

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, January 29, 2025 3:00 p.m.
Courtroom 19 –Hon. Oscar A. Pardo
3055 Cleveland Avenue, Santa Rosa**

The 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, **YOU MUST NOTIFY** the Judge’s Judicial Assistant by telephone at **(707) 521-6602**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via Zoom**, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

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

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1. 23CV00465, Aswad Properties, LLC v. Golden State Palms, Inc.

Plaintiffs Aswad Properties, LLC, New Coip Five, LLC, Pensco Trust Company, LLC, Custodian FBO Albert J DeMartini, Jr., Mark Grassi, Jami Grassi, Huh E Westermeyer and Nancy E. Westermeyer, as Co-Trustees of the Westermeyer Living trust U/A Dated April 13, 2011, Kevin J Van Voorhis Solo 401k Plan Trust #2, Robert Waal, Sharon Waal, John L. Regan; Esta Loraine Regan, Curd D. Scheve and Cathy D. Scheve (all together “Plaintiffs”) filed the complaint (the “Complaint”) against defendants Golden State Palms, Inc. (“Golden State”), S.B.S. Trust Deed Network (“SBS”), Antony P. Thekkekk and Prema P. Thekkekk, as Trustees of the Antony P. Thekkekk and Prema P. Thekkekk Revocable Living Trust Dated August 7, 2014; and DOES 1 through 50, inclusive. (the “Thekkeks”, with SBS and Golden State, “Defendants”) and Does 1-50 for causes of action arising out a controversy around 7025 Corline Court, Sebastopol, California (the “Property”). The Complaint contains causes of action for quiet title, cancellation of instruments, declaratory relief and injunctive relief.

This matter is on calendar for Golden State’s motion to compel appearance and production of documents under subpoenas served upon non-party Alexander Yuz (“Deponent”) under California Code of Civil Procedure (“CCP”) §§ 2025.480, 1987.2 and 2023.030. The Motion is **GRANTED**.

I. Evidentiary Issues

Both Deponent and Golden State have filed objections to evidence. All the objections are OVERRULED.

Deponent asserts 21 objections on hearsay grounds. Deponent misapprehends the hearsay rule. The Form Interrogatory responses are admissible for the purpose of showing what was said, and not the underlying truth of the matter asserted.

Golden State's objections are equally unmeritorious. The assertion of hearsay objections appears ill targeted as each of the statements are relevant for their effect on the listener (here, Ronald Mayer). The foundation of these statements appears adequately laid.

II. Governing Law

Parties have a right to serve deposition notices to nonparties, for both appearance at deposition and production of records. CCP § 2020.510. CCP § 2025.450 states that if a party fails to attend a deposition and produce documents without serving valid objections, the party seeking the deposition may request a court order compelling attendance. This applies where a party, "without having served a valid objection under subdivision (g), fails to appear for examination, or to proceed with it, or to produce... any document or tangible thing described in the deposition notice...." *Id.* The party moving to compel deposition attendance need only inquire as to what happened, not attempt to meet and confer. CCP §2025.450. CCP § 2025.450 expressly apply to motions to compel attendance where the party fails to appear "without having served a valid objection." An objection to defects or errors in a deposition notice must be served at least 3 days before the deposition date. CCP § 2025.410(a), (b). If a party serves a timely objection, no deposition shall be used against the objecting party if that party does not attend the deposition and the objection was valid. CCP § 2025.410(b). If a nonparty disobeys a deposition subpoena, the subpoenaing party may seek a court order compelling the nonparty to comply with the subpoena within 60 days after completion of the deposition record. (CCP §2025.480(b).) The objections or other responses to a business records subpoena are the "deposition record" for purposes of measuring the 60-day period for a motion to compel. *Unzipped Apparel, LLC v. Bader* (2007)156 Cal.App.4th 123, at 132-133; *Rutledge v. Hewlett-Packard Co.* (2015) 238 Cal.App.4th 1164, 1192. A nonparty opposing such motion without substantial justification may be subject to sanctions per CCP §§1987.2(a), 2020.030, 2025.480; see *Person v. Farmers Ins. Group of Cos.* (1997) 52 Cal.App.4th 813, 818.

"California law provides parties with expansive discovery rights." *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co.* (2004) 116 Cal.App.4th 694, 712, fn. 8. "For discovery purposes, information is relevant if it 'might reasonably assist a party in evaluating the case, preparing for trial, or facilitating

settlement...” See *Lopez, supra*, 246 Cal.App.4th at 590-591, citing *Garamendi, supra*, 116 Cal.App.4th at 712, fn. 8. “Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence.” *Ibid.* “These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases.” *Ibid.* The scope of discovery is one of reason, logic and common sense. *Lipton v. Superior Court* (1996) 48 Cal.App.4th 1599, 1612. The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540.

Compelling need is not always the test to apply in determining whether discovery is permissible, as “Courts must instead place the burden on the party asserting a privacy interest to establish its extent and the seriousness of the prospective invasion, and against that showing must weigh the countervailing interests the opposing party identifies”. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 557. Good cause should be shown on requests for production from non-parties as well as parties. *Calcor Space Facility, Inc. v. Superior Court* (1997) 53 Cal.App.4th 216, 223–224 (“*Calcor Space Facility*”). Good cause can be met through showing specific facts of the case and the relevance of the requested information. *Associated Brewers Distributing Co. v. Superior Court of Los Angeles County* (1967) 65 Cal.2d 583, 586–587. “(T)he good cause which must be shown should be such that will satisfy an impartial tribunal that the request may be granted without abuse of the inherent rights of the adversary. There is no requirement, or necessity, for a further showing.” *Greyhound Corp. v. Superior Court In and For Merced County* (1961) 56 Cal.2d 355, 388. As the right to discovery is liberally construed, so too is good cause. *Id.* at 377-378. “(A) party seeking to compel production of records from a nonparty must articulate specific facts justifying the discovery sought; it may not rely on mere generalities. (citation). In assessing the party's proffered justification, courts must keep in mind the more limited scope of discovery available from nonparties.” *Board of Registered Nursing v. Superior Court of Orange County* (2021) 59 Cal.App.5th 1011, 1039; citing *Calcor Space Facility* at 567; see also *Catholic Mutual Relief Society v. Superior Court* (2007) 42 Cal.4th 358, 366.

