

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, October 28, 2026 3:00 pm
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. 23CV00189, Gold Hammer Construction, Inc. v. Lopez

This matter is on calendar for Plaintiff’s motion pursuant to Civil Code section 1717 for attorneys’ fees incurred as a result the stipulated judgment. Fees are **GRANTED** in the amount of **\$2,880.00**.

I. FACTUAL AND PROCEDURAL HISTORY

This action arises over a residential construction dispute. The parties executed a Settlement Agreement and Mutual General Release (the “Agreement”) requiring Defendants to pay \$40,000 to Plaintiff within 90 days of the Agreement’s effective date. (Tapley, Decl., Exh. A.)

Paragraph 9 of the Agreement requires each party to bear its fees and costs incurred in the underlying action and in negotiating and executing the Agreement. (Tapley, Decl., Exh. A, ¶ 9.) It separately awards reasonable fees and costs to the prevailing party in a later

proceeding concerning the Agreement's breach, enforcement, interpretation, or terms. (Tapley, Decl., Exh. A, ¶ 9.)

Defendants did not timely pay Plaintiff. (Tapley, Decl., ¶ 4.) The Court granted Plaintiff's motion to enforce the Agreement on March 25, 2026 and entered a stipulated judgment for \$40,000 on May 19, 2026. (Tapley, Decl., ¶ 5.)

Plaintiff contends that it prevailed on the Agreement in this action and is therefore entitled to recover the reasonable fees incurred in enforcing it. Plaintiff seeks a total of \$2,920 for 7.3 hours of work billed at \$400 per hour, consisting of 5.6 hours enforcing the Agreement and obtaining the judgment and 1.7 hours preparing the instant motion. (Tapley, Decl., ¶¶ 6—9.)

II. GOVERNING LAW

Civil Code section 1717 applies in an action on a contract when the contract provides for an award of attorney's fees incurred to enforce the contract. The party determined to have prevailed on the contract is entitled to reasonable attorney's fees in addition to other costs, regardless of whether that party was the party expressly identified in the contractual provision. (*Id.*)

The fee award calculation generally begins with the "lodestar," which is the number of hours reasonably expended multiplied by the reasonable hourly rate prevailing in the community for similar services by an attorney with similar skill and experience. (*See, e.g. PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132.) The trial court may adjust the lodestar amount based on various factors specific to the case to fix the attorney fees at fair market value for the services provided, including: "(1) the novelty and difficulty of the questions involved, (2) the skill displayed in presenting them, (3) the extent to which the nature of the litigation precluded other employment by the attorneys, [and] (4) the contingent nature of the fee award." (*Ketchum, supra*, 24 Cal.4th at 1132.)

III. DISCUSSION

The Agreement contains an express and reciprocal attorney-fee provision. (Tapley, Decl., Exh. A, ¶ 9.) Plaintiff is the prevailing party on the Agreement and is therefore entitled to reasonable attorney's fees under Civil Code section 1717. (Tapley, Decl., ¶ 5.) No opposition was tendered to the instant motion. Based on the evidence, there is a basis for fees.

The work described in counsel's declaration was reasonably related to the enforcement of the Agreement, and the stated hourly rate and time expended are reasonable for the services identified. The Court nevertheless finds an apparent discrepancy in the calculation of the total fees requested. (*Compare* Tapley, Decl., ¶¶ 6—8.) Based on the hours and rate set

forth, the supported fee amount is \$2,880.00. There is no multiplier to the lodestar requested or appropriate to this case.

IV. CONCLUSION

The motion is **GRANTED in part** pursuant to Civil Code section 1717. Attorney's fees are **GRANTED** in the amount of \$2,880.00. No multiplier or additional anticipated fees are awarded on the present record.

Defendants shall pay that sum within thirty (30) days of entry of the order granting this Motion.

Plaintiff's counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

2. 25CV03695, Dougherty v. General Motors LLC

Plaintiff Krista Jean Dougherty ("Plaintiff") seeks an award of attorney's fees pursuant to Civil Code section 1794(d). Attorney's fees are **GRANTED** in the amount of \$31,015.00. Costs are **GRANTED** in the amount of \$2,996.36. The total award of attorney's fees and costs is \$34,011.36 to Plaintiff pursuant to Civil Code Section 1794(d).

I. FACTUAL & PROCEDURAL HISTORY

Plaintiff Krista Jean Dougherty filed this action against Defendant General Motors LLC ("Defendant") under the Song-Beverly Consumer Warranty Act concerning a specially ordered 2021 GMC Yukon Denali. Plaintiff filed her Complaint on May 29, 2025 following an adverse nonbinding arbitration decision.

Plaintiff seeks \$56,484.36, consisting of a \$41,510.00 lodestar for 73 hours of attorney time, a \$9,963.00 enhancement based on a 1.3 multiplier applied to the \$33,210.00 merits-related portion of the lodestar, and \$2,996.36 in costs and expenses. The remaining \$8,300.00 of the lodestar covers post-settlement and fee-motion work and is not subject to the requested multiplier. Plaintiff also requests \$2,015.00 in attorney's fees for time incurred on reply. (Conn, Reply Decl., ¶¶ 14, 15.) The claimed lodestar comprises 47.8 hours for Elliot Conn at \$650 per hour, 7.1 hours for Colin Hector at \$650 per hour, 12 hours for Kira Patterson at \$350 per hour, and 5.1 hours for Spencer Janssen at \$250 per hour. (Conn, Decl., ¶ 100.)

GM contends that the rates and hours are excessive for an ordinary lemon-law case that concluded before substantial litigation. GM seeks reductions for deposition work, mediation preparation, initial disclosures, pleading preparation, the fee motion, and the use of multiple timekeepers. It proposes no more than \$13,905 in fees and no costs to be awarded.

II. DISCUSSION

A. Governing Law

A prevailing buyer under the Song-Beverly Act is entitled to recover costs and expenses, including attorney's fees based on actual time expended and determined by the Court to have been reasonably incurred. Relevant here, California Civil Code section 1794(d) provides:

If the buyer prevails in an action under this section, the buyer shall be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of costs and expenses, including attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action.

