**TENTATIVE RULINGS**
**LAW & MOTION CALENDAR**
**Wednesday, February 25, 2026 3:00 p.m.**
**Courtroom 17 – Hon. Jane Gaskell**
**3035 Cleveland Avenue, Santa Rosa**

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

**CourtCall is not permitted for this calendar.**

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

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

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

The following tentative rulings will become the ruling of the Court unless a party desires to be heard. If you desire to appear and present oral argument as to any motion, **YOU MUST NOTIFY** Judge Gaskell's Judicial Assistant by telephone at **(707) 521-6723**, and all other opposing parties of your intent to appear, and **whether that appearance is in person or via Zoom**, by ***4:00 p.m. the court day immediately preceding the day of the hearing.***

# 1. 24CV01898, Kehoe v. Borcher

Defendants/Cross-Complainants Christian Borcher, James F. Galvin, and Colleen A. Galvin ("Galvin Trustees"), individually and as trustees of the Galvin Family Trust dated December 19, 2006, ("Galvin Trust"), Michael J. Miller ("Miller Trustee"), individually and as trustee of the Michael J. Miller and Penny J. Miller 2000 Trust, dated May 2, 2000 ("Miller Trust"), Steven J. and Kathleen A. Welch ("the Welches") together as "Moving Parties" move for summary judgment as to Plaintiffs Aurelien Bricker and Scott J. Kehoe's entire Complaint.

Moving parties' motion is **GRANTED** per Code of Civil Procedure ("C.C.P.") section 437c. The parties' requests for judicial notice are **GRANTED**. Objections are addressed below.

## I. PROCEDURAL HISTORY

Plaintiffs commenced this action against Moving Parties regarding the parties' rights and obligations under a private roadway known as Maple Glen Road that serves eight real properties in

Glen Ellen, all of which are benefited and burdened by an easement that provides access over the roadway. (Summary Judgment Memorandum of Points and Authorities ["MSJ"], 2;17-22, 3:1-20; Complaint, ¶¶ 1-13; Undisputed Material Fact ["UMF"], No. 1; Additional Material Facts ["AMF"], Nos. 1-2.) The easement was damaged during the Nuns Fire and the parties are disputing a PG&E Claim made relating to the damage, for which claim Borcher apparently received $2,093,452.14 on behalf of those who signed the "Road Maintenance Agreement" at issue for the future repair and maintenance of the easement ("RMA"). (MSJ, 3:9-25, 4:12-23; UMF Nos. 2-9; AMF Nos. 3-25.)

Moving Parties filed a Cross-Complaint seeking declaratory relief that Plaintiffs have no right to the PG&E Claim Funds received as relief independent of the RMA, to which they claim Plaintiffs are not a party because Plaintiffs refused to sign the RMA and their predecessor-in-interest did not bind them to the RMA. (MSJ, 5:8-25; Cross-Complaint, ¶¶ 17-18.)

Moving Parties now move for summary judgment as to all of the causes of action in both the Complaint (for Declaratory Relief, Breach of Fiduciary Duty, and Conversion) and Cross-Complaint (for Declaratory Relief) on the grounds that there remains no triable issue of material fact as to any of these claims. (MSJ, 2:1-13.) Plaintiffs filed an Opposition and objections to evidence and Moving Parties filed a Reply and objections to evidence submitted in opposition. The parties also request judicial notice of several items, all of which are addressed below.

## II. REQUEST FOR JUDICIAL NOTICE

Judicial notice of State and Federal laws, regulations, legislative enactments, official acts and court records is statutorily appropriate. (Evid. Code §§ 451, 452.) The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under C.C.P. § 452. (C.C.P. § 453.) The Court may take judicial notice of "facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." (C.C.P. § 452(h).) However, while courts may take notice of public records, they may not take notice of the truth of their contents. (*Herrera v. Deutsche Bank National Trust Co.* (2011) 196 Cal.App.4th 1366, 1375.)