CCP § 2025.480(j) (relating to motions to compel deposition) provides that a monetary sanction “shall” be imposed against the party losing a motion to compel further responses unless the court finds “substantial justification” for that party’s position or other circumstances making sanctions “unjust.” For the court to order sanctions against an attorney, the Court must find that the attorney advised their client to engage in discovery misconduct. *Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 81. Additionally, the motion must advise the attorney that joint and several liability against the attorney is sought for the sanctions. *Blumenthal v. Superior Court* (1980) 103 Cal.App.3d 317, 319.

III. Analysis

A. Motion

Golden State has requested 138 categories of documents from Deponent, along with his appearance for deposition. Deponent is an employee of Golden State and the documents requested are presumably those of Golden State. Golden State served the deposition notice on July 15, 2024, for a deposition to occur on August 14, 2024. Deponent served untimely objections to the subpoena on August 13, 2024. The instant motion was filed on September 16, 2024.

First, in his opposition, Deponent has conceded that he would appear for deposition and produce documents as to categories 1-32. While Deponent asserts that he never “refused” to appear for deposition, he did fail to appear for deposition, and untimely objected to that appearance. See CCP § 2025.410 (a-b). At the time the motion was filed, Deponent had objected to the deposition and no subsequent date had been mutually agreed upon. The deposition record is “complete” once Deponent served his untimely objections and failed to appear at the originally scheduled deposition. Golden State is entitled to move to compel.

Second, all of the requests certainly go to relevant categories of information for the case. While Deponent asserts that nothing is relevant with the exception of requests which might lead to evidence regarding Plaintiff’s claims as a bona fide purchaser. This is not the limitation for relevant discovery, even as to third parties, and Deponent’s position is a short-sighted view of the purpose of discovery. Deponent attempts to state that Plaintiffs’ position as a bona fide purchaser is the only litigable issue, and therefore no other documents need be produced. Golden State has adequately shown the relevance of other categories to the instant suit. However, even if Golden State manages to present adequate cause to rebut the bona fide purchaser theory, they must *then* prove that the Thekkeks failed to comply with the terms of the agreements between them in order to prove their interest in the Property. Therefore, the expansive discovery requested appears to be adequately targeted to categories which Golden State needs in order to litigate their defense.

Third, the Deponent and Golden State appear to be in a rather unique position as parties to the opposed motion. Deponent, is **currently** an employee of Golden State. The papers requested are related to transactions undertaken on behalf of Golden State. The categories of documents requested, given that they appear to be Golden State’s documents. This renders the document requests distinguishable from the jurisprudence on third party document production. See, e.g., *Calcor Space Facility*, *supra*, 53 Cal.App.4th at 223–224. These are specific facts which more than adequately establish good cause for production. Stated alternatively, Golden State is purportedly moving to compel the testimony of its own employee and the production of its documents. Relevancy and good cause bode in Golden State’s favor.

Frankly, while Deponent might have been able to make some form individualized showing on some of the 138 categories asserted, he simply asserted the same set of objections 138 times. The objections were never particularized to the categories. Deponent merely attacks the good cause which Golden State has shown. Boilerplate objections which are not supported in the opposition do not merit further consideration.

Golden State’s motion is GRANTED in full.

B. Sanctions

On a successful motion, sanctions are mandatory. However, the Court may only grant “reasonable expenses”. CCP § 2023.030(a). Counsel avers that he spent 14.5 hours meeting and conferring over the motion and preparing the motion itself. See Declaration of Laurence Berman, ¶ 23. Counsel also states that his paralegal expended 8.3 hours on the same work. The time expended appears reasonable.

His rate is \$750 per hour, and the rate for paralegal staff is \$250 per hour. While the rate for paralegal support appears acceptable, the rate of counsel exceeds what is reasonable in this locality. Counsel provides no exposition on his qualifications, but given his apparent years of professional experience, \$550 per hour appears to be an appropriate rate for someone with Counsel's experience in Sonoma County. Golden State requests \$60 in motion filing expenses.

The Court finds \$7,975 as the reasonably incurred attorney's fees, and \$2,075 on the motion. The \$60 in costs is reasonable and actual. The motion clearly derives from the actions of Deponent's counsel, and therefore counsel should be held jointly liable for the sanctions amount. Golden State's request for sanctions is GRANTED in the amount of \$10,110 against both Deponent and his counsel.

IV. Conclusion

The Motion to Compel is **GRANTED**. Deponent will appear for a noticed deposition within 30 days of notice of this order. Deponent will produce all categories of documents on a deposition that must take place within fourteen (14) days of execution of this order.

Deponent and/or his counsel shall pay \$10,110 in sanctions to Golden State within 30 days of execution of this order.

Golden State 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).

2-3. 23CV00801, Committee for Transparent Local Government v. LAFCO

Plaintiffs Committee for Transparent Local Government, Frear Stephen Schmid and Astrid Schmid (together "Plaintiffs"), filed the presently operative Second Amended Complaint (the "SAC") against defendants County of Sonoma, Sonoma County LAFCO ("LAFCO", together with County of Sonoma, the "County"), and Gold Ridge Fire Protection District (the "District", together with the County, "Defendants") arising out of alleged improprieties in the annexation process of the County Service Area 40 into the District.

This matter is on calendar for the demurrer by the County and the demurrer by the District to all causes of action (consisting of Plaintiffs' cause of action under 42 USC § 1983) within the SAC pursuant to Cal. Code Civ. Proc. ("CCP") § 430.10(e) for failure to state facts sufficient to constitute a cause of action. The Demurrer is SUSTAINED without leave to amend.