This statute "is consistent with California's approach to determining a reasonable attorney fee in various statutory and contractual contexts, which approach 'ordinarily begins with the "lodestar," i.e., the number of hours *reasonably* expended multiplied by the *reasonable* hourly rate.'" (*Warren v. Kia Motors Am., Inc.* (2018) 30 Cal.App.5th 24, 36 quoting *PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095 [emphasis by the Warren court].) The reasonable hourly rate is tied to the local community and generally reflects the prevailing market rate in that community for comparable legal services. (*Nemecek & Cole v. Horn* (2012) 208 Cal.App.4th 641, 652.) "The relevant 'community' is that where the court is located." (*Altavion, Inc. v. Konica Minolta Sys. Lab., Inc.* (2014) 226 Cal.App.4th 26, 71.) "[U]se of reasonable rates in the local community, as an integral part of the initial lodestar equation, is one of the means of providing some objectivity to the process of determining reasonable attorney fees." (*Nichols v. City of Taft* (2007) 155 Cal.App.4th 1233, 1243.)

The Court must independently determine reasonable hours rather than merely accept the amount requested. It may exclude inefficient, duplicative, padded, or unnecessary work. (*Morris v. Hyundai Motor America* (2019) 41 Cal.App.5th 24, 38.) A reduction is appropriate where a routine, noncomplex case was overstaffed, and the staffing produced significant inefficiency or inflated fees. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1132.)

B. Requested Fees and Costs

Plaintiff initially requested \$54,469.36 for the following: attorney's fees for \$51,473.00 (\$33,210.00 [lodestar] plus \$9,963.00 [multiplier of 1.3 or 30%] plus \$8,300.00 [post-settlement attorney's fees]) and costs for \$2,996.36. In reply, Plaintiff requests an additional \$2,015.00 in fees, bringing the total requested award to \$56,484.36.

1. Fees

i. The Reasonableness of the Hourly Rates

Counsel requests fees for approximately 73 hours of time split between three attorneys and one paralegal. (Conn Decl., Exhibit A.) Counsel requests the following rates: Mr. Conn at \$650 per hour for 15 years of experience and the founding Partner of the firm; Mr. Hector at \$650 per hour for 15 years of experience and a Partner of the firm; Ms. Patterson at \$350 for 2 years of experience and an Associate at the firm; and Mr. Janssen at \$250 per hour for 7 years of experience as a paralegal. (Conn Decl., ¶¶ 50, 70, 71, 86, 87, 90, 96—99.) Counsel attached an itemized list of billable time to Elliot Conn’s Declaration as Exhibit B. The case also involved an adverse nonbinding arbitration decision and produced a favorable settlement. (Conn, Decl., ¶¶ 15—17, 28.) Counsel attached an itemized list of billable time to Elliot Conn’s Declaration as Exhibit B.

To justify their rates, counsel also attached the Laffey Matrix and the Wolters & Kluwer Real Rate Report. (Conn Decl., Exhibits J, K; Kay Decl., Exh. F.) However, “[t]he reasonable hourly rate is that prevailing in the community for similar work.” (*PLCM, supra*, 22 Cal.4th at 1095.) “The experienced trial judge is the best judge of the value of professional services rendered in his court . . .” (*Serrano v. Priest* (1977) 20 Cal.3d 25, 49.) Further, “a Court is entitled to rely on its own practical experience in determining what is a proper rate within the community.” (*Heritage Pacific Financial, LLC v. Monroy* (2013) 215 Cal.App.4th 972, 1009.) Therefore, the Court need not rely on the Laffey Matrix or the Real Rate Report to determine whether the fees Plaintiffs request are reasonable and may rely on its own experience.

Relatedly, the declaration of John Hendrickson submitted in support of Plaintiff’s motion receives limited weight. Hendrickson is not associated with Plaintiff, Defendant, or either firm in this action. He did not work on the case, review or evaluate the billing entries, or identify any case-specific feature warranting the requested rates or multiplier. His declaration principally states his own customary rates and identifies fee awards obtained in unrelated matters. (Hendrickson, Decl., ¶¶ 6, 7, 8.) Those unrelated awards provide some evidence of local rates, but Hendrickson’s endorsement of the moving party’s request does not, by itself, establish the market value of the services performed here.

Counsel’s experience and specialization justify rates above those appropriate for inexperienced or nonspecialized counsel. GM’s proposed rates, on the other hand, understate the value of specialized consumer warranty counsel and do not adequately account for counsel’s experience or the result obtained. Considering counsel’s experience, the nature of the representation, and the favorable result obtained, the Court finds the requested rates reasonable. (*Heritage Pacific, supra*, 215 Cal.App.4th 972 at 1009 [“The court may rely on its own knowledge and familiarity with the legal market in setting a reasonable hourly rate.”].) This determination does not, however, establish that all claimed hours were reasonably incurred.

ii. The Number of Hours Expended

Amongst the four individuals that billed in this case, Counsel requests 73 hours of time in total. (Conn, Decl., Exh. B.) Counsel represents that the entries were contemporaneously recorded and reduced by more than 10 percent after internal audits. (Conn, Decl., ¶¶ 108—

115.) The Court has considered those reductions but, after independently reviewing the billing statements and the parties' submissions, it concludes that the remaining request retains entries in excess of what is reasonable.

This action followed a relatively limited course. The matter did not proceed through extensive written discovery, expert discovery, contested discovery motions, dispositive motions, trial preparation, or trial. The initial disclosures and pleadings involved substantial use of recurring Song-Beverly forms. (Kay, Decl., ¶¶ 3, 6, 12.) Multiple timekeepers worked on tasks that could have been handled more efficiently or delegated to a lower-billing professional. Although the unfavorable arbitration result presented additional risk and reasonably informed counsel's preparation, the case otherwise concerning recurring Song Beverly issues are neither novel nor unusually complex.

