the allegations appear to allege that members of the public created dangerous conditions on Plaintiffs' private property. Alternatively, Plaintiffs may be alleging that the risk of trespassers due to Defendants' failure to prevent trespassers or the risk of wildfire based upon public use of land, is a dangerous condition. However, these proposed theories do not identify a statutory basis for liability nor a City employee or servant.

In addition, the SAC is vague as to which of Plaintiffs' properties are allegedly being trespassed upon. The SAC alleges Plaintiffs own property near and around Lafferty Ranch. It appears some of Plaintiffs' properties are merely within "the immediate vicinity" of Lafferty Ranch (SAC, ¶ 1) such that the true gist of Plaintiffs' complaint is the increased presence of members of the public in the general area.

8. City's right to access its property

In opposition, Plaintiffs argue that the City does not establish its right to access its property or to allow the public to access its property. However, there are no viable causes of action based upon such allegations that the City either does not own Lafferty Ranch or does not have the right to access it. This issue was previously addressed by this court by judicially noticed documents establishing the City's right to use and maintain the entrance and exit to Lafferty Ranch from Sonoma Mountain Road. (RJN, Ex. K., pg. 5.)

9. Encroachment Permit

Plaintiffs also argue that this action arose from the Encroachment Permit, which allowed the City to add gravel to its driveway. Plaintiffs appear to argue that the Encroachment Permit does not reference the City's right to use of the driveway. Plaintiffs provide no authority that this is somehow required. Nor, again, does the SAC state a viable claim to dispute that the City owns rights to Lafferty Ranch and access to it.

10. Increased use of Lafferty Ranch

Plaintiffs argue that even if the City does have access rights to Lafferty Ranch, "Plaintiffs' claims remain viable if the City exceeded the scope of that right by installing improvements, expanding public recreational use, facilitating group hikes, altering land, creating wildfire and insurance risks, clouding title, or burdening Plaintiffs' Properties beyond any lawful access right." (Oppo., 5:10-13.) Plaintiffs' argument appears to be that the City may not develop Lafferty Ranch in a way that increases public use of it. Plaintiffs fail to identify which cause of action would support this argument.

11. Conclusion and Order

Plaintiffs appear to argue that because the City applied for the Encroachment Permit to add gravel to their road, Plaintiffs may now question whether the City has a right to access its property. However, Plaintiffs do not allege any facts which would support an allegation of a lack of right to access Lafferty Ranch. Rather, they attempt to turn the tables on the City and argue the City must now prove it owns an easement over the public access road in order to add gravel to it and allow members of the public to continue to travel over it. Plaintiffs' attempt to hinder public access to Lafferty Ranch based upon conduct by City employees fails. Plaintiffs have not alleged any viable cause of action against the City or its employees. In addition, Plaintiffs have not shown how they could possibly amend the SAC to allege a valid cause of action. The allegations in the SAC remain unacceptably vague. Even in opposition, Plaintiffs vaguely argue that the City has accessed Plaintiffs' properties. Despite being Plaintiffs' second amended complaint, they have not alleged which of their properties has been damaged by improvements or activity by a City employee; thus, it seems Plaintiffs are unable to justifiably assert these allegations. Accordingly, the demurrer is SUSTAINED without leave to amend.

The City'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. 25CV02904, Wolff v. Hopen

I. Demurrer

This matter is on calendar for the demurrer of Defendant John W. Hopen ("Defendant" or "Hopen") to the First Amended Complaint ("FAC") filed by Plaintiff Nicole Wolff ("Plaintiff"). Defendant demurs to Plaintiff's first cause of action for Quantum Meruit on the grounds it is barred by the two-year statute of limitations, for failure to state facts sufficient to constitute a cause of action, and as valid and enforceable agreements existed between the parties; to Plaintiff's second cause of action for Forced Labor on the grounds that Plaintiff lacks standing; to Plaintiff's third cause of action for Fraud on the grounds of failure to allege sufficient facts to constitute a cause of action, lack of standing, and failure to plead with specificity.

1. FAC

The FAC alleges that for five and a half years, from January 2017 through May 31, 2022, Nishlon Watson ("Watson") provided seventeen hours of services per day, six days a week, at the request of Defendant, who only compensated her with $500 per week. It alleges Watson was recruited to work as a live-in part-time Estate Manager and then coerced into working more than

had been agreed upon by using Watson's fear of becoming homeless against her. Plaintiff alleges that when Watson finally left in May of 2022, after Defendant informed Plaintiff her services were no longer needed, Defendant threatened Watson with fabricated criminal prosecution to induce her to sign a settlement agreement and coerced her into believing she had no other options.