DEMURRER

I. Legal Standards

A. General Demurrers

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. CCP § 430.30(a). In the event a demurrer is sustained, leave to amend should be granted where the complaint's defect can be cured by amendment. *The Swahn Group, Inc. v. Segal* (2010) 183 Cal.App.4th 831, 852. "On a demurrer a court's function is limited to testing the legal sufficiency of the complaint. [Citation.] 'A demurrer is simply not the appropriate procedure for determining the truth of disputed facts.' [Citation.] The hearing on demurrer may not be turned into a contested evidentiary hearing through the guise of having the court take judicial notice of documents whose truthfulness or proper interpretation are disputable. [Citation.]" *Bounds v. Sup. Ct.* (2014) 229 Cal.App.4th 468, 477-478.

At demurrer, all facts properly pleaded are treated as admitted, but contentions, deductions and conclusions of fact or law are disregarded. *Serrano v. Priest* (1971) 5 Cal.3d 584, 591. Similarly, opinions, speculation, or allegations contrary to law or facts which are judicially noticed are also disregarded. *Coshov v. City of Escondido* (2005) 132 Cal.App.4th 687, 702. Generally, the pleadings "must allege the ultimate facts necessary to the statement of an actionable claim. It is both improper and insufficient for a plaintiff to simply plead the evidence by which he hopes to prove such ultimate facts." *Careau & Co. v. Security Pac. Business Credit, Inc.* (1990) 222 Cal.App.3d 1371, 1390; *FPI Develop., Inc. v. Nakashima* (1991) 231 Cal.App.3d 367, 384. Each evidentiary fact that might eventually form part of a party's proof does not need to be alleged. *C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal. 4th 861, 872. Conclusory pleadings are permissible and appropriate where supported by properly pleaded facts. *Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6. "The distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree." *Burks v. Poppy Const. Co.* (1962) 57 Cal.2d 463, 473. Leave to amend should generally be granted liberally where there is some reasonable possibility that a party may cure the defect through amendment. *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.

B. Actions Challenging Governmental Reorganization

"Once a LAFCO annexation determination is completed, [] its validity may be challenged only by an *in rem* proceeding under the validating statutes or by a quo warranto proceeding filed by the Attorney General." *Protect Agricultural Land v. Stanislaus County Local Agency Formation Com.* (2014) 223 Cal.App.4th 550, 558; see also CCP § 869 ("No contest except by the public agency or its officer or agent of any thing or matter under this chapter shall be made other than within the time and the manner herein specified."). "An action to determine the validity of any change of organization, reorganization, or sphere of influence determination completed pursuant to this division shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure." Gov. Code, § 56103. "A public agency may upon the existence of any matter which under any other law is authorized to be determined pursuant to this chapter, and for 60 days thereafter, bring an action in the superior court of the county in which the principal office of the public agency is located to determine the validity of such matter. The action shall be in the nature of a proceeding in rem." CCP § 860.

If no proceedings have been brought by the public agency pursuant to this chapter, any interested person may bring an action **within the time** and in

the court **specified by Section 860** to determine the validity of such matter. The public agency shall be a defendant and shall be served with the summons and complaint in the action in the manner provided by law for the service of a summons in a civil action. In any such action the summons shall be in the form prescribed in Section 861.1 except **that in addition to being directed to “all persons interested in the matter of [specifying the matter],”** it shall also be directed to the public agency. If the interested person bringing such action fails to complete the publication and such other notice as may be prescribed by the court in accordance with Section 861 and to file proof thereof in the action within 60 days from the filing of his complaint, the action shall be forthwith dismissed on the motion of the public agency unless good cause for such failure is shown by the interested person.

CCP, § 863

“If the public agency does not bring a validation proceeding, its action will ‘become immune from attack if no interested person brings a proceeding to establish the act's validity or invalidity within 60 days.’” *Reid v. City of San Diego* (2018) 24 Cal.App.5th 343, 371. Where a plaintiff fails to show good cause for the failure to comply with the publication requirement under CCP § 863, the Court has no jurisdiction to consider the substance of their claims. *Community Redevelopment Agency of Los Angeles v. Superior Court for Los Angeles County* (1967) 248 Cal.App.2d 164, 179. Failure to publish the notice within 60 days and issue the summons to “all persons interested” as required by CCP § 863 necessitated dismissal absent a showing of good cause. *Ibid.*

Reorganization and annexation are legislative acts which have been delegated to local municipalities, and do not derive owners of property or property rights in the constitutional sense. *Community Water Coalition v. Santa Cruz County Local Agency Formation Com.* (2011) 200 Cal.App.4th 1317, 1328; *Bookout v. Local Agency Formation Com.* (1975) 49 Cal.App.3d 383, 386-387; *In re Bonds of Orosi Public Utility Dist.* (1925) 196 Cal. 43, 59. “Thus there are no constitutional demands of due process restricting the mode, nature and type of notice that must be given, and the procedural requirements for conduct of [] LAFCO [] proceedings stem solely from statute.” *Bookout v. Local Agency Formation Com.* (1975) 49 Cal.App.3d 383, 387.

C. 42 USC § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was

violated or declaratory relief was unavailable.

42 U.S.C. § 1983

In order to prevail on a section 1983 claim, the plaintiff must show that the defendant's conduct deprived him of a federal right. *Sykes v. James* (2d Cir. 1993) 13 F.3d 515, 519. Violations of the Voting Rights Act may constitute cause for a § 1983 claim. *Coca v. City of Dodge City* (D. Kan. 2023) 669 F.Supp.3d 1131, 1142. However, “Congress did not authorize injunctive or declaratory relief under § 1983 in state tax cases when there is an adequate remedy at law.” *National Private Truck Council, Inc. v. Oklahoma Tax Com'n* (1995) 515 U.S. 582, 588.

II. Procedural and Evidentiary Issues

The County requests judicial notice of a wide variety of court records and county records resulting from the underlying annexation. The District has requested the Court take notice of the same or similar documents. Plaintiffs have interposed no objection to judicial notice.

