TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, October 29, 2025, 3:00 p.m.
Courtroom 16 – Hon. Patrick M. Broderick
3035 Cleveland Avenue, Suite 200, Santa Rosa

TO JOIN "ZOOM" ONLINE,
Courtroom 16
Meeting ID: 161-460-6380
Passcode: 840359
https://sonomacourt-org.zoomgov.com/j/1614606380?pwd=NUdpOEZ0RGxnVjBzNnN6dHZ6c0ZQZz09

TO JOIN "ZOOM" BY PHONE,
By Phone (same meeting ID and password as listed above):
(669) 254-5252 US (San Jose)

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, YOU MUST notify the Court by telephone at **(707) 521-6725**, and all other opposing parties of your intent to appear by 4:00 p.m. the court day immediately before the day of the hearing.
Parties in motions for claims of exemption are exempt from this requirement.

PLEASE NOTE: The Court WILL NOT provide a court reporter for this calendar. If there are any concerns, please contact the Court at the number provided above.

1. 23CV00639, Walker v. From the Heart Home Care Inc.

Plaintiff Angela Walker ("Plaintiff") moves for an order compelling Defendant MBK Senior Living, LLC ("MBK") to serve further responses to Plaintiff's Request for Production of Documents, Set 1, numbers 1-80; Special Interrogatories, Set 1, numbers 1-27; and Request For Admissions, Set 1, numbers 1-23.

This motion is made pursuant to CCP sections 2030.300, 2033.290, and 2031.310. Section 2030.330 pertains to a motion to compel further responses to interrogatories. Section 2033.290 pertains to a motion to compel further responses to requests for admissions. Section 2031.310 pertains to a motion to compel further responses to requests for production of documents.

On October 17, 2024, Plaintiff served MBK with her Request for Admissions, Set 1; Special Interrogatories, Set One; and Request for Production of Documents, Set 1. (Karpilow decl., ¶2.) MBK's discovery responses were originally due on November 18, 2024; however, MBK, through its attorney of record, Scott Lacunza, requested several extensions to serve discovery responses, which Plaintiff's Counsel granted. (*Id.,* ¶3.) MBK finally served its responses on March 7, 2025, which only contained boilerplate objections. (*Ibid;* Exhibit 2.) The response to each included all or some of the following objections: "Defendant objects to this Request on the grounds that it is vague and ambiguous. Defendant objects to this Request on the grounds that it seeks information that is outside the scope of discovery because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request on the grounds that it is overbroad in time and scope. Defendant further objects to this Request on the grounds that it seeks documents protected from disclosure by the attorney-client privilege and/or work product doctrine.

Defendant further objects to this Request on the grounds that it seeks information protected from disclosure by the right to privacy."

MBK agreed to extend Plaintiff's deadline to file this motion to June 30, 2025. (*Id*., ¶4.) The motion was filed on June 30, 2025. The hearing on the motion was scheduled for this calendar on October 29, 2025. This action has been pending since September 20, 2023. Trial is set for October 31, 2025.

On October 21, 2025, the parties filed a notice of partial settlement and joint stipulation. The notice states the parties have resolved all issues in this case except for those pending against defendant MBK. Therefore, they request the trial currently set for October 31, 2025, be continued to March 13, 2026, or to another date set by this court. This court had intended to deny Plaintiff's motion to compel further responses based upon the date set for trial, which is two days after the hearing on this motion. However, as the issues have now all been resolved, except for those against MBK for which additional discovery is needed, a continuance of the trial is warranted as is the granting of this motion.

Including anticipated time spent on a reply, Plaintiff requests $6,604.95 in sanctions on this motion. This is for 8 hours spent researching, drafting, and editing this motion, and meeting and conferring with opposing counsel. Plaintiff's counsel, Benjamin Karpilow, states his hourly rate is $600. The cost to file this motion was $64.95.

Mr. Karpilow's hourly rate to research and prepare this motion is excessive for this area and for this type of motion. Sanctions are granted in the amount of $2,365.00.

The trial currently set for October 31, 2025, is hereby DROPPED. This court will set a new trial date within the normal course. Plaintiff's motion to compel defendant MBK to provide further responses to Plaintiff's Request for Production of Documents, Set 1, numbers 1-80; Special Interrogatories, Set 1, numbers 1-27; and Request For Admissions, Set 1, numbers 1-23, is GRANTED. MBK is directed to provide further responses and to pay sanctions within 30 days of this order.

2. 24CV01984, 458 Seb Ave LLC v. Anderson

G. Scott Emblidge, Gianna Geil, and Moscone Emblidge & Rubens, LLP, move to be relieved as counsel for Defendant Eric Gustav Anderson. As Defendant's counsel is aware, it must serve its client with the motion, declaration, and proposed order. (Cal. Rules of Court, Rule 3.1362(d).) The proof of service filed by moving counsel only shows service on Plaintiff's counsel. Accordingly, **this motion is CONTINUED to December 17, 2025, at 3:00 p.m., in Department 16,** to allow moving counsel to serve their client and file proof of service with this court.

3. 24CV07820, Pfendler v. City of Petaluma

Defendants City of Petaluma, Larry Modell, and Matt Maguire ("Defendants") demur to the nine causes of action alleged in the First Amended Complaint ("FAC") filed on February 7, 2025, by Plaintiffs Nicholas Pfendler, Donald McKinney, James Heppelmann, Mary Hable, Richard Tavernetti, and Randall Smith ("Plaintiffs") on the grounds of failure to state facts sufficient to constitute a cause of action by failing to claim compliance with the Government Claims Act; failing to allege a statutory cause of action, as Defendants have immunity; and, as to the sixth cause of action, Plaintiffs fail to allege extreme conduct. **The demurrer to Plaintiffs' cause of action for**

trespass against defendants Modell and Maguire is OVERRULED. The demurrer to the remaining causes of action is SUSTAINED with leave to amend.