Approximately 75 percent of the claimed lodestar was billed by the two partners at \$650 per hour. (Conn, Decl., Exh. B.) The deposition entries were also excessive in relation to the limited depositions taken. (*See* Code Civ. Proc. § 871.26.) Partners Conn and Patterson billed a combined 19 hours preparing for and participating in Plaintiff's deposition and GM's person-most-qualified deposition, including internal memoranda, research, scheduling correspondence, and overlapping preparation. (Conn, Decl., Exh. B.) Some preparation was plainly warranted, particularly because of the adverse arbitration decision and the claimed vehicle history, but the amount claimed is disproportionate to two depositions conducted during streamlined early discovery. Additionally, this time also appears excessive in relation to counsel's experience in Song-Beverly matters. The Court likewise finds some excess in the 6.5 hours claimed for mediation preparation and the 9 hours claimed for the fee motion. (Conn, Decl., Exh. B.) Both tasks were compensable, but the action was familiar to counsel, and the fee papers relied substantially on arguments, declarations, and supporting materials used in similar matters. (*Compare* Kay, Decl., Exh. E.)

Still, the Court does not adopt Defendant's proposal to disallow nearly all of this time. Defendant's suggested limits, for example, reducing the total deposition work to approximately three hours and mediation preparation to one hour, do not adequately account for reasonable time spent. (Oppo., 6:21—28, 7:1—22.) The Court does not reduce fees merely because counsel used templates, but may reduce excessive, duplicative, or inefficient time in a routine matter. (*Morris, supra*, 41 Cal.App.5th at 38.) The issue is not whether these tasks warranted compensation, but whether the amount of time claimed was reasonable. A substantial, but not categorical, reduction is warranted. The Court therefore allows the following time:

Staff	Requested Time	Adjusted Time	Total Fee
Elliot Conn	47.8	36.0	\$23,400
Colin Hector	7.1	4.0	\$2,600
Kira Patterson	13.0	9.0	\$3,150
Spencer Janssen	5.1	3.0	\$750
		52.00	\$29,900

iii. The Application of a Multiplier

After calculating the lodestar, the Court may adjust it based on case-specific factors, including the novelty and difficulty of the issues, the skill displayed, the extent to which the litigation precluded other employment, and the contingent nature of the representation. (*Ketchum, supra*, 24 Cal.4th at 1139.) An enhancement should not duplicate facts already reflected in the reasonable hourly rates or hours allowed. (*Id.* at 1138) It is an “established principle that a trial court’s decision whether to apply a multiplier is a discretionary one.” (*Nichols, supra*, 155 Cal.App.4th at 1241.)

Here, Plaintiff seeks a 1.3 multiplier on the \$33,210.00 merits-related lodestar for an enhancement amount of \$9,963.00. (Conn, Decl., ¶ 5.) The Court recognizes that the adverse arbitration decision created some additional litigation risk and that counsel obtained a favorable result. These considerations support compensating counsel for reasonable time at reasonable market rates, as reflected in the lodestar. (*Ketchum, supra*, 24 Cal.4th at 1138 [awarding a multiplier based on value already reflected in the lodestar is improper double counting.]) The facts in this case are those of a standard lemon law case which Plaintiff’s firm specializes in, which does not warrant a positive multiplier. (Conn, Decl. ¶ 46—62; Kay, Decl. ¶ 17.) Nor has Plaintiff convincingly shown that the case materially precluded counsel from accepting other work. Thus, to the extent the practical burdens and risks of representing consumers on a contingent basis bear on the market value of counsel’s services, those considerations are already reflected in the rates the Court had approved. The request for a 1.3 multiplier is therefore **DENIED**.

2. Costs and Expenses

Plaintiff seeks \$2,996.36 in costs and expenses. (Conn, Decl., Exh. C.) Defendant objects that Plaintiff did not file a memorandum of costs, and instead relies on a schedule presumably generated by Conn Law PC's billing system. (Oppo., 12:10—21.) Defendant does not identify a particular cost entry as unrelated to this action, duplicative, or unreasonable in amount. On the evidence presented, the Court finds the requested \$2,996.36 reasonably incurred in this action.

III. CONCLUSION

The motion is **GRANTED in part** pursuant to Civil Code section 1794(d). Attorney’s fees are **GRANTED** in the amount of \$31,015.00, which includes \$2,015.00 incurred in reply. Costs are **GRANTED** in the amount of \$2,996.36. The total fees and costs awarded is \$34,011.36 to Plaintiff. No multiplier or additional anticipated fees are awarded on the present record.

Plaintiff’s counsel shall submit a written order on its motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

3. 26CV01547, Ledou-Hanson v. Petaluma Market, Inc.

Plaintiff Erik Ledou-Hanson (“Plaintiff”) filed the complaint in this action (“Complaint”) against Petaluma Market, Inc. (“Defendant”) with Does 1-10 with causes arising out of class wage and hour claims. This matter is on calendar for the motion by Defendant for leave to amend the answer to the Complaint (“Answer”) to assert a new affirmative defense pursuant to Cal. Code Civ. Proc. (“CCP”) § 473(a)(1) and § 576.

The California Code of Civil Procedure provides that a court “may in the furtherance of justice, and on any terms as may be proper” allow a party to amend any pleading to correct a mistake. CCP § 473(a)(1). Likewise, the court may “in its discretion, after notice to the adverse party, allow, upon any terms as may be just, an amendment to any pleading or proceeding in other particulars”. CCP § 473(a)(1). “Any judge, at any time before or after commencement of trial, in the furtherance of justice, and upon such terms as may be proper, may allow the amendment of any pleading or pretrial conference order.” CCP § 576. The general rule is “liberal allowance of amendments.” *Nestle v. Santa Monica* (1972) 6 Cal.3d 920, 939; see *Lincoln Property Co., Inc. v. Travelers Indemnity Co.* (2006) 137 Cal.App.4th 905, 916. The “policy of great liberality” applies to amendments “at any stage of the proceedings, up to and including trial.” *Magpali v. Farmers Group* (1996) 48 Cal.App.4th 471, 487. “Absent a showing of prejudice to the adverse party, the rule of great liberality in allowing amendment of pleadings will prevail.” *Board of Trustees v. Superior Court* (2007) 149 Cal. App.4th 1154, 1163. “(I)t is irrelevant that new legal theories are introduced as long as the proposed amendments relate to the same general set of facts.” *Kittredge Sports Co. v. Superior Court* (1989) 213 Cal.App.3d 1045, 1048 [internal citations omitted]. Particular to answers, there is even greater liberality in allowing to amend, as “a defendant denied leave to amend is permanently deprived of a defense.” *Hulsey v. Koehler* (1990) 218 CA3d 1150, 1159.