Judicial notice of official acts and court records is statutorily appropriate. See Cal. Evid. Code § 452(c) and (d) (judicial notice of official acts). 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. Factual findings found within a prior judicial opinion are not an appropriate subject of judicial notice. *Kilroy v. State* (2004) 119 Cal.App.4th 140, 148. Courts may take judicial notice of the existence and legal effect of legally operative documents. *Scott v. JPMorgan Chase Bank, N.A.* (2013) 214 Cal.App.4th 743, 754. 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. The scope of the judicial notice taken is limited to the action of the executive agency. *Herrera* at 1375. It is not appropriate for the Court to take notice of additional information which is included in the documentation or contentions as to the truth of the contents. *Id.*

Each of the documents submitted by the Defendants is either administrative or judicial in nature. The documents appear proper for judicial notice, particularly for their official and legal effect, but not for the truth of contentions therein. With this limitation, the request is GRANTED.

III. Analysis

This matter previously had a demurrer sustained to each of Plaintiffs’ causes of action. At oral argument, Plaintiffs asserted that their constitutional claims were capable of remedy, and the Court sustained the demurrer as to those claims in order for Plaintiffs to amend to state a valid claim under 42 USC § 1983. Defendants each argue that Plaintiffs’ § 1983 claims are entirely precluded for both procedural and substantive deficiencies. Plaintiffs in turn argue that the SAC has no deficiencies, and matters should proceed past the pleading stage.

A. Plaintiffs Fail to Plead Facts Sufficient to Confer Jurisdiction.

Defendants each contend that the claims seeking to challenge the validity of the annexation are untimely. Facially, this appears to be the case. The remedy sought by Plaintiffs is to void the annexation. Plaintiffs may not extend the statute of limitations here by reasserting their statutory claims as civil rights violations. Plaintiffs assert that California law cannot override the provisions of 42 USC § 1983. This argument fails. While civil claims for constitutional due process violations are predicated on 42 USC § 1983, Plaintiffs do not request a remedy contemplated by § 1983. Plaintiffs provide no authority showing that voiding the annexation is a remedy contemplated by § 1983. As is explored further below, § 1983 is not implicated by Plaintiff's pled facts. Plaintiffs requested remedy is exclusively within the confines of Govt. Code § 56103. Plaintiffs may not avoid the exclusive remedy provision of § 869 by attempting to assert inapplicable federal claims.

The facts as pled and those apparent from the record leads to the conclusion that this Court lacks jurisdiction. First, Plaintiffs were required to file this action within 60 days after the annexation. *Community Redevelopment Agency of Los Angeles v. Superior Court for Los Angeles County* (1967) 248 Cal.App.2d 164, 170. Plaintiffs concede that the annexation was under a certificate issued June 21, 2023. Plaintiffs filed the instant case on October 4, 2023. Plaintiffs did not file the case within 60 days, and therefore the action is itself untimely. This is a statute of limitations issue apparent from the face of the SAC. Failure to timely bring the action has made the annexation "immune from further attack". *Reid v. City of San Diego* (2018) 24 Cal.App.5th 343, 371. This alone is adequate basis to sustain the demurrer.

Second, Defendants assert that Plaintiffs have failed to join all parties as required by statute. Plaintiffs **are** required to direct the summons to both the Defendants and "all persons interested". They were required to publish notice of the action within 60 days of its commencement. Failure to do so renders this action capable of dismissal pursuant to CCP § 863. While this appears to be a basis for statutory motion for dismissal, and not demurrer, it is worth noting that the SAC sits upon procedurally deficient ground which is apparent from the face of the record. *Community Redevelopment Agency of Los Angeles v. Superior Court for Los Angeles County* (1967) 248 Cal.App.2d 164, 176. The defect is, absent a showing of good cause, jurisdictional. *Id.* at 176. The Court does not sustain the demurrer on this basis, but the inevitable conclusion of these facts is that dismissal under this provision looms large over any ruling on these demurrers.

Further, the Court notes that the demurrer to Plaintiffs First Amended Complaint was sustained on precisely these bases. Plaintiffs had an opportunity to amend after that ruling and have not found a method of curing the deficiency. There is no indication within the SAC which would allow tolling of the statute of limitations.¹ The SAC admits facts sufficient to make clear that the statute of limitations under CCP §§ 860 & 863 has not been met. Plaintiffs' procedural defects are fatal and incurable.

B. Were the Action Timely, it Would Still Fail

¹ Indeed, even properly directing the summons (a mere motion under CCP §§ 861 & 861.1) has not occurred. Plaintiffs have not moved the Court for the ability to publish despite the obvious notice of this defect. This does not impact the result of the demurrer.

Even were there not fatal defects in Plaintiffs' method of presenting the case, they have failed to plead the cause of action, which is an equally dire flaw.

Plaintiffs contend that Defendants' reliance on Government Code § 56157(h) "allowed defendants capriciously and arbitrarily to deny equal protection of the law to plaintiffs as they were not given notice by mailing as afforded to individuals in affected territories of a 1000 or less." Plaintiff's Opposition, pg. 5 23-25. Plaintiffs raise no persuasive claim of equal protection violation on constitutional principles. Plaintiffs claim that such issues are subject to strict scrutiny, but this is not persuasive. While the Court concurs that members of the district are entitled to notice, Plaintiffs offer no authority showing that they are entitled to *a specific type of notice*, nor that constitutional principles are implicated. The statute appears adequately targeted to accomplish notice where the number of households involved renders the logistics of mail notice unnecessarily unwieldy. Plaintiffs are not persuasive that this represents "undue favor". Plaintiffs offer no basis to find Gov. Code § 56157 unconstitutional. In contrast, courts have repeatedly held that such annexation procedures do not implicate constitutionally protected rights, and as such without the notice statute, **there would be no obligation to give notice at all.** *Bookout v. Local Agency Formation Com.* (1975) 49 Cal.App.3d 383, 386-387. Therefore, Plaintiffs fail to plead a substantive basis for violation of constitutional rights based on the publication of notice. There being no pleading of a violation of a constitutional right, there is no articulated claim under § 1983.

Plaintiffs' argument regarding the notice of the protest hearing fails for the same reasons. Plaintiffs concede that notice for the protest hearing was made by publication. Defendants provided notice as required by statute. No constitutional rights were violated, as the statute does not implicate constitutional rights. Plaintiffs' argument to the contrary is brief, disjointed, and fails to articulate a defect in the notice.