Subject to these limitations, the Court **GRANTS** Moving Parties' requests for judicial notice of the Complaint, Answer to Complaint, Cross-Complaint, and Answer to Cross-Complaint in this action. The Court also **GRANTS** Plaintiffs' requests for judicial notice of the following:

1. Grant Deed from Erling Borcher to Christian Borcher, recorded June 15, 2023;
2. Grant Deed from the Galvins to their Family Trust, recorded March 22, 2022;

3. Correcting Grant Deed from the Michael Miller and Penny Miller to their Family Trust, recorded May 18, 2020;
4. Grant Deed from Peter Spann and Elizabeth Spann to Steven Welch and Kathleen Welch, recorded February 16, 2017;
5. Grant Deed from the Knights to the Welches, recorded February 14, 2018;
6. Grant Deed from David Carey to Laif Gilbertson and Melisa Hall, recorded February 17, 2022;

7. Grant Deed from Jack Blehm and Mary Chelton to Kelsey Bowman and Cooper Johnson, recorded December 23, 2021;
8. Grant Deed from Andrew Gass and Jennifer Wilson to Sonia Quintero, recorded April 27, 2021;
9. Grant Deed from Kathleen Daly and Barbara Daly to Aurelien Bricker and Scott Jeremy Kehoe, recorded October 27, 2021;
10. Easement recorded July 6, 1960, in Book 1767 at Page 412;
11. Easement recorded July 6, 1960, in Book 1767 at Page 415;
12. Easement recorded July 6, 1960, in Book 1767 at Page 420; and
13. Parcel Map No. 1387, recorded December 9, 1969, in Book 138 of Maps at Page 49.

## III. EVIDENTIARY OBJECTIONS

Plaintiffs' two objections to Paragraphs 5 and 6 of the Declaration of Borcher are **OVERRULED**.

Moving Parties' objections to Paragraphs 4-10 and Exhibit 14 of the Declaration of Daly are **OVERRULED**.

Moving Parties' objections to Paragraphs 2-5 are **OVERRULED**.

## IV. ANALYSIS

Legal Standard

Per Code of Civil Procedure ("C.C.P.") section 437c(a), any party may move for summary judgment in any action or proceeding if it is contended that the action has no merit or that there is no defense to the action or proceeding. Summary judgment "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 judgment as a matter of law." (C.C.P. § 437c(c).)

Motion for Summary Judgment

Moving Parties argue that Plaintiffs should never have filed this action because the law as applied to the facts of this action is settled and clearly provides no such relief as Plaintiffs claim in the Complaint. (MSJ, 11:13-17.)

They argue that Kathleen Daly's claim against PG&E for injury to the Easement by the Nuns Fire is established as a personal right because claims for damages as a result of injury to property are considered personal property and Kathleen Daly could transfer her personal right to such a claim for fire damage pursuant to the terms of the RMA. (*Id*. at 8:10-28, 9:1-18.)

Moving Parties argue that an assignment of a personal right to a claim means that the assignee owns the claim and that the assignor does not retain any ownership to that claim, so in signing the RMA, Kathleen Daly assigned her claim against PG&E for injury to the Easement of the Nuns Fire to be controlled by the RMA. (*Id*. at pp. 9-11.)

Plaintiffs have not and choose not to sign the RMA, but even if they did, Moving Parties argue that they do not have any rights or standing to claim the PG&E funds independent of the RMA, making summary judgment proper on the parties' claims in this action. (*Id*. at 11:3-11.)

Plaintiffs' Opposition

Plaintiffs argue that the RMA is neither an assignment nor a valid and enforceable contract, and even if it were enforceable, the RMA's terms can be interpreted in various ways that are contingent on disputed material facts. (Opposition, 5:2-18.) Plaintiffs note that there was a failed HOA that the owners of the eight properties that used Maple Glen Road at the time of the Nuns Fire attempted to create, but which they failed to do so, and Plaintiffs dispute that all of the then-owners of the properties signed the RMA. (*Id*. pp. 6-8.)

Plaintiffs also argue that the RMA is silent as to: (1) whom and where the Trust Funds will be distributed when awarded; (2) what happens to an "Owner's" interest in the Trust Funds if he sells the property; (3) how any remaining Trust Funds are to be allocated/distributed after completion of repairs and maintenance necessitated; and (4) what happens once the Trust Funds have been exhausted. (Opposition, 8:6-26.) They claim that the language of the RMA fails to establish an assignment of the personal right regarding the fire damage claim. (*Id*. at pp. 12-15.) They argue that the parties' conduct also does not support that there has been any assignment. (*Id*. at pp. 15-16.)