1. Allegations

Plaintiffs' FAC alleges that they own land neighboring a parcel of real property owned and controlled by defendant City of Petaluma ("City"). The City's property is commonly referred to as the "Lafferty Ranch." Plaintiffs allege Lafferty Ranch and the neighboring areas contain creeks and waterways and other habitat for protected and endangered species under the California Endangered Species Acts. In 1998, a Draft Environmental Impact Report on the City's plan to open and operate Lafferty Ranch as a public park (the "Project") was circulated pursuant to the California Environmental Quality Act, in which many significant impacts were identified including impacts to fire risk, traffic safety, and to the protected, threatened or endangered species found thereon. A final Environmental Impact Report was circulated in 2001 identifying similar impacts. Despite commissioning and controlling these two documents for more than twenty-five years, and being party to significant, protracted litigation on this very issue less than ten years ago, the City of Petaluma has never attempted to implement the necessary mitigation measures identified by the relevant local and state agencies prior to pursuing the Project. Rather, the Defendants have brazenly opened the Park for public access through hosted tours.

Plaintiffs allege Defendants currently access, or instruct others to access, Lafferty Ranch by entering onto land exclusively owned, controlled, and possessed by the Plaintiffs. Defendants are aware, but intentionally ignore, that they have no established easement, vested use, or other possessory rights to Plaintiffs' land. Whenever confronted, Defendants or their agents present a knowingly false claim of right that has been long since debunked. They then couple this with routine and consistent trespassory access and removal of any signage or personal property of the Plaintiffs designed and intended to keep them out or secure the Plaintiffs' Properties.

Plaintiffs allege defendant City is attempting to convert or transition Lafferty Ranch into a public space. In doing so, they have failed to comply with numerous standards and safety precautions, including but not limited to, Chapter 13 of the Sonoma County Code of Ordinances, the California Environmental Quality Act, and the California Endangered Species Act.

Plaintiffs allege defendants Modell and Maguire have trespassed onto Plaintiffs' property, entered Plaintiffs' property without Plaintiffs' permission, altered Plaintiffs' property, and participated in efforts to transform Lafferty Ranch and Plaintiffs' property into a public space through various direct and indirect actions.

Plaintiffs allege the City's installation of makeshift driveways for gasoline powered vehicles, creating makeshift parking lots for gasoline powered vehicles, building and expanding bridges, pathways, trailheads, and culverts; displacement and disruption of rocks and vegetation; disruption of habitats and wildlife, particularly those of steelhead, birds, rodents, and other species of protected flora and fauna; altering water ways; increasing fire risk; minimizing defensible space, removing natural plant growth; leveling land, over-occupying and using the land and other alterations to Lafferty Ranch. Plaintiffs allege these actions are in direct contradiction to findings of the Sonoma County Board of Supervisors as identified within Sonoma County Code of Ordinances, Sec. 13-21 and 13-22.1 which includes, but is not limited to, a determination that violations such as those performed by the City place residents and property within the unincorporated area of the County of Sonoma in a condition perilous to health or safety, or both, as well as other corelated findings designed to preserve resources and public safety constituting the City's actions and omissions as a public and private nuisance.

Plaintiffs allege causes of action for: (1) Public Nuisance; (2) Private Continuing Nuisance; (3) Negligence; (4) Obstruction with Economic Advantage; (5) Trespass; (6) Intentional Infliction

of Emotional Distress; (7) Negligent Infliction of Emotional Distress; (8) Declaratory Relief; and (9) for Injunctive Relief.

2. Timeliness

"[N]o suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented ... until a written claim therefor has been presented to the public entity and has been acted upon ... or has been deemed to have been rejected...." (Gov. Code § 945.4.) Claims for personal injury and property damage must be presented within six months after accrual; all other claims must be presented within a year. (Gov. Code § 911.2.) "Thus, under these statutes, failure to timely present a claim for money or damages to a public entity bars a plaintiff from filing a lawsuit against that entity." (*City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, 738 [citing case].) Each cause of action must have been reflected in a timely claim. (*Nelson v. State of California* (1982) 139 Cal.App.3d 72, 79.)

Plaintiffs' Claim is dated May 15, 2024. (Defendants' Request for Judicial Notice ["RJN"], Exhibit C, Exhibit 1.) Defendants argue that this action is untimely. Defendants cite authority pertaining to the timing of presentment of a claim to the City. Here, with respect to trespass allegations, Plaintiffs are alleging an ongoing trespass—requesting to have the City remove certain improvements placed on their property. (FAC, Prayer, ¶3(a).) Plaintiffs also argue that this action arose out of the 2024 Encroachment Permit obtained on February 20, 2024. The allegations based upon the City's use of Lafferty Ranch prior to the issuance of the Encroachment Permit are intermingled with more recent and on-going developments. These allegations, to the extent that they go beyond Plaintiffs' May 15, 2024 Claim Against The City of Petaluma (the "Claim"), making them untimely, would need to be addressed by a motion to strike. Defendants have not shown that the FAC's allegations based upon Plaintiffs' Claim are untimely.

3. Scope of Claim against the City

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

Plaintiffs' Claim states their appeal of the City's Encroachment Permit No. ENC23-0369, was denied by Permit Sonoma on March 11, 2024. (RJN, Exhibit C, Exhibit 1.) The Claim states: "Claimants are aggrieved by the approval of the Encroachment Permit because its proposed project exceeds the public right of way (if such even exists at the site), inaccurately states that Lafferty Ranch has a driveway at the site, would place improvements on Claimants' private property, and will destroy both recent and historic survey monuments. Public officials and agents have encouraged and facilitated ongoing trespass and action constituting public and private nuisance, such as fire risk, disruption of environmental habitat and other actions." (*Ibid*.)