Plaintiffs argument that the notice was required to be in Spanish under 42 USC § 1973b(f)(4) fails for the same reasons. Defendants were not required, except by California statute, to provide any notice at all. This is not an electoral, but rather a legislative matter. *Bookout v. Local Agency Formation Com.* (1975) 49 Cal.App.3d 383, 386-387. The notices were not notices relating to voting or the electoral process, as would be required to be regulated by 42 USC § 1973b(f)(4). As such, notices were not required to be mailed. Therefore, they were not required to be mailed in Spanish.

Plaintiffs' assertion that there was a requirement to have a vote on the inclusion of previously authorized taxes is equally unfounded. Again, Plaintiffs provided no relevant authority on the subject. "Any territory annexed to a city or district shall be subject to the levying or fixing and collection of any previously authorized taxes, benefit assessments, fees, or charges of the city or district." Gov. Code, § 57330. Plaintiffs offer no applicable reasoning for why a vote was required.

C. There is a Plain, Speedy Remedy Which Plaintiffs Failed to Timely Assert

Plaintiffs' assertion that they do not seek to redress the tax consequences under § 1983 fails as well. Plaintiffs assert that there is no plain, speedy, and efficient remedy at law, and therefore

this method of suit should survive. Instead, Plaintiffs fail to comprehend that there *was* a plain, speedy remedy by timely moving as required by Gov. Code § 56103. Plaintiffs failed to assert their right to that remedy as required by statute, but that does not obviate its existence. It is indisputable that “Congress did not authorize injunctive or declaratory relief under § 1983 in state tax cases when there is an adequate remedy at law.” *National Private Truck Council, Inc. v. Oklahoma Tax Com'n* (1995) 515 U.S. 582, 588. Plaintiffs attempt to contort their relief to both exceed § 1983, and avoid being construed as relief subject to CCP § 869. Plaintiffs attempt to argue that they do not challenge the tax **because** they seek to void the annexation. **This is precisely why Plaintiffs’ claims are subject to CCP § 869**, and are therefore foreclosed due to their failure to move timely under CCP § 860, *et seq.* Plaintiffs arguments that there is no adequate remedy at law is unprevailing.

As to the substantive defects, this is the second amended complaint following a prior ruling on demurrer. Plaintiffs have expressed no coherent cause of action under 42 USC § 1983. As a result, there does not appear to be a probability they can amend to cure the substantive defects.

Therefore, as to the cause of action for relief under 42 USC § 1983, the demurrer is **SUSTAINED without leave to amend.**

IV. Conclusion

Based on the foregoing, the demurrer is **SUSTAINED without leave to amend.**

The County’s counsel 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. 24CV01989, 505 SR Ave. LLC v. Anderson

Plaintiff 505 SR AVE LLC (“Plaintiff”) filed the presently operative complaint (“Complaint”) against defendants Eric Gustav Anderson (“Anderson”), Urban Green Foods, LLC (“Urban”, together with Anderson “Defendants”), and Does 1-50. Default was entered against Defendants on May 24, 2024. This matter is on calendar for the motions by Defendants under Code Civ. Proc. (“CCP”) § 473 (b) to set aside the default on the basis of mistake, inadvertence or excusable neglect. The Motion is **GRANTED.**

I. Procedural History

Plaintiff filed the instant complaint against Defendants on March 26, 2023. Defendants were served in New York via a notice and acknowledgement returned by their New York counsel, Andrew W. Hayes, on April 18, 2024. Plaintiff requested entry of default on May 24, 2024, which was granted against Defendants. Defendants filed the instant motion to set aside the default on September 12, 2024.

II. Governing Law

“The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken.”

CCP § 473 (b).

“Moreover, because the law strongly favors trial and disposition on the merits, any doubts in applying section 473 must be resolved in favor of the party seeking relief from default.” *Elston v. City of Turlock* (1985) 38 Cal.3d 227, 233. Courts will generally indulge all presumptions and resolve all doubts in favor of orders setting aside defaults and an order setting aside a default under section 473 will not be reversed unless the record clearly shows an abuse of discretion. *Pearson v. Continental Airlines* (1970) 11 Cal.App.3d 613, 619. “(A)s for inadvertence or neglect, ‘[t]o warrant relief under section 473 a litigant’s neglect must have been such as might have been the act of a reasonably prudent person under the same circumstances. The inadvertence contemplated by the statute does not mean mere inadvertence in the abstract. If it is wholly inexcusable it does not justify relief.’” *Hearn v. Howard* (2009) 177 Cal.App.4th 1193, 1206.

III. Moving Defendant makes sufficient showing for relief under CCP § 473(b).

Plaintiff interposes multiple arguments in opposition to Defendants’ motion for relief from default. Among those is the objection that the Declaration of Andrew Hayes is not signed under penalty of perjury under the laws of the state of California, as required by CCP § 2015.5. Additionally, Plaintiff points out that Defendants have not attached a copy of their responsive pleading as required by CCP § 473(b). Defendants have attempted to remedy each of these issues on reply by filing a corrected version of the declaration and a proposed responsive pleading (a demurrer).

On the substance, Plaintiff argues that Defendants have been dilatory in their pursuit of this relief. Default was filed on May 24, 2024. At this time, Defendants were still dependent on their New York counsel, Mr. Hayes, and no California counsel had been engaged. Service of the Complaint to Defendants was only made through Defendants’ New York counsel returning notice and acknowledgement. However, it is not perfectly clear Defendants personally were aware of the necessity of engaging California counsel. It appears more likely than not, that Defendants were entirely dependent on Mr. Hayes to perform this on their behalf since they were not directly served with the Complaint. Regardless, Defendants filed their motion to set aside default on September 12, 2024. The Court does not find this period as dilatory, and the efforts of Mr. Hayes in attempting to obtain California representation is apparent from the declaration. Mr. Hayes could not respond on Defendants’ behalf as he is not licensed in the state of California. From the various counsel communications presented to the Court, it appears that professional courtesy through the granting of a brief extension of time to respond to the complaint was warranted under the circumstances. Defendants’ inability to timely obtain

California counsel and Plaintiff's unwillingness to comply with the civility requirements expected for attorneys in this state¹, appears to be excusable neglect. Any doubts should be applied in favor of determination of these matters on the merits. It is appropriate to set aside the default.