Plaintiffs finally argue that the RMA is fatally uncertain, void as a matter of law as to essential terms, or at least ambiguous or reasonably susceptible to various meanings that are contingent on disputed material facts. (Opposition, pp. 18-23.)

Reply

Moving Parties take issue with the opposition's reliance on Kathleen Daly's declaration of her undisclosed intent at the time she signed the RMA. (Reply, 1:2-7.) They argue that the opposition inconsistently argues that Defendants commandeered a slush fund for their personal benefit in violation of the RMA, and also that the RMA is void as a matter of law so all of its terms are uncertain, ambiguous, and invalid. (*Id*. at 2:4-26.) Moving Parties note that the creation of, or failure to create, an HOA is irrelevant to the claims in this matter. (*Id*. at 3:2-7.)

The Reply reaffirms the arguments made in the MSJ and argues that the Opposition failed to overcome settled law regarding assignment that applies to the facts of this matter and that the RMA shows Kathleen Daly's clear intent to transfer control and ownership of her claim regarding property damages resulting from the Nuns Fire, leaving Plaintiffs with no standing to bring their claims. (Reply, pp. 4-6.) Finally, as to the breach of fiduciary claim, Moving Parties point out again that Plaintiffs expressly rely on the RMA, which they did not and will not sign to support that claim. (*Id*. at 8:18-28, 9:1-3.)

Application

The Court finds that Plaintiffs have failed to show that there remains a triable issue as to any *material* fact in this action relevant to the parties' claims. The facts offered in the Opposition as to the failed HOA or potential readings of the RMA's terms do not show a dispute as to the material facts.

The first relevant material fact is that a fully executed written RMA exists signed by a majority of the Owners of the eight properties on Maple Glen Road, which by the terms of the RMA is sufficient to initiate repairs with any funds received from the PG&E claim. (Appendix of Evidence, Exhibit F.)

The second relevant material fact is that express terms of the RMA state that: "the undersigned Owners hereby designate Christian Borcher as their representative in pursuing claims against PG&E, and to use any and all funds recovered from a lawsuit against PG&E, related to the 2017 Nuns Fire, and specifically flowing from an independent claim for the damages to Maple Glen Road, to repair such road as soon as practicably possible from when funds are received, allowing for the prudent sourcing of competitive bids and proper planning of the work." (*Ibid*.) The Court does not find these terms ambiguous, uncertain, or open to various interpretations.

The third relevant material fact is that, by the terms of the RMA, "any person owning land along Maple Glen Road who is not an original signatory of this Agreement may elect to be bound by this Agreement by executing an amendment to the Agreement, thereby becoming subject to all the benefits and duties herein." (*Ibid*.) It is again unambiguous, certain, and expressly clear that the way to receive benefit of the funds received from the PG&E claim is to become a signatory to the RMA, which a vast majority of the original owners are. Plaintiffs refuse to sign the RMA, so by its terms, cannot benefit from the funds from the PG&E claim that were obtained by Borcher for the Maple Glen residents pursuant to the RMA. If Plaintiffs seek to benefit from those funds, then they need only sign the RMA.

Finally, the Court finds the Opposition's arguments to be inconsistent, as was stated in the Reply, because the Opposition seeks both to have the Court determine the RMA is invalid, void, and unenforceable, while also seeking to have its terms enforced to pursue Plaintiffs' breach of fiduciary duty claim. While the Court cannot grant both inconsistent requests, the Court does find the RMA is valid and enforceable and will grant summary judgment pursuant to its terms.

## V. CONCLUSION

Based on the foregoing, Moving Parties' motion for summary judgment is **GRANTED** in its entirety. Moving Parties shall submit a written order on the motion to the Court consistent with this tentative ruling and in compliance with California Rules of Court, Rules 3.1312(a) and (b).