It also states: "The Encroachment Permit requests that the applicant (City of Petaluma) be allowed to '[a]dd rock, from shoulder backing of Sonoma Mountain Rd to existing gate" and its approval is expressly conditioned upon the work staying "entirely within the public R[ight] O[f] W[ay].' Claimants contend that Sonoma Mountain Road at Postmile 13.01 is not actually a county-maintained road and that no public right of way exists there. The Encroachment Permit would place improvements on Claimants' private property, destroy both recent and historic survey monuments, create risk for slides, fire, and trespassing as well as putting Claimants at risk for potential liability, denial of insurance, increased operating expenses, emotional distress, and breach of quiet enjoyment." (*Ibid*.)

The first cause of action for public nuisance, second cause of action for private nuisance, third cause of action for negligence, fifth cause of action for trespass, sixth cause of action for intentional infliction of emotional distress, seventh cause of action for negligent infliction of

emotional distress, and eighth cause of action for declaratory relief are based upon Defendants' maintenance, alteration, ownership, and control of the Lafferty Ranch. The causes of action contain numerous allegations that go beyond what was alleged in Plaintiffs' Claim. However, each also contains allegations the City has trespassed upon Plaintiffs' property and interfered with Plaintiffs' property rights. Therefore, these causes of action are based upon allegations in the Claim. Extraneous allegations should be addressed by a motion to strike.

Plaintiffs' fourth cause of action for [Intentional Interference] with Economic Advantage is based upon the alleged increase in insurance costs due to the City's actions. Increased insurance costs were noted in the Claim.

Each of Plaintiffs' causes of action contain allegations presented to the City in their Claim. Allegations going beyond the scope of the Claim would therefore need to be addressed by a motion to strike. The demurrer to each cause of action on this ground is OVERRULED.

4. Statutory Cause of Action

Under Government Code section 815, all government tort liability must be based on statute. (Gov. Code § 815.) That provision provides that: "Except as otherwise provided by statute [¶] (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person." (Gov. Code § 815, subd. (a).) Government Code section 815 restores sovereign immunity in this state except as provided in the Tort Claims Act or other statutes. (*Tolan v. State of California ex rel. Dept. of Transportation* (1979) 100 Cal.App.3d 980, 983.) Thus, direct liability for common law claims is not permissible against a public entity. (*Id.,* at p. 986.) The Court of Appeal has explained, "a public entity's duty of care is only that specifically provided by statute." (*Tolan*, 100 Cal.App.3d at p. 986.) Statutory claims must be alleged with particularity. (*Shields v. County of San Diego* (1984) 155 Cal.App.3d 103, 113.)

i. Public Employee within the Scope of Employment

In their opposition, Plaintiffs cite Gov. Code section 815.2, *Sava v. Fuller* (1967) 249 Cal. App. 2d 281, and *Lugtu v. California Highway Patrol* (2001) 26 Cal.4th 703. These authorities pertain to liability for injury proximately caused by an act or omission of an employee of the public entity within the scope of employment. A public entity may be liable for its employee's act if the act or omission would have given rise to a cause of action against that employee or his or her personal representative. (Gov. Code section 815.2) Here, Plaintiffs argue that they are *not* suing defendants Modell and Maguire as employees of the City: "the City argues Plaintiffs failed to allege Modell and Maguire are City employees. They are not. Plaintiffs sued them in their individual capacities for personally trespassing on Plaintiffs' land." (Oppo., 3:2-4; See also FAC, ¶14.)

Plaintiffs argue: "Here, City agents have trespassed on Plaintiffs' properties, erected bridges, culverts, and parking lots and encouraged public visitation without complying with sixteen public safety statutes (FAC at ¶ 11, 16, 17, 18 20, 21, 22, 24, 47, 48). These acts constitute trespass and create a nuisance." (Oppo., 9:28-10:1-2.) "Defendant City invites guests to trespass onto Plaintiffs' land to access Lafferty Ranch, in addition to those participating in or leading docent led hikes." (FAC, ¶18.) Plaintiffs allege: "Defendants, themselves and through their agents, representatives, and guests, intentionally, recklessly, or negligently entered Plaintiffs' Properties on numerous occasions and destroyed or removed signage, security equipment and other items owned by Plaintiffs sitting upon their properties."

Plaintiffs are alleging trespass from the public crossing over their land either to enter Lafferty Ranch or traverse through it to other parts of the Ranch, and that these people are encouraged to come to Lafferty Ranch by the City and thus, by extension, the City is allegedly impliedly encouraging people to trespass onto Plaintiffs' land. First, there are no allegations based upon actions of City employees as Modell and Maguire are not alleged to be City employees. And, Government Code section 820.8 provides that a public entity and its employees "are not liable for

an injury caused by the act or omission of another person." Allegations pertaining to damage done by third parties do not support the City's liability.

ii. City's Actions

The City's alleged trespass appears to be the placement of gravel on a driveway which Plaintiffs allege belongs to them. (FAC, ¶20.) From the context of the entire FAC, it appears the other allegations, that bridges were erected and other work performed, occurred on Lafferty Ranch—not on Plaintiffs' abutting property. Plaintiffs vaguely allege: "Defendants have also since installed a culvert, bridge, and parking lot on Plaintiffs' property and Lafferty Ranch while increasing the use and disruption of said properties," grouping land owned by Plaintiffs together with Lafferty Ranch obscuring what was done where.