Defendant's motion to set aside default is **GRANTED**.

Plaintiff also requests sanctions as an additional condition of setting aside default. This is not poised as a mandatory set aside motion as would require the Court to make an order of attorney's fees. While Plaintiff argues that they informed Mr. Hayes that no further extensions would be granted, it is worth noting that Plaintiff did *not* provide notice to Mr. Hayes of their intent to move for default as would be expected by the California Bar Guidelines of Civility and Professionalism, Section 15. That Mr. Hayes is licensed in another state does not preclude the civility expected between members of this profession. No sanctions or monetary orders are appropriate as a result.

IV. Conclusion

Based on the foregoing, Defendants' Motion to Set Aside the Default is **GRANTED**. Defendants will have ten (10) days from the entry of this order to file their responsive pleading to Plaintiff's complaint.

Defendant 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).

5-6. SCV-273199, Mendez v. Bello

Plaintiffs, Richard Mendez ("Mendez"), Natasha Khallouf ("Khallouf") and Sean Musgrove ("Musgrove", together with Mendez and Khallouf, "Plaintiffs"), has filed currently operative first amended complaint ("FAC") against defendants Tony Bello, trustee of the Tony Bellow Living Trust Date 06/26/1997 ("Bello"), PLM Loan Management Services Inc. ("PLM", together with Bello, "Defendants"), and Does 1-25 regarding the property commonly known as 6972 Saint Helena Road, Santa Rosa, California, with causes of action for: 1) wrongful foreclosure; 2) cancellation of instrument; 3) quiet title; 4) violation of Civ. Code § 2924f; 5) violation of Civ. Code § 2923.5; and 6) violation of Business and Professions Code § 17200 et. seq. Bello has in turn filed a cross-complaint, naming Plaintiffs as cross-defendants along with additional parties. This matter is on calendar for PLMs's motion to compel further responses to Set One of the form interrogatories ("FIs"), special interrogatories ("SIs"), and requests for production of documents ("RPODs"), from Mendez under Code of Civil Procedure ("CCP") §§ 2030.300 and 2031.310, and sanctions thereon. The two motions are GRANTED.

I. Governing Law

A. Discovery Generally

¹ Discussed further below.

The scope of discovery is one of reason, logic and common sense. *Lipton v. Superior Court* (1996) 48 Cal.App.4th 1599, 1612. The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540. “California law provides parties with expansive discovery rights.” *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that “any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.” CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co.* (2004) 116 Cal.App.4th 694, 712, fn. 8. (“For discovery purposes, information is relevant if it ‘might reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement...’)” See *Lopez, supra*, 246 Cal.App.4th at 590-591, citing *Garamendi, supra*, 116 Cal.App.4th at 712, fn. 8. “Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence.” *Id.* “These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases.” *Id.* “When discovery requests are grossly overbroad on their face, and hence do not appear reasonably related to a legitimate discovery need, a reasonable inference can be drawn of an intent to harass and improperly burden.” *Obregon v. Superior Court* (1998) 67 Cal.App.4th 424, 431.

B. Interrogatories

Regarding FIs and SIs, a party responding to an interrogatory must provide a response that is “as complete and straightforward as the information reasonably available to the responding party permits” and “[i]f an interrogatory cannot be answered completely, it shall be answered to the extent possible.” CCP §2030.220(a)-(b). “If the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party.” CCP §2030.220(c).

Upon receipt of a response, the propounding party may move to compel further response if it deems that an answer to a particular interrogatory is evasive or incomplete, an exercise of the option to produce documents under Section 2030.230 is unwarranted or the required specification of those documents is inadequate, or an objection to an interrogatory is without merit or too general. CCP §2030.300(a). Any motion to compel further answers to interrogatories must be filed within 45 days of receipt of response unless the parties agree to extend the time in writing. CCP § 2030.300 (c). When such a motion is filed, the Court must determine whether responses are sufficient under the Code and the burden is on the responding party to justify any objections made and/or its failure to fully answer the interrogatories. *Coy v. Sup. Ct.* (1962) 58 Cal.2d 210, 220-21; *Fairmont Ins. Co. v. Sup. Ct.* (2000) 22 Cal.4th 245, 255.

C. Requests for Production of Documents

Regarding the RPODs, a demand for production may request access to “documents, tangible things, land or other property, and electronically stored information in the possession, custody, or

control” of another party. A party to whom a document demand is directed must respond to each item in the demand with an agreement to comply, a representation of inability to comply, or an objection. CCP § 2031.210(a). If only part of an item or category demanded is objectionable, the response must contain an agreement to comply with the remainder, or a representation of the inability to comply. CCP § 2031.240(c)(1). If a responding party is not able to comply with a particular request, that party “shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand.” CCP § 2031.230. “This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party” and “[t]he statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.” *Id.* CCP § 2031.240(c)(1) provides that when asserting claims of privilege or attorney work product protection, the objecting party must provide “sufficient factual information” to enable other parties to evaluate the merits of the claim, “including, if necessary, a privilege log.”

Upon receipt of a response to a request for production, the propounding party may move for an order compelling further response if the propounding party deems that a statement of compliance with the demand is incomplete; a representation of inability to comply is inadequate, incomplete, or evasive; or an objection in the response is without merit or too general. CCP § 2031.310(a). A motion to compel further responses to a request for production of documents must “set forth specific facts showing ‘good cause’ justifying the discovery sought by the demand.” CCP § 2031.310(b)(1). Absent a claim of privilege or attorney work product, the party who seeks to compel production has met his burden of showing ‘good cause’ simply by showing that the requested documents are relevant to the case, *i.e.*, that it is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence under CCP § 2017.010. *See also Kirkland v. Sup. Ct.* (2002) 95 Cal.App.4th 92, 98. Once good cause is shown, the burden shifts to the responding party to justify its objections. *See Coy*, 58 Cal.2d at 220–221. It is insufficient to claim that a requested document is within the possession of another person if the party has control over that document. *Clark v. Superior Court of State In and For San Mateo County* (1960) 177 Cal.App.2d 577, 579.