## 2-3. 24CV05613, Turchin v. Rinkleib

The Court rules as follows on Defendants Randy A. Rinkleib (a.k.a. "Robert Rinkleib"), LZR Ultrabright, and LZR7 ("Defendants") and the specially appearing Allodial, Aboriginal, Autochthonous American Indians of the Chickeasae & Chattah Nations' (the "Tribe") motions:

1. Defendants' motion for judgment on the pleadings ("JOTP") as to the Complaint is **DENIED**.

2. Defendants' motion to set aside Defendants' defaults and dismiss for lack of jurisdiction is **DENIED**.

### 1. PROCEDURAL HISTORY

Plaintiff Curtis G. Turchin ("Plaintiff") brought this action against Defendants alleging breach of fiduciary duty and conversion and seeking declaratory relief, accounting, and enforcement of books and records rights. (Complaint, ¶¶ 32-57.) The Complaint alleges that Plaintiff and Defendant Rinkleib, along with John Mooney, founded LZR UltraBright around 2017 to design, manufacture, and sell LED light therapy devices for various types of physical therapy. (*Id*. at ¶ 19.) The parties did not have a written partnership agreement, but referred to each other and conducted themselves as business partners. (*Id*.) Plaintiff alleges that he developed the initial concept for developing an LED light therapy device and played a key role in developing, marketing, and manufacturing the products as well as ensuring they were compliant with applicable regulations. (Complaint, ¶ 20.) Plaintiff further alleges that Defendant Rinkleib refused to document their partnership in a written agreement, although Plaintiff invested more than $80,000.00 into LZR UltraBright via payments to Defendant Rinkleib and they acted consistently as co-owners. (*Id*. at ¶¶ 22-29.) In May 2024, Plaintiff alleges that Defendant Rinkleib dismissed him from LZR UltraBright claiming he was only ever a consultant and prevented him from receiving any share in LZR UltraBright or profits. (*Id*. at ¶¶ 30-31.)

Defendants were previously self-represented and filed their "motion to dismiss" on December 17, 2024, per C.C.P. section 430.10, which section relates specifically to objections to pleadings made via answers or demurrers. Therefore, the Court treated Defendants' motion as a demurrer. Defendants argued there was no verifiable written contract between the parties, that Plaintiff had no legal capacity to sue Defendants, and that the Court had no subject matter or personal jurisdiction. The Court overruled the demurrer finding that it was substantively and procedurally deficient because Defendants failed to adequately explain why the Court lacked jurisdiction.

Defendants now move to set aside defaults against defendant entities and to dismiss the Complaint for lack of subject matter and personal jurisdiction on the basis of tribal sovereign immunity. Defendants also filed the JOTP motion against the Complaint on the same grounds as the motion to set aside. Both motions argue that Defendant Rinkleib does not own the property and technology involved in this action because it was conveyed into a tribal trust and is governed by the Chickeasae & Chattah Nations, which is a sovereign tribal nation, so the Tribe has jurisdiction over tribal matters as opposed to this Court. (Motion to Set Aside, pp. 7-11; JOTP Motion, pp. 3-7.) Plaintiff opposes Defendants' motions and Defendants replied to the oppositions.

As support, Defendants submitted the Declaration of "Reverend Dr. Juan-Jose': Brookins" ("Reverend Brookins"), attached to which as Exhibit B is the Trustee Resignation of Robert Rinkleib as the Trustee for the American Indian Nations Joint Property Treaty Trust and appointment of the Reverend as sole acting trustee. Attached as Exhibit 4 to the Declaration of Johnson is a declaration of trust contract under private agreement dated March 22, 2022, showing that the Tribe entered into a private agreement with Defendant Rinkleib for the "American Indian Nations Joint Property Treaty Trust" or the "Indian's Trust" and that the Trust Assets were particularly described in "Schedule A" of the Trust Indenture. Schedule A was not submitted with the evidence so the Court is uncertain what property actually was conveyed via this private agreement to the Trust Assets. While Defendants claim in their supporting declarations that defendant entities were transferred to the Tribe via the Indian's Trust, the documents submitted as proof do not conclusively show whether the property at issue in this action was actually conveyed as a Trust Asset to the Indian's Trust.