Defendants merely seeks to amend in order plead a new legal defense of release. Plaintiff has filed a non-opposition to the request to amend. Indeed, the parties have apparently stipulated to allowing amendment of the Answer. No prejudice has been alleged, nor is any found.

In consideration of the above, the Motion for leave to amend the Answer is **GRANTED**. Defendant shall submit a first amended answer within 20 days of notice of this order.

Defendant shall submit a written order to the court consistent with this ruling and in compliance with Rule of Court 3.1312(a) and (b).

4. SCV-261461, Sangha v. Artap

Plaintiffs Amarjit Sangha and Wingsingh-Santa Rosa, Inc (together “Plaintiffs”), filed the complaint in this action against Michelle Artap (“Artap”), US Property Management, LLC (“USPM”, together with Artap, “Moving Parties”), the California Department of Tax and Fee Administration (“CDTFA”), and McGovern Escrow Services, Inc. (“McGovern”). McGovern filed a cross-complaint in interpleader naming all other parties, tendering the funds held in escrow to the Court. In turn Moving Parties filed a cross-complaint against Plaintiffs and McGovern.

This matter is on calendar for Moving Parties' request for the court to distribute the interpleaded funds. The motion is DENIED.

I. Underlying Facts

Plaintiffs failed to appear for trial, and the Court accordingly dismissed the Complaint. McGovern's cross-complaint, and Moving Parties' claims against McGovern, were tried in August of 2023. On September 18, 2023, the judge issued the Interlocutory Order on McGovern Escrow Services, Inc.'s Cross-Complaint in Interpleader after bench trial. The Court found in favor of McGovern, discharged them, and granted their request for fees. Therein, the Court ordered:

3. Cross-Defendants are ordered and are directed to interplead and litigate their claims to the above-described sum of money between themselves and are restrained from taking or maintaining any further proceeding or commencing any actions against McGovern for, or on account of, the rights and obligations of the parties with respect to the sums interplead with the Clerk of Court by McGovern.

...

7. The Court retains jurisdiction to determine among the Cross-Defendants themselves any equitable apportionment of the \$195,665.93 awarded to McGovern from the \$538,223.71 interplead with the Clerk of Court in a subsequent order or judgment among Cross-Defendants as claimants.

Court's 9/18/2023 Interlocutory Order on McGovern Escrow Services, Inc.'s Cross-Complaint in Interpleader.

Moving Parties appealed, and the trial court was affirmed. No subsequent matters have been heard on the merits.

II. Relevant Law

Code of Civil Procedure section 386 states in relevant part as follows:

"Any person, firm, corporation, association or other entity against whom double or multiple claims are made, or may be made, by two or more persons which are such that they may give rise to double or multiple liability, may bring an action against the claimants to compel them to interplead and litigate their several claims.

When the person, firm, corporation, association or other entity against whom such claims are made, or may be made, is a defendant in an action brought upon one or more of such claims, it may either file a

verified cross-complaint in interpleader, admitting that it has no interest in the money or property claimed, or in only a portion thereof, and alleging that all or such portion is demanded by parties to such action, and apply to the court upon notice to such parties for an order to deliver such money or property or such portion thereof to such person as the court shall direct; or may bring a separate action against the claimants to compel them to interplead and litigate their several claims. The action of interpleader may be maintained although the claims have not a common origin, are not identical but are adverse to and independent of one another, or the claims are unliquidated and no liability on the part of the party bringing the action or filing the cross-complaint has arisen. The applicant or interpleading party may deny liability in whole or in part to any or all of the claimants. The applicant or interpleading party may join as a defendant in such action any other party against whom claims are made by one or more of the claimants or such other party may interplead by cross-complaint; provided, however, that such claims arise out of the same transaction or occurrence.”

Code Civ. Proc. §386(b).

III. Analysis

Moving parties move for distribution of all court held funds to them, averring that there are no remaining parties in the case, and as such their request thereon is unopposed.

Moving Parties misapprehend the pleading at issue in distribution of the interpled funds. Plaintiffs’ complaint is not the pleading at issue. Instead, it is McGovern’s cross-complaint in interpleader. Moving Parties submit the Court’s October 12, 2022 Notice of Ruling, which expressly states that while the Complaint has been dismissed, “The Court did not strike Plaintiffs/Cross-Defendants Amarjit Singh-Sangha and Wingsingh-Santa Rosa, Inc. dba Wingstop Santa Rosa’s answer to the Cross-Complaint in Interpleader filed 4/23/2018.” See Hadaris Dec. Ex. A. Plaintiffs are not in default as to the cross-complaint in interpleader, the Court has made no findings as to Moving Parties’ rights to the interpleaded funds. Quite the opposite, noting that “Cross-Defendants are ordered and are directed to interplead and litigate their claims to the above-described sum of money between themselves...” Court’s 9/18/2023 Interlocutory Order on McGovern Escrow Services, Inc.’s Cross-Complaint in Interpleader. That Moving Parties are the only party active in the case does not abrogate the requirement that they prove their right to the interpleaded funds. The Court’s interlocutory order is clear, distribution of the interlocutory funds must proceed with a finding of fact. The Court at that time was in no different position than the Court now. The matter must be set for trial on the Cross-Complaint in Interpleader.

Furthermore, despite the fact that Plaintiffs have not been defaulted in the Cross-Complaint in Interpleader, they were given no service of process of the instant motion. Even if

Moving Parties had shown *some* affirmative right to the funds, that does not abrogate the necessity of providing notice of the motion. The Court could not grant Moving Parties' request absent notice to Plaintiffs.

On these grounds, the motion is DENIED.

IV. Conclusion

Moving Parties' motion is DENIED.

The Court sets the matter for **Case Management Conference on 12/10/26 at 3:00 pm in Dept. 19** to set the interpleader action for trial.