In opposition, Plaintiffs argue that the City's activities include: "installing bridges, culverts, and parking lots, while destroying natural habitats, and leading public hikes through Plaintiffs' properties…" (Oppo., 3:16-18.) Still, it is not clear if Plaintiffs mean all of the improvements occurred on Plaintiffs' property or the development occurred on Lafferty Ranch and only the City's contractor led public hikes through Plaintiffs' property.

Much of Plaintiffs' complaints appear to be that the City is developing Lafferty Ranch contrary to legal requirements. A large part the FAC alleges the City made misrepresentations in its permit application to the County and failed to comply with other county codes. (FAC, ¶¶20-21.) Plaintiffs allege the City is maintaining a dangerous condition on the City's property, for example, by having its agents use gasoline powered vehicles to drive over dried grass; the existence of unabated hazardous vegetation; the potential of people entering Lafferty Ranch who might accidently cause a fire by smoking, drinking, and using drugs while or in addition to cooking at campfires; and, the increase of human waste and the potential for the spread of disease. These allegations are not in line with, for example, *Phillips v. City of Pasadena,* where a barricade was erected causing the plaintiff to be unable to access his property. Plaintiffs have not provided statutory authority that allows them to supervise the City's actions on Lafferty Ranch.

Plaintiffs' FAC alleges no statutory claims. Causes of action against the City must be alleged with specificity. The allegations other than the gravel placed on the corner of Sonoma Mountain Road are vague and do not clearly allege trespass by the City. As discussed below, from the documents subject to judicial notice, the City has the right to use and maintain the entrance and exit to Lafferty Ranch from Sonoma Mountain Road. Therefore, there are no allegations showing the City's liability for trespass.

5. Abutter's Rights

The court takes judicial notice of the maps provided by the City. The argument by Plaintiffs that the City has altered these maps because they have identified the location of the land at issue by adding a red circle and red arrow is not persuasive. The underlying maps are not altered. The circle and arrow are merely meant to help the court locate the road that is the subject of the dispute.

Petaluma Municipal Code 13.45.010 provides: "Lafferty Ranch, a mountain and watershed property owned by the city of Petaluma (the "city"), shall remain in public ownership for passive public recreational use in perpetuity, subject to the provisions contained herein. The Lafferty Ranch, located on Sonoma Mountain, in the unincorporated area of Sonoma County, California, is more particularly described as:

"Being a part of the Petaluma Rancho, and which is known, designated and described upon Rowe's Map of said Rancho, as Lot Number 361, containing 269.75 acres, and being the same premises which were formerly known as the Lafferty Ranch, and which were deeded by William Hill to the Sonoma County Water Company, a corporation, by deed dated the 25th day of May 1888, and recorded in Vol. 113 of Deeds, as page 282, Sonoma County Records."

The map attached to the City's permit shows Sonoma Mountain Road leading towards Lafferty Ranch and turning left at a 90-degree angle. The fill area, where rock was placed to allow year-round access to the Ranch, is at the corner of the 90-degree angle. (RJN, Exhibit G.) This amounts to a 35.5 square foot triangular area. (*Ibid*.) The historical atlas of Sonoma County from 1877 shows Sonoma Mountain Road leading up to a parcel labelled "Marshall Lafferty," identified as lot 361, consisting of 269.75 acres, i.e., Lafferty Ranch. (RJN, Exhibit F.) Sonoma Mountain Road therefore appears to abut Lafferty Ranch and appears to be the sole location for ingress and egress to and from Lafferty Ranch.

"The property which an abutting owner has in the street in front of his land is the right of access and of light and air, and for an infringement of these rights he is entitled to compensation. This right is peculiar and individual to the abutting owner, differing from the right of passing to and fro upon the street, which he enjoys in common with the public, and any infringement thereof gives him a right of action." (*Rose v. State* (1942) 19 Cal.2d 713, 727, [citing case].) "The right which the abutting owner has to the use of the street fronting upon his lot is defined to be an easement therein for the purposes of ingress and egress, which attaches to the lot, and in which he has a right of property as fully as that which he has in the lot itself, and that any act of the municipality by which that easement is destroyed or substantially impaired for the benefit of the public is a damage to the lot itself within the meaning of the constitutional provision, for which he is entitled to compensation." (*Ibid*.)

Based upon the location of the Sonoma Mountain Road and Lafferty Ranch, the FAC fails to explain why the City and members of the public should not have access based upon abutters rights or through an easement of necessity from Sonoma Mountain Road to Lafferty Ranch.

6. Allegations against Modell and Maguire

Plaintiffs' allegations against Modell and Maguire only require Plaintiffs allege the elements of each cause of action. The nuisance and negligence claims against Modell and Maguire are insufficient because Lafferty Ranch is alleged to be owned and controlled by the City—not by Modell and Maguire. Nor are there any allegations that Modell or Maguire have a duty in any way to Plaintiffs.

Plaintiffs' fourth cause of action for intentional interference with economic advantage also fails as to Modell and Maguire as Plaintiffs do not state any interaction with Plaintiffs' insurer. Plaintiff only alleges that trespass caused their premiums to increase without logically linking the two. Conclusory allegations are insufficient.

Plaintiffs' fifth cause of action for trespass alleges each defendant trespassed over Plaintiffs' land, destroying property, removing signage, security equipment, and other items owned by Plaintiffs. This is sufficient to state a cause of action for trespass against Modell and Maguire.

Plaintiffs' sixth and seventh causes of action for emotional distress do not allege a trespass sufficient to cause extreme emotional distress. The trespass allegations are vague. While they allege a trespass along with the removal and/or destruction of property, the FAC does not show that those actions were sufficiently outrageous because no details are provided. The factual allegations appear mostly directed towards the City's ownership, management, and use of Lafferty Ranch.

As to Plaintiffs' eighth cause of action, while commonly plead as a cause of action, injunctive relief is a remedy. (*Roberts v. Los Angeles County Bar Assn.* (2003) 105 Cal.App.4th 604, 618.) The demurrer to this cause of action is SUSTAINED.