On the other hand, Plaintiff submitted a few exhibits attached to the Declaration of Raissi in support of the oppositions which demonstrate the following:

1. Exhibit D is the Statement of Information filed in 2024 for the entity LZR7, Inc. formed in California and it shows that "Robert A. Rinkleib" is a single director/agent with no mention of the Tribe, the Indian's Trust, or Reverend Brookins.

2. Exhibit E is the Certificate of Dissolution of the entity LZR7 Inc in California, dated January 3, 2025, signed off only by Defendant Rinkleib as director.

3. Exhibit F is the Certificate of Formation dated November 12, 2024, of the entity LZR7, Inc. in Texas with Randy Rinkleib as the sole director, with no mention of any tribal nation, Indian's Trust, or Reverend Brookins.

4. Exhibit G is the profit corporation annual report for the entity Quantex dated August 1, 2025, from the State of Wyoming which shows that its sole president, director, secretary, treasurer, and vice president is Robert Rinkleib, with no mention of the Tribe, the Indian's Trust, or Reverend Brookins.

Based on the above, there has been no mention of either Quantex or LZR7, Inc. or LZR Ultrabright being a Trust Asset for the above-mentioned trust, which suggests that Defendant Rinkleib maintains sole possession and control over both. Defendants have otherwise not submitted evidence that conclusively shows otherwise.

The Court considers the parties' arguments below on the two motions.

## 2. REQUESTS FOR JUDICIAL NOTICE

Pursuant to Evidence Code sections 451 and 452, the Court **GRANTS** Defendants' request judicial notice of the following in support of their motions:

1. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP);

2. Public Law 280 (28 U.S.C. § 1360); and

3. Mandatory Judicial Notice for Issuance of Letters Rogatory.

Per Evidence Codes section 452 and 453, the Court also **GRANTS** Plaintiff's requests for judicial notice of the following:

1. Complaint for (1) Declaratory Relief; (2) Breach of Fiduciary Duty; (3) Conversion; (4) Accounting; (5) Enforcement of Books and Records Rights, filed herein on September 23, 2024;

2. Proof of Service of Summons to Quantex's agent on November 1, 2024, filed November 7, 2024;

3. Notice and Acknowledgment of Receipt--Civil to Randy A. Rinkleib, filed herein on November 12, 2024;

4. Notice of Acknowledgement of Receipt - Civil to LZR7, Inc., executed November 8, 2024;

5. Request for Entry of Default on Quantex, filed herein on December 12, 2024;

6. Request for Entry of Default on LZR7, Inc., filed herein on December 16, 2024;

7. Queen Mother Hope A. Yzryahl's Verified Complaint for Larceny, Wrongful Taking of Private Intellectual Property and Unjust Enrichment, filed in the U.S. District Court for the Eastern District of New York on November 11, 2024;

8. U.S. District Court, Eastern District of New York Docket for the Case No. 2:24-cv-08100 as available on PACER on January 28, 2026;

9. U.S. District Court, Eastern District of New York Docket for Case no. 2:25-cv-06985 as available on PACER on February 9, 2026; and

10. U.S. District Court, Eastern District of New York Docket for Case no. 2:25-cv-00474 as available on PACER on February 9, 2026.

## 3. ANALYSIS

Legal Standard

*1. Judgment on the Pleadings*

A defendant may move for judgment on the pleadings on the grounds that the court has no jurisdiction of the subject of the cause of action alleged in the complaint or because the complaint does not state facts sufficient to constitute a cause of action against that defendant. (C.C.P. § 438(c).) Before filing a motion for judgment on the pleadings, the moving party shall meet and confer in person, by telephone, or by video conference with the party who filed the pleading that is subject to the motion for

judgment on the pleadings for the purpose of determining if an agreement can be reached that resolves the claims to be raised in the motion for judgment on the pleadings. (C.C.P. § 439.) If an amended pleading is filed, the responding party shall meet and confer again with the party who filed the amended pleading before filing a motion for judgment on the pleadings against the amended pleading. (*Ibid*.)