The minutes will serve as the order of the Court. Moving Parties are to provide Plaintiffs notice of this order and the Case Management Conference date

5. SCV-269230, Fidelity National v. Darling

Plaintiff Fidelity National Title Company ("Fidelity" or "Plaintiff") initiated this action on August 6, 2021 filing the interpleader action for disbursement of escrow funds against defendants Heidi Darling ("Darling"), Debbie Darlene Shimon ("Shimon"), William McCarty, Jr. ("McCarty, Jr." or "Cross-Complainant") and Does 1-10, related to McCarty, Jr.'s objection to the sale of the property located at 6881 Day Road, Windsor, California (the "Property"). McCarty, Jr. has in turn filed the currently operative first amended cross-complaint (the "FAXC") against Fidelity, Anthony Haberthur ("Haberthur"), Shimon, Sherri Cooper Johnston ("Johnston"), Darling (all together "Cross-Defendants") Richard Carnation (now dismissed), and Does 1-20 alleging causes of action arising out of the sale of the Property.

Defendant/Cross-Complainant McCarty, Jr. moves for distribution of the remaining funds interpleaded to the Court from the interest in the Property held by W.R. McCarty Revocable Trust created on June 4, 2010 ("WR 2010 Trust").

THE PARTIES ARE ORDERED TO APPEAR.

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 (the "Property"), 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.

In turn, Bello has filed a cross-complaint (the “Cross-Complaint”) against Plaintiffs, Michael Musgrove, Ronald Cupp (“Cupp”), the Trust Knot Us Foundation (“TKU”, together with Michael Musgrove, Cupp and Plaintiffs, “Cross-Defendants”), and Does 1-100, for causes of action for: 1) Ejectment; 2) Money Judgment on Note; and 3) Avoidance and Recovery of Fraudulent Transfer. Michael Musgrove has in turn filed a cross-complaint for indemnity and abrogation of damages against the other Cross-Defendants.

This matter is on calendar for the motion by Plaintiffs for summary judgment, or in the alternative summary adjudication of the FAC pursuant to Cal. Code Civ. Proc. (“CCP”) § 437c.

Plaintiffs’ motion is DENIED.

I. Evidentiary and Pleading Issues

A. Procedural Deficiencies

Bello objects to Plaintiffs’ utilization of paraphrasing in translating from the Notice of Motion to Plaintiffs’ Separate Statement in Support. Bello is correct that Plaintiffs’ language fails to be consistent across the two documents. Cal. Rule of Court 3.1350(b). Plaintiff’s transcription is clearly not verbatim, but is at least substantially similar to the other document sufficient that the issues remain consistent.

In turn, Bello has asserted his objections to Plaintiff’s Separate Statement in a deficient manner. Where a party asserts written objections to evidence in a summary judgment motion, those objections “must be served and filed separately from the other papers”. Cal. Rule of Court, Rule 3.1354(b). Their format must conform to one of two options. *Id.* at subd. (b)(4). A proposed order must be provided. *Id.* at subd. (c). Bello has provided none of these, asserting objections peppered into the separate statement.

These issues appear to be similar in scope and prejudice. Both the Separate Statement and Bello’s Objections will be considered on their merits.

B. Evidentiary Objections

Bello objects to Plaintiffs’ Separate Statement (“PSS”) ¶¶ 4-22. Bello’s objection to PSS ¶ 8 is SUSTAINED, as being insufficiently supported by the cited evidence. Bello’s objection to PSS ¶ 17 is SUSTAINED on the basis of lack of foundation. Plaintiffs fail to make any showing of the meaning of the content of the Google Earth photo. There is no identified date that the image was taken, and therefore it is not sufficiently established as reliable evidence relevant to the instant matter. Bello’s objections to PSS ¶¶ 18 and 19 are SUSTAINED as being recitations of law and not statements of fact. Bello’s objections to PSS ¶ 21 is SUSTAINED in part and PSS ¶ 22 is SUSTAINED entirely as relying on incompetent evidence. Plaintiffs repeatedly rely on the FAC as evidence to support their

disputes of fact, which is not a substitute for competent evidence. *Weir v. Snow* (1962) 210 Cal.App.2d 283, 294. Complaints, even verified ones, are not usable evidence for the purposes of summary judgment. *College Hospital Inc. v. Superior Court* (1994) 8 Cal.4th 704, 720, fn. 7. Plaintiffs' facts here lack competent evidence, and therefore are not capable of consideration. The balance of Bello's objections are OVERRULED.

Bello's separately asserted objections 1-6 are OVERRULED. Objection 7 is SUSTAINED.

Plaintiffs in turn file three objections on Reply. Plaintiffs' objections 1-3 are SUSTAINED. Objection 2 is SUSTAINED particularly as irrelevant to the summary judgment motion.

C. Unlicensed Practice of Law

Bello contends that Mendez, as a former but disbarred attorney, is engaged in the practice of law through his conduct in this case. Mendez's conduct, whether unlicensed practice or not, does not bear on the merits of the matter, and accordingly it does not appear to be an adequate basis for opposition to the motion. The Court has sustained the objection above as a result.

Nonetheless, when confronted with unlicensed practice, the Court is moved to determine some appropriate action. Previously, there was no notice within the record of Mendez's status as a disbarred attorney. Disbarred attorneys are subject to specific scrutiny when examining the unlicensed practice of law. See Bus. and Prof. Code § 6126. Mendez's involvement in the case arises out of unusual circumstances which might merit additional attention and action by the Court. In this instance, the Court will set an Order to Show Cause as to why the Court should not make the appropriate referral to those agencies that may prosecute any potential unauthorized conduct outlined under Bus. and Prof. Code § 6126. The Court will set the **OSC for December 17, 2026 at 3:30 p.m. in Dept. 19.** Mendez may file declarations and any supporting evidence at least ten (10) days prior to the hearing.