Regarding Plaintiffs' ninth cause of action for declaratory relief, "[t]he purpose of a judicial declaration of rights in advance of an actual tortious incident is to enable the parties to shape their conduct so as to avoid a breach. ' "[D]eclaratory procedure operates prospectively, and not merely for the redress of past wrongs. It serves to set controversies at rest before they lead to repudiation of obligations, invasion of rights or commission of wrongs; in short, the remedy is to be used in the

interests of preventive justice, to declare rights rather than execute them." ' [Citation.]" … "['[W]e have found no authority for the proposition that declaratory relief is proper procedure when the rights of the complaining party have crystallized into a cause of action for past wrongs, all relationship between the parties has ceased to exist and there is no conduct of the parties subject to regulation by the court.']." (*Roberts v. Los Angeles County Bar Assn.*, *supra,* at p. 618.)

As against Modell and Maguire, the FAC does not allege an actual controversy relating to the legal rights and duties of the respective parties. The legal rights and duties of these defendants are established in that, if they trespassed on Plaintiffs' property, they are liable. Plaintiffs' prayer for injunctive relief, if granted, may prohibit future trespass. Therefore, as to defendants Modell and Maguire declaratory relief is unavailable. The demurrer to this cause of action is SUSTAINED.

7. Conclusion and Order

The demurrer to the fifth cause of action for trespass against Modell and Maguire is OVERRULED. The demurrer on all other grounds is SUSTAINED with leave to amend.

Defendants' counsel is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

4. 25CV02977, Winslow v. Wells

I. Demurrer

Defendant Ethan Wells ("Defendant") demurs to the complaint filed by Plaintiff Trinity Winslow on the grounds the complaint is not verified and fails to allege facts sufficient to constitute a cause of action. **The demurrer to Plaintiff's first cause of action for quiet title and second cause of action for private nuisance is OVERRULED. The demurrer to Plaintiff's third cause of action for intentional infliction of emotional distress is SUSTAINED with leave to amend.**

1. Complaint

On May 12, 2025, Plaintiff filed a complaint against Defendant for Quiet Title, Private Nuisance, and Intentional Infliction of Emotional Distress. Plaintiff alleges she owns property located at 7925 Bohemian Highway. She states she has an express easement over adjoining property owned by Defendant. Plaintiff alleges that Defendant has denied the existence of the easement and has blocked her from using it by placing a chained gate across the entry to the easement.

2. Quiet Title

Plaintiff's first cause of action for quiet title alleges Defendant owns property at 8051 Bohemian Highway over which the easement runs. She lists five parcel numbers. She alleges that the easement is included in her deed, which states: "An easement for general road purposes over and across an existing 10 foot wide driveway running over and across the lands of the grantor there, which lies northerly of the North right of way line of the road described in the deed of the county of Sonoma, recorded in book 311 of Official Records, page 150, as follows: The lands conveyed to Richard Golladay and Shirley Golladay, his wife, by deed recorded Nov. 15th, 1960, in book 1793 of Official Records, page 793, Sonoma Co. Records." The grant deed is attached to the complaint as Exhibit A. Plaintiff lays out the history of the easement.

a. Verification

Defendant first argues that this cause of action fails as it is not verified as required by CCP section 761.020.

While a verification was not provided with the initial complaint, a verification was later filed on June 24, 2025. Therefore, this issue is moot.

b. Documentation

Defendant argues that the documents attached to the complaint and public records establish that no easement exists. Defendant argues that the road identified in a prior 1980 deed did not exist until some time after March 22, 2002. Defendant points to a March 22, 2002, application requesting a grading and driveway permit. (Wells decl., Exhibit A.)

The complaint alleges that an easement existed over a road leading to the Bohemian Highway as early as 1980. While the road may have been later been regraded and improved, that does not mean that no such road existed prior to those improvements. It's inconceivable that a deed would reference an easement over a road, or traveled route, that did not actually exist.

Defendant goes on to argue that the easement that Plaintiff currently claims cannot be the same as the one as was granted in the 1980 deed—essentially conceding an easement does exist. Defendant appears to take issue with the precise location of the easement. Whether or not the current path or the scope of the easement is the one contemplated by the 1980 deed is an issue of fact. The complaint sufficiently alleges the elements of a cause of action for quiet title. It alleges a property right over Defendant's property which Defendant does not recognize.

3. Private Nuisance

This cause of action alleges Plaintiff has an interest in property in the easement appurtenant to her property. She alleges the free passage over the easement, which is for egress and ingress, has been obstructed by Defendant causing harm to Plaintiff.

Defendant rehashes his arguments that the location of the 1980 easement is unknown and that Plaintiff has refused to obtain a survey to determine the precise location of the easement. Again, this is an issue of fact not properly disposed of on a demurrer. Plaintiff has alleged the elements of a cause of action for private nuisance by alleging Defendant has interfered with her use of her property rights.

4. Intentional Infliction of Emotional Distress

Plaintiff's cause of action alleges that for half of her visits to her property Defendant and the tenant who lives on his property have made themselves known to Plaintiff, making her feel she is being stalked. She alleges Defendant's tenant has contacted her numerous times on social media and in person and warned her that it is too dangerous to be on her property. She alleges in March 2025, Defendant or the tenant placed a target with the drawing of a figure on the easement facing Plaintiff's property which had bullet holes through the head and torso.

The allegations are alarming. However, one element of a cause of action for IIED is allegations of extreme emotional distress actually suffered by the Plaintiff. While the allegations may be sufficient to cause one to experience extreme emotional distress, Plaintiff has not made those allegations. In addition, the complaint appears to allege that it was Defendant's tenant, Zac Cooper, who was the main actor perpetrating the threatening messages. In the latter case, the cause of action should be alleged against him.