A motion for judgment on the pleadings functions the same way as a general demurrer. (*Cloud v. Northrop Grumman Corp.* (1998) 67 Cal.App.4th 995, 999.) The grounds for a motion for judgment on the pleadings appear on the face of the challenged pleading or from any matter judicially noticed by the court. (C.C.P. § 438(d).) In considering a motion for judgment on the pleadings, trial courts accept plaintiff's factual allegations in the pleading as true and give them liberal construction. (*Gerawan Farming, Inc. v. Lyons* (2000) 24 Cal.4th 468, 515.) Presentation of extrinsic evidence is therefore not proper on a motion for judgment on the pleadings. (*Cloud v. Northrop Grumman Corp.*, supra, at p. 999.) The complaint must be viewed in isolation and matters set forth in the answer will not be considered. (*Hughes v. Western MacArthur Co.* (1987) 192 Cal.App.3d 951.)

Leave to amend should be granted if there is any reasonable possibility that the plaintiff can state a good cause of action. (*Gami v. Mullikin Med. Ctr.* (1993) 18 Cal.App.4th 870, 876.)

*2. Relief from Judgment Based on Clerical Error [C.C.P. § 473(d)]*

As C.C.P. §473(d) provides in relevant part, the court may "correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed." When correcting clerical mistakes, "the function of a nunc pro tunc order is merely to correct the record of the judgment and not to alter the judgment actually rendered—not to make an order now for then, but to enter now for then an order previously made. (*In re Marriage of Padgett* (2009) 172 Cal.App.4th 830, 852.) In other words, "the court can only make the record show that something was actually done at a previous time; a nunc pro tunc order cannot declare that something was done which was not done." (*Johnson & Johnson v. Sup. Ct.* (1985) 38 Cal.3d 243, 256.) The difference between a clerical error and a judicial error is whether the error was made in rendering the judgment (judicial error) or in recording the judgment (clerical error). (*People v. Karaman* (1992) 4 Cal.4th 335, 345.) To distinguish a clerical error from judicial error, courts consider "whether the challenged portion of the judgment was entered inadvertently (which is clerical error) versus advertently (which might be judicial error but is not clerical error)." (*Tokio Marine & Fire Ins. Cop. V. Western Pacific Roofing Corp.* (1999) 75 Cal.App.4th 110, 117-18.)

A judgment may be set aside on motion, with no limit on the time within which the motion must be made, when uncontested extrinsic evidence shows that the defendant was never properly served. (*California Capital Ins. Co. v. Hoehn* (2024) 17 Cal.5th 207, 215.)

Defendants' Motions

Defendants cite to *Santa Clara Pueblo v. Martinez* (1978) 436 U.S. 49 ("*Martinez*"), in which

matter the U.S. Supreme Court held that:

> "Congress retains authority expressly to authorize civil actions for injunctive or other relief to redress violations of § 1302, in the event that the tribes themselves prove deficient in applying and enforcing its substantive provisions. But unless and until Congress makes clear its intention to permit the additional intrusion on tribal sovereignty that adjudication of such actions in a federal forum would represent, we are constrained to find that § 1302 does not impliedly authorize actions for declaratory or injunctive relief against either the tribe or its officers."

(*Martinez*, supra, at p. 72.) 25 U.S.C. section 1302 referenced in the above quote authorizes Indian tribes to self-govern in manner vested by Congress. As held in *Martinez*, the U.S. Supreme Court also held in *Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc*. (1998) 523 U.S. 751 ("*Kiowa Tribe*"), as a matter of federal law, "a tribe is subject to suit only where Congress has authorized the suit or the tribe has waived its immunity," and that "Tribes enjoy immunity from suits on contracts, whether those contracts involve governmental or commercial activities and whether they were made on or off a reservation." (*Kiowa Tribe*, supra, at pp. 751-760.) Defendants also cite to Public Law 280 or 28 U.S.C. section 1360, which generally grants states, including the State of California, jurisdiction over civil causes of action between all tribal nations within the state or to which individuals belonging to tribal nations are parties. (Request for Judicial Notice ["RJN"], Exhibit B.)