2. CCP section 430.60

In opposition, Plaintiff argues Defendant's demurrer should be discarded pursuant to CCP section 430.60, which provides: "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."

As noted above, Defendant's demurrer specifies the grounds upon which it is made.

3. Contractual Rights – Settlement Agreement - Rescission

Plaintiff's contract with Watson assigns Watson's rights against the Defendant to Plaintiff. Defendant argues Watson already settled her claims with Defendant such as there was nothing left to assign.

Watson and Defendant's settlement agreement ("Settlement Agreement") is attached to the FAC as Exhibit G-2. Watson and Defendant signed the Settlement Agreement on May 4, 2022. The terms provide that Defendant would pay Watson $22,000 to settle "all of Watson's claims against Hopen." (Agreement, ¶D.)

Paragraph 6 states: "**Complete General Release.** In consideration for the promises set forth in this Agreement, Watson does hereby — for herself and for her heirs, representatives, attorneys, executors, administrators, successors, and assigns — release, acquit, remise, and forever discharge Hopen, Love Conquered Records and Wild Turkey Records, LLC and each of their respective current and/or former owners, shareholders, members, officers, employees, independent contractors, representatives, and attorneys, past or present, and all persons acting under, by, through, or in concert with any of them (collectively, the "Releasees"), from any and all actions, causes of action, obligations, costs, expenses, damages, losses, claims, liabilities, suits, debts, demands, and benefits (including attorneys' fees and costs), of whatever character, in law or in equity, known or unknown, suspected or unsuspected, matured or unmatured, of any kind or nature whatsoever, now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time to the date of execution hereof, including but not limited to any claims or causes of action arising out of or in any way relating to Watson's provision of services at the Hopen Property, occupancy of the Hopen Property, or which she might otherwise seek to raise against Hopen."

Watson's assignment to Plaintiff is dated and made effective February 3, 2025. (FAC, Exhibit E.) Assuming no breach of the contract; i.e., that Defendant paid Watson, Watson already settled with Defendant such that she had nothing left to assign.

In opposition, Plaintiff argues a determination on the above issue is an evidentiary matter that cannot be made on a demurrer. However, Plaintiff has attached the Settlement Agreement to the FAC. On a demurrer, the court accepts the truth of material facts properly pleaded in the operative complaint, but not contentions, deductions, or conclusions of fact or law. (*Nealy v. County of Orange* (2020) 54 Cal.App.5th 594, 596.) The court may also look to exhibits attached to the complaint for operative facts. (*Id*., at p. 596-597.) And because the "allegations that we accept as true necessarily include the contents of any exhibits attached to the complaint, ... in the event of a conflict between the pleading and an exhibit, the facts contained in the exhibit take precedence over and supersede any inconsistent or contrary allegations in the pleading." (*Id.,* at p. 597.)

Plaintiff also acknowledges the Settlement Agreement was entered into between Watson and Defendant but alleges that Watson was forcibly induced to settle her claims under the threat of criminal prosecution.

While rescission of a contract is allowable under Civil Code section 1689 based upon duress, menace, fraud, or undue influence, recovery here first requires Watson to rescind the Settlement Agreement. Plaintiff cannot do that on Watson's behalf as nothing was assigned to Plaintiff as all disputes between Watson and Defendant were settled and *Watson* has not rescinded the Settlement Agreement. Civil Code section 1689 requires a "party to the contract" to rescind the agreement. Therefore, Plaintiff's argument that Watson was fraudulently induced into accepting settlement need not be decided.

4. Additional Arguments

As the above issue disposes of Plaintiff's right to bring this suit, the court need not address the remainder of the issues.

5. Conclusion and Order

Based upon the foregoing, **the demurrer is SUSTAINED with leave to amend to add Watson as a party. Otherwise, the demurrer is SUSTAINED without leave to amend.**

Defendant 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.

II. Request to Deem Admissions Admitted

Plaintiff Nicole Wolff ("Plaintiff") moves pursuant to CCP sections 2023.010 et seq., and 2033.280 that the truth of the matters, and the genuineness of all specified documents, in her Request for Admissions, Set A-1 ("RFAs"), served on Defendant John W. Hopen ("Defendant") on February 2, 2026, be deemed admitted. Plaintiff requests sanctions in the amount of $675 against Defendant and his attorney of record.

Based upon the ruling on the demurrer, this **issue is MOOT.**