5. Conclusion and Order

Based upon the above, the demurrer to the first cause of action for quiet title and the second cause of action for private nuisance are OVERRULED. The demurrer to the third cause of action for intentional infliction of emotional distress is SUSTAINED with leave to amend. Plaintiff may file an amended pleading within 20 days of this order.

Plaintiff is directed to submit a written order to the court consistent with this ruling and in compliance with Cal. Rules of Court, Rule 3.1312.

II. Motion to Strike

Defendant Ethan Wells ("Defendant") moves to strike the request for attorney fees made in the complaint filed by Plaintiff Trinity Winslow ("Plaintiff").

Plaintiff's prayer requests reimbursement for attorney fees and all other associated legal fees. However, the complaint does not allege a basis for the recovery of attorney fees. Nor is

Plaintiff currently represented. Pro per plaintiffs may not recover attorney fees. (*Taheri Law Group v. Evans* (2008) 160 Cal.App.4th 482, 494.)

The motion is GRANTED without leave to amend. Plaintiff's request for attorney fees and legal fees is hereby stricken.

Defendant is directed to submit a written order to the court consistent with this ruling.

5. SCV-270405, Creditors Adjustment Bureau, Inc. v. Bathe

Plaintiff Creditors Adjustment Bureau, Inc. ("Plaintiff") moves for an order compelling Defendant David Loyd Bathe aka David L. Bathe dba Bathe Builders ("Defendant") to provide further responses and responsive documentation to Plaintiffs First Set of Demand for Identification, Production, Inspection and Copying of Documents and Other Tangible Things. Plaintiff seeks sanctions against Defendant and Defendant's counsel of record, Mark Mosley, in the amount of $4,072.27.

On October 20, 2025, Defendant filed a motion to strike under CCP section 425.16, aka an anti-SLAPP motion. Pursuant to CCP section 425.16(g), all discovery proceedings in this action are STAYED. Plaintiff's motion to compel further responses is hereby **DROPPED** from the calendar. Plaintiff is directed to refile the motion to be heard after the anti-SLAPP motion.

6. SCV-270908, Simoncini v. Luci

Defendants Melissa Luci; Anthony Luci; Vincology, LLC; and Peline Vineyards Partnership, L.P. ("Defendants") move for an order sealing certain unredacted versions of documents filed in this action. **The motion is DENIED.**

Defendants argue that the documents at issue contain confidential, private, and sensitive financial information, including a private partnership's financial statements, accounting books and records, and tax returns, information extrapolated therefrom, and testimony regarding the same. They also argue that the parties stipulated that the documents would be labelled confidential.

Defendants seek to seal unredacted versions of the following documents:

A. Documents submitted by Plaintiff in Support of Plaintiff's Motion to Appoint Receiver and for Preliminary Injunction: 1. Memorandum of Points and Authorities in Support of Plaintiff's Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 2. Declaration of Patrick O'Brien in Support of Plaintiff's Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 3. Declaration of Xavier Peline in Support of Plaintiff's Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 4. Declaration of Angelo Peline in Support of Plaintiff's Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 5. Declaration of Dana Burwell in Support of Plaintiff's Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 6. Declaration of John Balletto in Support of Plaintiff's Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 7. Declaration of Vanessa J. Hill in Support of Plaintiff's Motion for an Order Appointing a Receiver and for a Preliminary Injunction.

B. Documents submitted by Defendants in Support of Defendants' Opposition to Plaintiff's Motion to Appoint Receiver and for Preliminary Injunction: 1.Memorandum of Points and Authorities in Support of Defendants' Opposition to Plaintiff's Motion for Receiver and for Preliminary Injunction; 2. Declaration of Walter Ricci in Opposition to Motion for Receiver and Preliminary Injunction; 3. Declaration of Anthony Luci in Opposition to Motion for Receiver and

Preliminary Injunction; 4. Declaration of Melissa Luci in Opposition to Motion for Receiver and Preliminary Injunction; 5. Declaration of Joe Tollini in Opposition to Motion for Receiver and Preliminary Injunction; 6. Declaration of Randy Sugarman in Opposition to Motion for Receiver and Preliminary Injunction; 7. Declaration of Thomas Gore; 8. Declaration of Stephen Daughters, CPA, MBA; 9. Supplemental Declaration of Philip J. Terry, Exhibit A (inadvertently filed without redactions March 13, 2025; request to lodge under seal submitted April 21, 2025); 10. Defendants' Objections to the Declaration of Angelo Peline filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 11. Defendants' Objections to the Declaration of Dana Burwell filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 12. Defendants' Objections to the Declaration of John Balletto filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 13. Defendants' Objections to the Declaration of Martin Alvarez filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 14. Defendants' Objections to the Declaration of Vanessa Hill filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 15. Defendants' Objections to the Declaration of Xavier Peline filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 16. [Proposed] Order on Defendants' Objections to the Declaration of Angelo Peline filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 17. [Proposed] Order on Defendants' Objections to the Declaration of Dana Burwell filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 18. [Proposed] Order on Defendants' Objections to the Declaration of John Balleto filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 19. [Proposed] Order on Defendants' Objections to the Declaration of Martin Alvarez filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 20. [Proposed] Order on Defendants' Objections to the Declaration of Xavier Peline filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction; 21. [Proposed] Order on Defendants' Objections to the Declaration of Vanessa Hill filed by Plaintiff in Support of the Motion for an Order Appointing a Receiver and for a Preliminary Injunction.