D. Privacy Rights and Discovery

Compelling need is not always the test to apply in determining whether discovery is permissible, as “Courts must instead place the burden on the party asserting a privacy interest to establish its extent and the seriousness of the prospective invasion, and against that showing must weigh the countervailing interests the opposing party identifies”. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 557. Good cause can be met through showing specific facts of the case and the relevance of the requested information. *Associated Brewers Distributing Co. v. Superior Court of Los Angeles County* (1967) 65 Cal.2d 583, 586–587. “(T)he good cause which must be shown should be such that will satisfy an impartial tribunal that the request may be granted without abuse of the inherent rights of the adversary. There is no requirement, or necessity, for a further showing.” *Greyhound Corp. v. Superior Court In and For Merced County* (1961) 56 Cal.2d 355, 388. As the right to discovery is liberally construed, so too is good cause. *Id.* at 377-378.

Additionally, the right of privacy is an “inalienable right” secured by article I, section 1 of the California Constitution. *Valley Bank of Nevada v. Superior Court* (1975) 15 Cal.3d 652, 656. The right of privacy protects against the unwarranted, compelled disclosure of private or personal information and “extends to one’s confidential financial affairs as well as to the details of one’s personal life.” *Ibid.* “Personal financial information comes within the zone of privacy protected by article I, section 1 of the California Constitution.” *Harris v. Superior Court* (1992) 3 Cal.App.4th 661, 664; see also, *SCC Acquisitions, Inc. v. Superior Court* (2015) 243 Cal.App.4th 741, 754–755 (The right to privacy extends to personal financial information.). However, even the constitutional right of privacy does not provide absolute protection “but may yield in the furtherance of compelling state interests.” *Ibid.*, quoting, *People v. Wharton* (1991) 53 Cal.3d 522, 563. Thus, “when the constitutional right of privacy is involved, the party seeking discovery of private matter must do more than satisfy the section 2017[.010] standard [and] the party seeking discovery must demonstrate a compelling need for discovery, and that compelling need must be so strong as to outweigh the privacy right when these two competing interests are carefully balanced.” *Lantz v. Superior Court* (1994) 28 Cal.App.4th 1839, 1853–1854. A discovery proponent may demonstrate compelling need by establishing the discovery sought is directly relevant and essential to the fair resolution of the underlying lawsuit. *Planned Parenthood Golden Gate v. Superior Court* (2000) 83 Cal.App.4th 347, 367; see also, *Britt v. Superior Court* (1978) 20 Cal.3d 844, 859-862; *Williams v. Superior Court* (2017) 3 Cal.5th 531, 552-555; *Johnson v. Superior Court* (2000) 80 Cal.App.4th 1050, 1071.

The court must “carefully balance” the interests involved - *i.e.* the right of privacy versus the public interest in obtaining just results in litigation. *Schnabel v. Superior Court* (1993) 5 Cal.4th 704, 714; see also, *Valley Bank of Nevada, supra*, 15 Cal.3d at 657; *Pioneer Electronics (USA), Inc., supra*, 40 Cal.4th at 371. In balancing these interests, “[t]he court must consider the purpose of the information sought, the effect that disclosure will have on the affected persons and parties, the nature of the objections urged by the party resisting disclosure and availability of alternative, less intrusive means for obtaining the requested information.” *SCC Acquisitions, Inc., supra*, 243 Cal.App.4th at 754–755. “[T]he more sensitive the nature of the personal information that is sought to be discovered, the more substantial the showing of the need for the discovery that will be required before disclosure will be permitted.” *Ibid.* Generally, failure to assert a discovery objection in a response waives that objection later. *Stadish v. Superior Court* (1999) 71 Cal.App.4th 1130, 1140.

E. Sanctions

CCP § 2030.300(d) (relating to interrogatories), and CCP § 2031.310(h) (relating to requests for production of documents) provides that a monetary sanction “shall” be imposed against the party losing a motion to compel further responses unless the court finds “substantial justification” for that party’s position or other circumstances making sanctions “unjust.” For the court to order sanctions against an attorney, the Court must find that the attorney advised their client to engage in discovery misconduct. *Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 81. Additionally, the motion must advise the attorney that joint and several liability against the attorney is sought for the sanctions. *Blumenthal v. Superior Court* (1980) 103 Cal.App.3d 317, 319.

II. Analysis

PLM has filed two motions as to Mendez. Mendez has failed to file a timely opposition to either motion. PLM has provided evidence regarding written stipulations to both extend Plaintiffs time to respond, and extending time for PLM to move to compel further responses.

A. RPODs

As to Mendez, PLM moves to compel further responses to RPOD ¶¶ 1, 4, 5, 6, 7, 8, 9, 10, 11, 17, 24, 25, and 26.

As to each RPOD, Mendez asserts that he has not completed his investigation. This is not a code compliant response. Simply put, this is not a representation that he has no responsive documents, or that he will produce responsive documents in their possession. Despite Mendez's argument to the contrary, that investigation is ongoing is not an objection, and therefore he is obligated to substantively respond. RPOD responses are meant to be a capture in time to the propounding party as to the evidence held by the other side, and later supplements may be served. See CCP § 2031.050 (a)-(b).

RPOD ¶ 17 requests any communications between Mendez and Musgrove in regards to the Property. Mendez objects generally as to burden and harassment, and contends that he has made no payments to Musgrove. The objections regarding burden and harassment are both unsubstantiated and unpersuasive. As to the contention regarding payments, Mendez misses the call of the question. The RPOD does not ask regarding payments, but communications. Regardless, an objection must have a particular legal basis, and this is a factual assertion. Mendez must respond to the request as posed.

Mendez also argues that RPOD ¶¶ 4, 24, 25 and 26 are documents equally available to PLM. This is not a properly asserted objection. First, the term "equally available" is not generally applicable to RPODs, but interrogatories. See CCP § 2030.220(c). In fact, Mendez's cited case of *Alpine Mut. Water Co. v. Superior Court for Ventura County* (1968) 259 Cal.App.2d 45, 54, particularly rules on interrogatories. To the degree that Mendez argues that this constitutes a burden, that is a matter which Mendez had to assert in a protective order. See CCP § 2031.060. The time for such a motion has passed.