Defendants rely on *Martinez*, *Kiowa Tribe*, other Supreme Court cases echoing these opinions, and Public Law 280 to argue that California courts may not exercise jurisdiction over a lawsuit brought against a federally recognized tribe that has not expressly waived its immunity; the doctrine of tribal sovereign immunity bars such suits. (Motion to Set Aside, pp. 11-13.) Defendants further argue that with regard to trust property issues, the State of California is not extended jurisdiction under Public Law 280. (*Id*. at 13:17-27; JOTP Motion, pp. 7-12.)

Here, the Chickeasae & Chattah Nations claim to be a sovereign Indigenous nation asserting a right to self-determination under the United Nations Declaration on the Rights of Indigenous Peoples, while also openly rejecting federal recognition under the U.S. Bureau of Indian Affairs and rejecting the U.S.'s corporate governance structures. (Motion to Set Aside, 14:11-20; JOTP Motion, 5:1-17.) Based on this claimed sovereignty and other law cited, Defendants argue that the JOTP motion ought to be granted because the Court lacks subject matter and personal jurisdiction over the Tribe and the Indian's Trust property. (JOTP Motion, pp. 7-11.) Based on the doctrine of sovereign immunity, Defendants argue this action is barred as the Tribe has not waived its immunity and Congress has not authorized this type of suit against the Tribe. (Motion to Set Aside, 18:6-17; JOTP Motion, pp. 10-12.) For the same reasons, Defendants request that the Courts set aside the defaults as to defendant entities Quantex and LZR7, Inc. as void due to sovereign immunity and request the Court to dismiss the Complaint for lack of jurisdiction. (*Id*. at 18:18-28.)

Plaintiff's Oppositions

Plaintiff urges the Court to deny both motions and reject Defendants' arguments attempting to claim tribal sovereign immunity to bar this action against them on the basis that they have not established any tribal immunity or established that the defendant entities are trust assets. (Oppositions to Set Aside, 1:6-20; Opposition to JOTP, pp. 1-3.)

The most recently recorded public documents suggest that ownership of Defendants Quantex, LZR UltraBright, and LZR7 remains solely with Defendant Rinkleib as opposed to any tribal nation. (Raissi Decl., ¶¶ 2-5, Exhibits D-G.) Furthermore, whatever discovery Plaintiff has served on Defendants Quantex and LZR7 has not been responded to, even after an attempt to meet and confer on the lack of response. (Motion to Set Aside, pp. 3-4.) Finally, Plaintiff argues that no trial sovereign immunity ought to be recognized because Defendants admit they are not federally recognized. (*Id*. at pp. 7-8.)

Overall, Plaintiff argues that Defendants failed to establish their burden in either motion to show tribal sovereign immunity exists here or that the entities rightfully belong to any trust, so both motions should be denied.

Defendants' Replies

Defendants' replies generally reaffirm the arguments that were made in the two motions and otherwise contend that Plaintiff failed to establish standing because he does not show any written contract that suggest an ownership in the defendant entities.

Application

Having considered the arguments and evidence submitted by the parties, the Court will deny both motions for three reasons.

The first is that Defendants have failed to clearly establish that tribal sovereign immunity applies here barring this action against Defendants. Defendants' main claim to sovereign immunity is based on recognition by the United Nations, rather than the federal government. Although Defendants cite legislation by Congress as authority for why sovereign immunity applies, Defendants also concede outright that they reject federal recognition as a sovereign nation and reject the corporate governance structure of the federal government. Thus, it is unclear to the Court why tribal sovereign immunity as offered by the federal government applies here when it has been clearly rejected by the Tribe.

The second reason is that, even if the Court were to accept that sovereign immunity applies, Defendants have failed to adequately show that defendant entities are Trust Assets for the Indian's Trust. The private agreement for that Trust was entered into in 2022, and though there are attachments (Schedule A) to the Trust that expressly describe what assets form the Trust's corpus, Defendants have failed to attach those so that the Court can determine if the defendant entities are properly claimed as Trust Assets to the Indian's Trust. Furthermore, Plaintiff's evidence shows that the most recent

publicly recorded corporate documents filed on behalf of Defendants Quantex and LZR7 demonstrate that they continue to be solely owned and controlled by Defendant Rinkleib as opposed to the Tribe, the Indian's Trust, or a member or trustee of either one. For that reason, Defendants failed to show in either motion that the properties and assets at issue in this action are properly within the possession of the Tribe or Indian's Trust.