C. Documents submitted by Plaintiff in Support of Plaintiff's Reply on Plaintiff's Motion to Appoint Receiver and for Preliminary Injunction: 1. Reply Brief re: Motion for an Order Appointing a Receiver and for a Preliminary Injunction; Objections to Declaration of Melissa P. Luci in Opposition to Motion for Receiver and Preliminary Injunction; 2. Objections to Declaration of Anthony Luci in Opposition to Motion for Receiver and Preliminary Injunction; 3. Objections to Declaration of Stephen Daughters, CPA, MBA in Opposition to Motion for Receiver and Preliminary Injunction; 4. Objections to Declaration of Stuart Hom in Opposition to Motion for Receiver and Preliminary Injunction; 5. Objections to Declaration of Walter Ricci in Opposition to Motion for Receiver and Preliminary Injunction; and 6. Objections to and Motion to Strike Declaration of Randy Sugarman in Opposition to Motion for Receiver and Preliminary Injunction.

D. Legal Authority

The court may order that a record be filed under seal only if it expressly finds facts that establish: (1) There exists an overriding interest that overcomes the right of public access to the record; (2) The overriding interest supports sealing the record; (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; (4) The proposed sealing is narrowly tailored; and (5) No less restrictive means exist to achieve the overriding interest. (Cal. Rules of Court, Rule 2.550(d).)

The right to privacy under article I, section 1 of the California Constitution extends to one's confidential financial affairs. (*Overstock.com, Inc. v. Goldman Sachs Group, Inc.* (2014) 231

Cal.App.4th 471, 503.) This right embraces confidential financial information in whatever form it takes, whether that form be tax returns, checks, statements, or other account information. (*Ibid*.) The *Overstock* court discussed sealing records under former Family Code section 2024.6, which required, at the request of either party, the sealing of any pleading in a divorce case listing information about the financial assets and liabilities of the parties and providing the location or identifying information about such assets and liabilities. (*Id.,* at 504.) The court drew a distinction, for example, between highly sensitive identifying information, such as account and Social Security numbers or asset locations, that can facilitate criminal activity, and more general information, such as the mere existence and stated value of an asset or liability, which does not create such a risk but which was nevertheless subject to mandatory sealing under the statute. (*Ibid*.) As to the latter sort of information, the court concluded mandatory sealing at the request of a party was at odds with the statute's stated purpose and with the analysis required to support sealing under NBC Subsidiary and so invalidated the statute. (*Ibid*.)

The *Overstock* defendants made a sufficient showing of injury from the disclosure of client financial information. "Melz, a managing director of Merrill entities and President and COO of Merrill Pro, stated 'safeguarding the confidentiality of client information is critically important to Merrill Lynch, and Merrill Lynch has several policies in place to protect' information such as 'clients' identities, trading activity, trading or business strategies or plans, account information, policies, procedures, practices, ... and their confidential communications.' Merrill considers client information to be 'proprietary and confidential.' This policy is expressed in the firm's written code of ethics, confidentiality training is required for all employees, and Merrill has procedures—such as 'systematic information barriers'—so information is shared only on a 'need to know' basis. Dunphy, a vice-president of Goldman's Global Compliance Department, similarly stated Goldman derives a competitive advantage and reputational benefit from its 'strong commitment to confidentiality' with respect to client identities and trade data. 'Protecting the confidentiality of client information,' stated Dunphy, 'is a matter of fundamental importance' and also a matter of SEC regulations. Numerous written policy documents implement protection of client data and breaches would be 'unthinkable.'" (*Id.* at 504.) The *Overstock* court observed that, unlike in *Universal City Studios* and *Burkle*, the confidential financial information at issue was that of third parties. (*Ibid*.)

In order to close a civil proceeding there must be evidence of "serious injury," and the serious injury must be shown with specificity. (*Universal City Studios, Inc. v. Superior Court* (2003) 110 Cal.App.4th 1273, 1282.) Broad allegations of harm, bereft of specific examples or articulated reasoning, are insufficient. (*Ibid*.) Once it is established there is a potential overriding interest, the party seeking closure or sealing must prove prejudice to that interest is substantially probable. (*Id.,* at 1283.)

California has long recognized a common law right of access to court records. (*Overstock.com, Inc. v. Goldman Sachs Group, Inc*., supra, 231 Cal.App.4th at pg. 483.) This right is effectuated through a presumption of access. (*Ibid*.) As articulated by California's courts, this presumption means court records are "open to the public unless they are specifically exempted from disclosure by statute or are protected by the court itself due to the necessity of confidentiality." (*Ibid*.) More recently, California courts have also recognized a constitutional right of access to certain court documents. (*Id.,* at 484.)

The weight accorded to the common law presumption of access depends, in any particular case, on the "role of the material at issue in the exercise of ... judicial power and the resultant value of such information to those monitoring the ... courts. (*Ibid*.) Generally, the information will fall somewhere on a continuum from matters that directly affect an adjudication to matters that come within a court's purview solely to insure their irrelevance. (*Ibid*.) Accordingly, when evaluating

whether records should be sealed under the common law, courts engage in a balancing analysis, weighing the presumption of access against a variety of competing interests. (*Ibid.,* citing *H.B. Fuller Co. v. Doe* (2007) 151 Cal.App.4th 879, 894.)

In either the civil or criminal courtroom, secrecy insulates the participants, masking impropriety, obscuring incompetence, and concealing corruption. (*Overstock.com, Inc., supra*, at 485, citing case.) Therefore, California courts have determined that the public has a first amendment right to access civil litigation documents filed in court and used at trial or submitted as basis for adjudication. (*Ibid*.)