PLM's motions to compel further responses to RPODs is GRANTED.

B. Form Interrogatories

PLM seeks to compel further responses from Mendez as to FI ¶¶ 1.1, 2.5, 2.6, 2.7, 2.11, 3.6, 3.7, 7.1, 7.2, 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 9.1, 9.2, and 17.1

PLM has met good cause for the relevant form interrogatories. Form interrogatories as propounded appear both relevant and proper. They request information which is relevant to the subject matter of the lawsuit, particularly as to Plaintiffs' claims within the FAC. Good cause is subject to liberal construal, and each of the interrogatories appears to have a probability of

resulting in relevant information. Therefore, Mendez's objection of relevance appears unsupported.

PLM's initial burden being met, the burden shifts to Mendez. First, Mendez has asserted a broad assortment of preamble objections, which are both meritless and procedurally improper. Objections should be asserted as to any particular interrogatory, but the preamble interrogatories appear to not meet code complaint responses. CCP § 2030.210(a)(3); CCP § 2030.240(b). Furthermore, they are boilerplate, and therefore presumptively improper and sanctionable. *Korea Data Systems Co. v. Superior Court* (1997) 51 Cal.App.4th 1513, 1515. This conclusion is further reinforced by Plaintiffs' lack of opposition to the motions, which means that they have failed to meet the shifted burden to show the objections are meritorious.

Mendez asserts privilege in multiple preamble objections, but neither specifies an objection beyond attorney-client and work product, nor have they provided any privilege logs. Given that there is no evidence of attorney involvement, and no privilege log, there is no support for the objection of privilege at this time. The assertion of HIPAA appears entirely unmoored from the facts at issue. General objections of privacy are also required to be supported, and their use as a preamble objection shows the corresponding lack of merit. "Courts must instead place the burden on the party asserting a privacy interest to establish its extent and the seriousness of the prospective invasion, and against that showing must weigh the countervailing interests the opposing party identifies". *Williams v. Superior Court* (2017) 3 Cal.5th 531, 557. These objections fail as a result.

The objection of vagueness is both unpersuasive on the face of the interrogatories, and unsupported by any opposition. Both the term of foreclosure and processed appear adequately clear that there does not appear to be cause to sustain an objection on these grounds.

Objections of burden require the objecting party to demonstrate the burden imposed. No burden has been displayed. Similarly, objections that the interrogatories are oppressive are not persuasive without some showing by Mendez.

Mendez provided *some* answer to FI ¶¶ 1.1. The answer is clearly incomplete. Mendez has provided identical answers to most of the FIs as those provided by Khallouf and Musgrove. The rote assertion that their assistance came from "The internet" appears facially incomplete as a result. Further answers identifying any individuals who assisted them in preparation of their responses, including each other, appears appropriate as a result.

PLM's motion to compel further responses to is GRANTED.

C. Special Interrogatories

PLM moves to compel further responses from Mendez as to SI ¶¶ 1, 2, 3, 7, 8, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30.

Again, as a threshold matter, the special interrogatories are adequately related to the case that good cause is obvious. The SIs are largely targeted to particular allegations within the FAC and

Plaintiffs' support for those allegations. This makes the relevance of the subject matter apparent. Others are directed to particular transactions undertaken between the Plaintiffs and other cross-defendants. Therefore, answers are likely to lead to admissible and relevant material.

Mendez's objections to special interrogatories are uniformly asserted and baseless. They have asserted that the special interrogatories violate CCP § 2030.060 (d), which provides "Each interrogatory shall be full and complete in and of itself."

As to the special interrogatories provided, this appears nonsensical. Indeed, despite the common practice of including definitions at the front of interrogatories in violation of CCP § 2030.060 (d), PLM has not done so here. Each applicable definition is contained in each interrogatory. Each interrogatory is obviously complete, and requires no outside reference with the exclusion perhaps of Plaintiffs' FAC. "An interrogatory may relate to whether another party is making a certain contention, or to the facts, witnesses, and writings on which a contention is based." CCP § 2030.010. Mendez also asserts that the interrogatories are compound. Again, this appears to be a boilerplate assertion without support.

PLM's motions to compel further responses to special interrogatories is GRANTED.

III. Sanctions

PLM requests sanctions for Mendez's failure to produce code complaint responses. In so doing, they produce an attorney declaration which avers the rate actually charged to PLM, and the amount of time expended. Across the two motions, PLM requests \$8,280 in sanctions.

The purpose of monetary sanctions is to mitigate the effects of the necessity of discovery motions and responses on the prevailing party. "The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct." CCP § 2023.030.

Requests for fees on discovery motions must be both actual and reasonable. Plaintiff requests \$345 an hour for counsel Shakibi. The rates requested are reasonable. The amount of time expended is not. Counsel Shakibi avers 19 years of experience. As is covered thoroughly above, Mendez relies largely on boilerplate assertions without support. The objections are repetitious of prior motions within this case. Across the two motions, PLM asserts 16.8 hours expended on the motion compelling interrogatories and 7.2 hours on the motion for RPODs. Given the uncomplicated nature of the objections asserted, and the repetitious nature of the reasons to compel further responses, this appears unreasonable. The Court will reduce the time expended by Shakibi by eight hours across the motions. These reductions are to be distributed as six hours from the motion to compel interrogatories, two hours from the motion to compel RPODs. Therefore, sanctions are granted for costs of 16 attorney hours at \$345 per hour, for sanctions of \$5,520.00.

IV. Conclusion

PLM's motions to compel further responses to RPODs, SIs, and FIs are GRANTED. Mendez will serve code compliant, objection-free responses within 30 days of notice of this order.

The request for sanctions is granted and Mendez shall pay \$5,520.00 to PLM within 30 days of notice of this order.

PLM's counsel 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).

****This is the end of the Tentative Rulings.****