II. Underlying Facts

Natasha Khallouf and Sean Musgrove acquired the Property at 6971 Saint Helena Road, Santa Rosa, CA 95404 by Deed of Trust recorded September 30, 2020, securing a \$1,200,000 loan, naming Bello as beneficiary. PSS ¶ 1. Richard Mendez later acquired an interest in the Property by Grant Deed, Instrument No. 2023015981, recorded April 14, 2023. PSS ¶ 2. On December 23, 2022, PLM, purporting to act as substituted trustee, recorded a Notice of Default, Instrument No. 2022080447. PSS ¶ 3. The declaration attached to the Notice of Default, signed by Bello and dated December 19, 2022, asserted an exemption from Civil Code section 2923.55 on the ground that "The requirements of Cal. Civil Code § 2923.55 do not apply because the loan is not secured against real property containing four or less dwelling units, is not the principal residence of the borrower." PSS ¶ 4. Bello does not recall making, or attempting to make, telephone contact with Plaintiffs prior to the recording of the Notice of Default. PSS ¶ 5. Bello does not recall providing Plaintiffs the toll-free HUD counseling telephone number outlined in Civil Code

section 2923.5, subdivision (a)(2). PSS ¶ 6. Bello testified that he had no personal knowledge of, and could not identify anyone who performed, the due-diligence letter and three-attempt telephone sequence outlined by Civil Code section 2923.5 as an alternative to direct contact. PSS ¶ 7. Bello testified that he signed the declaration attached to the Notice of Default without understanding its contents, and without independent knowledge of whether its recitals were true. PSS ¶ 9. Bello testified that he never visited the Property, at any time, to confirm its occupancy status. PSS ¶ 10.

Elizabeth Godbey, PLM's Vice President, testified that PLM's basis for the exemption recital in the declaration was an unverified representation relayed to it, and that PLM never independently confirmed the Property's occupancy status. PSS ¶ 11. Godbey testified that PLM possessed no evidence that Bello, or anyone on his behalf, ever attempted the contact required by Civil Code section 2923.5. PSS ¶ 12. On January 11, 2023 - more than three months before the trustee's sale - Plaintiff Musgrove sent PLM an affidavit asserting non-compliance with Civil Code section 2923.5. PSS ¶ 13. On January 23, 2023, PLM responded, asserting a different exemption rationale than the one later recited in the NOD declaration - claiming the Property was exempt as vacant land. PSS ¶ 14. On April 7, 2023 - three weeks before the trustee's sale - Plaintiffs sent PLM a certified letter again asserting non-compliance with Civil Code section 2923.5 and showing evidence of trailers on the Property. PSS ¶ 15. PLM responded, stating that the trailers were not qualifying dwelling structures under Civ. Code § 2923.5, and the Property remained exempt from 2923.5's requirements. Plaintiff's Exhibit 11, attached to the Declaration of Sean Musgrove.

The original Deed of Trust held by Bello named Sand Dollar Loan Service as the Trustee. PSS ¶ 20. PLM recorded a substitution of Trustee naming itself as successor trustee under the Deed of Trust. PSS ¶ 21. On March 27, 2023, PLM recorded a Notice of Trustee's Sale, Instrument No. 2023012625, acting as trustee. PSS ¶ 23. On April 28, 2023, PLM conducted a trustee's sale of the Property and recorded a Trustee's Deed Upon Sale, Instrument No. 2023019006, on May 3, 2023, purporting to convey title to the Tony Bello Living Trust. PSS ¶ 24.

On or about September 27, 2020, the Property burned in the wildfire known as the Glass Fire. Bello's Separate Statement of Undisputed Facts ("BSS") ¶ 1. After the Glass Fire, Natasha Khallouf, Sean Musgrove and Michael R. Musgrove did not construct a building on the Property. BSS ¶ 2. Nastasha Khallouf, Sean Musgrove and Michael R. Musgrove have not resided at the Property since purchasing the Property. BSS ¶ 3. Matthew Shotwell's lease of the Property began no earlier than July 1, 2022. BSS ¶ 4. Natasha Khallouf, Sean Musgrove and Michael R. Musgrove defaulted on the \$1,200,000 note secured by the senior Deed of Trust against the Property, effective September 1, 2022. BSS ¶ 5.

III. The Burdens on Summary Judgment and Adjudication

A. *Generally*

Summary adjudication “shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” CCP § 437c(c). “Summary adjudication of an affirmative defense is properly granted when there is no triable issue of material fact as to the defense, and the moving party is entitled to judgment on the defense as a matter of law.” *Kendall-Jackson Winery, Ltd. v. Superior Court* (1999) 76 Cal.App.4th 970, 977–978. “In examining the sufficiency of affidavits filed in connection with the motion, the affidavits of the moving party are strictly construed and those of his opponent liberally construed, and doubts as to the propriety of granting the motion should be resolved in favor of the party opposing the motion.” *D’Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 20.

“A plaintiff moving for summary judgment ‘bears the burden of persuasion that ‘each element of’ the ‘cause of action’ in question has been ‘proved,’ and hence that ‘there is no defense’ thereto.” *Thompson v. Ioane* (2017) 11 Cal.App.5th 1180, 1195; citing *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850. “It is generally understood, ... that a party cannot rely on the allegations of his own pleadings, even if verified, to make or supplement the evidentiary showing required in the summary judgment context.” *College Hospital Inc. v. Superior Court* (1994) 8 Cal.4th 704, 720, fn. 7.

If a plaintiff meets its initial burden moving for summary judgment, the burden shifts to the defendant to provide sufficient evidence to raise a triable issue of fact as to the defense asserted. CCP § 437c(p)(1). An issue of fact exists if “the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof.” *Aguilar*, 25 Cal.4th at 845.

A moving party does not meet its initial burden if some “reasonable inference” can be drawn from the moving party’s own evidence which creates a triable issue of material fact. *See, e.g. Conn v. National Can Corp.* (1981) 124 Cal.App.3d 630, 637; *Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 840. If the moving plaintiff does not meet its initial burden, the defendant has no evidentiary burden. CCP § 437c(p)(1). Damages are an element which must be proven in a specific amount for a plaintiff to meet their burden on summary judgment. *Pajaro Valley Water Management Agency v. McGrath* (2005) 128 Cal.App.4th 1093, 1106. However, “summary judgment shall not be denied on grounds of credibility or for want of cross-examination of witnesses furnishing affidavits or declarations in support of the summary judgment...” CCP, § 437c (e).