Not all documents submitted or filed by the parties, however, fall within the ambit of the constitutional right of access. In *Overstock,* NBC Subsidiary hastened to add the courts have held "the First Amendment does not compel public access to discovery materials that are neither used at trial nor submitted as a basis for adjudication." (*Ibid*.) Thus, "different levels of protection may attach to the various records and documents involved in [a given] case," depending on whether access is predicated on the First Amendment or the common law. (*Ibid*.) Both the common law and First Amendment standards ultimately involve a balancing test. (*Id*. at 486.) The sealing rules establish a presumption that "court records ... be open" unless the law requires confidentiality. (*Ibid.*) The question in the context of sealing is whether the recognized privacy interest in financial information overrides the constitutional right of access to court records. (*Id.,* at pg. 504.) This is necessarily a balancing inquiry, dependent on the facts and circumstances of the particular case. (*Ibid*.)

A reasoned decision about sealing or unsealing records cannot be made without identifying and weighing the competing interests and concerns. Such a process is impossible without (1) identifying the specific information claimed to be entitled to such treatment; (2) identifying the nature of the harm threatened by disclosure; and (3) identifying and accounting for countervailing considerations. (*H.B. Fuller Co. v. Doe* (2007) 151 Cal.App.4th 879, 894.) The burden of presenting information sufficient to accomplish the first two steps is logically placed upon the party seeking the sealing of the documents, who is presumptively in the best position to know what disclosures will harm him and how. (*Ibid*.) This means at a minimum that the party seeking to seal documents, or maintain them under seal, must come forward with a specific enumeration of the facts sought to be withheld and specific reasons for withholding them. (*Ibid*.)

In *Universal City Studios, Inc., supra,* the moving party sought to seal portions of a settlement agreement between the parties, including financial information. Included in the documents were 20 pages of financial and accounting data. The pages were largely blank except for specific entries relating to markets and certain financial data. The financial information included proceeds in different markets for 25 different films. (*Id.,* pg. 1287.) If the documents had not been filed unredacted in different cases, the appellate court stated it would have ordered them sealed. (*Id.,* at 1286.) In support of that motion, the defendant had filed a fact-specific declaration by a senior vice-president and controller arguing that disclosure would cause competitive harm to defendant in its negotiations with competitors and customers. (*Ibid*.)

E. Analysis

Here, Defendants seek to seal documents, in the form of redactions, all or portions of documents provided in the motion for the appointment of a receiver, the opposition, and the reply. This motion is supported by the declaration of Defendants' attorney, Philip J. Terry. Much of the basis for this motion is the stipulated protective order entered into between the parties and approved in *In re The Melissa M. Peline Irrevocable Trust dated September 19, 1998, as amended,* case number SPR-096412 ("Protective Order"). (See Terry decl., ¶¶3-6.) Mr. Terry states that documents produced in connection with the related trust action share common issues of fact, law, and evidence. (Terry decl., ¶3.) He states that the above records have been extrapolated from documents and

materials that have been designated as "CONFIDENTIAL" by the parties under the Protective Order. (*Id.,* ¶4.)

Records may not be sealed merely upon the agreement of the parties to an action. (*Overstock.com, Inc. v. Goldman Sachs Group, Inc., supra,* at pg. 231 Cal.App.4th 471, 486; *Universal City Studios, Inc., supra,* 110 Cal.App.4th at pg. 1281.) Rather, the Plaintiff must establish good cause by providing evidence that the requirements of Rule 2.550 are met. (*Overstock.com, Inc., supra*, at pg. 506; Cal. Rules of Court, Rule 2.550(d).) The circumstances present and legal analysis in the trust action, SPR096412, are unknown. Defendants must establish the documents are appropriately sealed in *this action.*

Defendants argue that information would otherwise be kept private and confidential, because it is sensitive and confidential financial information (including the salary information of certain Defendants and third parties employed by the Partnership). Defendants argue that the release of this information would be an infringement of the Partnership's, Defendants', and third parties' privacy rights, and the proprietary financial information of the Partnership and other Defendants might be used by competitors to harm the business. Defendants conclude if this information is not sealed, the Partnership, Defendants, and third parties will be greatly prejudiced such that the need to protect this information outweighs the public's interest in accessing it, as they argue there is essentially no public interest whatsoever.

The logic espoused by the motion is mainly that the information is private and thus, for privacy's sake, the information must stay private. This circular argument is insufficient to meet Defendants' burden on the motion. The public interest is the constitutional right of access to court documents. Keeping secrecy insulates the participants, masking impropriety, obscuring incompetence, and concealing corruption.

Defendants have not sufficiently laid out their claim by putting facts to their argument. For example, it is not clear how Defendants' business might be harmed by competitors using information provided by Defendants regarding business consulting expenses listed on Exhibit 5, Attachment E, to the Hill declaration.

As to some documents, Defendants' motion lists *numerous* portions of each document but does not discuss the specific information subject to sealing for each portion. Rather, Defendants make the same generic argument as to each, leaving it to this court to sift through the documents to determine if their argument has merit. In addition, as the documents have not been provided along with this motion, Defendants leave it to this court to also sift through the file just to find the documents that are the subject of the motion.

As to other documents, Defendants seek to seal the entirety of declarations or exhibits despite that not all of the testimony or exhibit pertains to potentially prejudicial private information. For example, the declaration of Melissa P. Luci in opposition to the motion to appoint a receiver states, in part: "My father is Val Peline. Val had three children. I am the youngest and sole surviving child of Val Peline. My older sister, Yvette Peline, and my older brother, Christopher Peline are both deceased." (Luci decl., ¶ 3.) This is not "sensitive financial, tax, and accounting information and business and affairs operations." Sealing entire declarations, much of which have nothing to do with financial, tax, or accounting information is not "narrowly tailored" such that there is no less restrictive means available.

E. Conclusion and Order

Conclusory and circular arguments do not establish good cause. Defendants' motion is insufficient to meet their burden. Accordingly, the motion is DENIED.

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