B. *Actions to Set Aside Foreclosure Sale and the Homeowner’s Bill of Rights*

“(T)he elements of an equitable cause of action to set aside a foreclosure sale are: (1) the trustee or mortgagee caused an illegal, fraudulent, or willfully oppressive sale of real property pursuant to a power of sale in a mortgage or deed of trust; (2) the party attacking the sale (usually but not always the trustor or mortgagor) was prejudiced or harmed; and (3) in cases where the trustor or mortgagor challenges the sale, the trustor or mortgagor tendered the amount of the secured indebtedness or was excused from tendering.” *Lona v. Citibank, N.A.* (2011) 202 Cal.App.4th 89, 104. “Because the action is in equity, a defaulted borrower who seeks to set aside a trustee’s sale is required to do equity before the

court will exercise its equitable powers.” *Id.* at 113. “Consequently, as a condition precedent to an action by the borrower to set aside the trustee’s sale on the ground that the sale is voidable because of irregularities in the sale notice or procedure, the borrower must offer to pay the full amount of the debt for which the property was security.” *Ibid.*

There exist several exceptions to the general rule, including any case where plaintiff does not rely on equity to attack the deed, because the transfer is void. “(I)n the context of overcoming a voidable sale, the debtor must tender any amounts due under the deed of trust.” *Dimock v. Emerald Properties LLC* (2000) 81 Cal.App.4th 868, 877. However, where a purported trustee is not the trustee at the time of the sale, they have no power to convey the property, and any transfer they effect is void. *Id.* at 876. In those cases, no tender is required. *Ibid.*; see also *Lona v. Citibank, N.A.* (2011) 202 Cal.App.4th 89, 104.

Homeowners who qualify under Civ. Code § 2924.15 are entitled to additional protections under Civil Code Section 2924(a)(5) and Sections 2923.5, 2923.55, 2923.6, 2923.7, 2924.9, 2924.10, 2924.11, and 2924.18 in the event of default and foreclosure, otherwise known as the Homeowner’s Bill of Rights (“HBOR”). Civ. Code § 2924.15(a). HBOR protections only apply to properties that are “owner occupied”, which “means that the property is the principal residence of the borrower and is security for a loan made for personal, family, or household purposes.” Civ. Code, § 2924.15 (b). Prior versions of the statute effective in 2022 and 2023 included protections for tenant occupied properties, if the property was occupied due to “a lease entered pursuant to an arm’s length transaction before, and in effect on, March 4, 2020.” See former Civ. Code, § 2924.15, effective 1/1/2022-12/31/2022 and 1/1/2023-12/31/2024.

C. *Unfair Competition Law*

Business & Professions Code (“Bus. & Prof. Code”) section 17200 (commonly called the Unfair Competition Law, or “UCL”), prohibits “any unlawful, unfair or fraudulent” business practices.” Bus. & Prof. Code §17200. “Since section 17200 is [written] in the disjunctive, it establishes three separate types of unfair competition” and “prohibits practices that are either ‘unfair’ or ‘unlawful,’ or ‘fraudulent.’” *Pastoria v. Nationwide Ins.* (2003) 112 Cal.App.4th 1490, 1496; see also *CelTech Commc’ns, Inc. v. Los Angeles Cellular Tel. Co.*, (1999) 20 Cal.4th163, 180 (1999). “Prevailing plaintiffs [under the UCL] are generally limited to injunctive relief and restitution. Plaintiffs may not receive damages ... or attorney fees.” *Zhang v. Superior Court* (2013) 57 Cal.4th 364, 371 (internal quotations omitted). Punitive damages are not recoverable under the UCL. *Id.* at 376.

A business practice may be “unfair or fraudulent in violation of the UCL even if the practice does not violate any law.” *Olszewski v. Scripps Health* (2003) 30 Cal.4th 798, 827. “Unlike common law fraud, a UCL fraud claim “can be shown even without allegations of actual deception, reasonable reliance and damage”; what is required to be shown is that members of the public are likely to be deceived.” *Collins v. eMachines, Inc.* (2011) 202 Cal.App.4th 249, 258 (internal quotations omitted).

IV. Analysis

A. Plaintiffs Fail to Shift Their Burden

Plaintiffs predicate this motion on the argument that there is evidence Bello had no personal knowledge of the conditions on the property at the time that he initiated the foreclosure process. Plaintiffs argue that Bello failed to comply with the protections contained in Civ. Code §§ 2923.5 and 2923.55. Plaintiffs argue that because Bello had no personal knowledge, his affirmation of exemption is fraudulent, and therefore the exemptions apply. In support, Plaintiffs present evidence averring that Bello had never been to the property, and as such could not present competent evidence that the property was exempt from the requirements of the HBOR. They also argue that Bello cannot present evidence that the HBOR doesn't apply to the property.

Plaintiffs misapprehend the principles of summary judgment. While a defendant may prevail by displaying that a plaintiff cannot show an element of a cause of action, the burden on moving plaintiffs is more onerous. They must show "each element of the cause of action entitling the party to judgment..." CCP § 437c(p)(1). Barring that, Bello has no burden in response. *Ibid*. It is not enough to attack Bello's potential defenses if Plaintiffs do not establish the elements of their causes of action. Plaintiffs must *affirmatively* present evidence of each element showing that the HBOR applies.

Plaintiffs attack Bello's knowledge of conditions at the Property, arguing that his affirmation of exemption is invalid because he had no personal knowledge of the conditions on the Property. The result is that Plaintiffs' showing skips a necessary step in finding a violation of Civ. Code §§ 2923.5 and 2923.55. Plaintiffs must either show that these sections applied to the property because the HBOR requirements under Civ. Code § 2924.15 were met, *or* that there is some legal authority extending Civ. Code §§ 2923.5 and 2923.55 to homes that do not meet Civ. Code § 2924.15.

Plaintiffs provide no authority extending the claimed provisions of the HBOR to cases that do not meet Civ. Code § 2924.15. The language of that section does not contemplate some form of "state of mind" requirement on the foreclosing party in these statutes. It is stated in absolute terms. Plaintiffs' cited statutes only apply to "a first lien mortgage or deed of trust that is secured by owner-occupied residential real property containing no more than four dwelling units." Civ. Code, § 2924.15 (a). "[O]wner-occupied" means that the property is the principal residence of the borrower and is security for a loan made for personal, family, or household purposes." Civ. Code, § 2924.15 (b).

Plaintiffs do not present evidence that the Property was owner occupied at the time of the foreclosure. Any remote showing that an individual may have been living in a trailer on the property appears insufficient to satisfy the "owner-occupied" requirement. This is an element of their claims, as a necessary part of showing that Civ. Code §§ 2923.5 and 2923.55 apply. Without it, any claim of violation of those statutes is not proven, and therefore Plaintiffs fail to show "each element of the cause of action" to meet their burden as the moving plaintiff. *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850. Plaintiffs fail to shift the burden as to summary judgment, as they fail to establish an element of their causes of action.

Plaintiffs also cite Civ. Code § 2924.12 and 2924.17, arguing that Bello's declaration without personal knowledge violates the requirements of Civ. Code § 2924.17. Plaintiffs do *not* include this argument as part of their notice of motion or separate statement, and therefore it is only capable of consideration for summary judgment. Their inclusion in the memorandum is insufficient to provide notice for the purposes of summary adjudication. Given that there are triable issues of fact on other causes of action, summary judgment is improper. Plaintiffs' argument cannot form the basis for granting summary judgment.

Civ. Code § 2924.17 is itself not independently actionable as a claim by private parties. That section is reserved for governmental enforcement. See Civ. Code § 2924.17 (c) (assigning enforcement of the statute to "governmental entit[ies]"); *Noe v. Superior Court* (2015) 237 Cal.App.4th 316, 337 ("there is a private right of action to enforce a statute 'only if the statutory language or legislative history affirmatively indicates such an intent.'"). Instead, borrowers may act post-sale on foreclosures reliant on improper declarations under Civ. Code § 2924.17 through an action under Civ. Code § 2924.12(b). This fails because Plaintiffs have not satisfied the elements of a claim under Civ. Code § 2924.12(b).

As to all causes of action, Plaintiffs present *no* evidence of damages. The failure to present damages generally makes summary judgment for a plaintiff impossible. *Pajaro Valley Water Management Agency v. McGrath* (2005) 128 Cal.App.4th 1093, 1106. In their improper argument for summary adjudication of § 2924.12, Plaintiffs attempt to defer damages as "reserved for further proceedings", but the failure to prove any damages at all precludes prevailing on that cause of action. A borrower may only proceed on § 2924.12(b) to recover "actual economic damages". As the Court has already analyzed, Plaintiffs do not show that they are otherwise entitled to HBOR protections, and accordingly they have not shown any articulable damages. While Plaintiffs attempt to argue the second part of the statute, entitling them to either treble damages or a statutory \$50,000, they fail to present any evidence showing that the failure was willful, a required element of those damages. With no articulable economic damages, Plaintiffs fail to show a necessary element to their claim under Civ. Code § 2924.12(b).

Summary Judgment is DENIED.

Given that Plaintiffs fail to show that the HBOR applies, they have failed to establish an element of the cause of action for violation of Civ. Code § 2923.5. Accordingly, summary adjudication of that cause of action is DENIED.

Plaintiffs argue that their causes of action for cancellation of instrument, wrongful foreclosure, and quiet title are sufficiently supported for summary adjudication because the substitution of trustee was void. These contentions fail to be supported by any admissible evidence. Plaintiffs rely entirely on their own Verified First Amended Complaint as the *only* evidence to support summary adjudication here. Their briefing is entirely couched in pleading standards. Again, Plaintiffs have inverted the required showing on summary judgment. Plaintiffs' FAC, even if it is verified, *cannot* form the evidence for their own

summary judgment or adjudication motion. *College Hospital Inc. v. Superior Court* (1994) 8 Cal.4th 704, 720. Summary judgment must be proven through “affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice shall or may be taken”. CCP § 437c(b)(1). Here, Plaintiff’s provide no authority showing that Bello’s transfer was *actually* void, simply citing to their FAC to prove their case. Pleading standards are deeply distinguishable from articulating and proving a legal contention at summary adjudication. Plaintiffs provide no evidence that Bello was not the owner of the Property, nor any legal authority showing that he was not vested with the power to substitute the trustee. Plaintiffs present no evidence that the subsequent conduct undertaken by Bello or PLM is void as a result. Summary adjudication of the causes of action for cancellation of instrument, wrongful foreclosure, and quiet title is **DENIED**.

Plaintiffs’ motion states that its contentions of UCL violations is “derivative” of their other causes of action. Given that Plaintiffs have failed to shift their burden on those causes of action, the UCL claim comes to an identical result. Summary adjudication of Plaintiffs’ UCL claim is **DENIED**.

1. *Bello Would Meet any Burden to Raise a Triable Issue*

Even if Plaintiffs shifted their burden, Bello presents evidence that the Property does not fall under Civ. Code § 2924.15, and therefore is not subject to the Homeowner’s Bill of Rights provisions at issue. The Property burned in the Glass Fire, and no residence has been constructed there since. Plaintiffs have never resided at the property.

What is more, Bello presents evidence showing that he was aware of the fire damage to the Property, as he had provided additional funds to Khallouf and Musgrove for fire cleanup efforts after the improvements to the Property burned in the Glass Fire. See Bello’s Ex. 1, Declaration of Tony Bello, ¶ 6 (c). If there were no improvements remaining on the Property, Plaintiffs could not satisfy the requirements of Civ. Code § 2924.15, and therefore there is at least a triable issue of fact as to whether Bello’s evidence of that was competent. Even had Plaintiffs shifted the burden, summary judgment must be denied.

IV. Conclusion

Based on the foregoing, the motion for summary judgment or adjudication is **DENIED**.

The Court has set the **OSC for December 17, 2026 at 3:30 p.m. in Dept. 19** for Mendez to show cause as to why Bus. And Prof. §6126 should apply to him. Mendez must appear in-person at the hearing and may file declarations and any supporting evidence at least ten (10) days prior to the hearing.

Bello 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.****