Finally, Defendants failed to show that Plaintiff has not adequately pleaded facts to constitute the claims alleged in the Complaint, or to show that there was a clerical error in the Court entering the defaults against Defendants Quantex and LZR7. The Court finds that on the face of the Complaint, Plaintiff alleged sufficient facts to claim a partnership arrangement between himself and Defendant Rinkleib, which Defendant Rinkleib failed to abide by. Additionally, as Defendants failed to establish either sovereign immunity or that the properties at issue in this action are assets in the Indian's Trust, the Court does not find that the defaults entered against Defendants Quantex and LZR7 are void/voidable or that there was clerical error under C.C.P. section 473(d).

### 3. CONCLUSION

Based on the foregoing, both motions are **DENIED**.

Plaintiff shall submit a written order on Defendants' two motions to the Court consistent with this tentative ruling and in compliance with California Rules of Court, Rules 3.1312(a) and (b).

## 4. 25CV04613, Zamora v. Kovich

Defendant Dorothy J. Kovich ("Defendant") demurs to all causes of action in Plaintiffs Luis and Nena Zamora's Complaint. The unopposed demurrer is **SUSTAINED without leave to amend**. Defendant's requests for judicial notice are **GRANTED**.

### I. PROCEDURAL HISTORY

The parties' troubled landlord-tenant relationship gives rise to the claims brought by Plaintiffs in this action. (Demurrer, 4:3-6.) Plaintiffs failed to pay rent, maintenance was not performed, and the property suffered substantial damage. (*Id*. at 4:6-10.) The parties filed separate unlawful detainer and personal injuries actions against one another which remain pending. (Request for Judicial Notice, Exhibit A.)

On March 22, 2024, the parties reached an agreement via Settlement Conference for the full and final mutual release of all claims between the parties with a single exception that Plaintiff could continue her separate personal injury case. (Request for Judicial Notice, Exhibits B-C.)

The eight causes of action alleged in the Complaint filed by Plaintiffs in this action all arise from the same facts discussed in the parties' Settlement Agreement and fall squarely within the conditions of full and final mutual release of the parties' claims. (Demurrer, 4:26-28, 5:1-3.)

Defendant demurs to this Complaint as frivolous and in direct violation of the parties' court-approved settlement. Defendant requests the Court to sustain the demurrer without leave to amend. Though Defendant's counsel attempted to meet and confer with Plaintiffs regarding the issues raised in the demurrer, Plaintiffs refused to respond to those efforts and the issues remain unresolved. (Hakami Decl., ¶¶ 16-17.) Despite proper service, Plaintiffs have also failed to oppose the demurrer.

## II. REQUESTS FOR JUDICIAL NOTICE

Pursuant to Evidence Code section 452, the Court **GRANTS** judicial notice of the following documents in the Court's record:

1. Plaintiff's Complaint, Case No. 23CV01136, Filed on October 23, 2023;
2. Settlement Agreement, Case No. 23CV00803, Filed March 22, 2024; and
3. Amended Settlement Agreement, Case No. 23CV00803, Filed on May 22, 2024.

## III. DEMURRER

A demurrer can be used only to challenge defects that appear on the face of the pleading under attack or from matters outside the pleading that are judicially noticeable. (C.C.P. § 430.30(a).) At demurrer, all facts properly pleaded are treated as admitted, but contentions, deductions and conclusions of fact or law are disregarded. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 591.) Similarly, opinions, speculation, or allegations contrary to law or judicially noticed facts are also disregarded. (*Coshow v. City of Escondido* (2005) 132 Cal.App.4th 687, 702.) Each evidentiary fact that might eventually form part of a party's proof does not need to be alleged. (*C.A. v. William S. Hart Union High School Dist.* (2012) 53 Cal. 4th 861, 872.) Conclusory pleadings are permissible and appropriate where supported by properly pleaded facts, but the distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.) Leave to amend should generally be granted liberally where there is some reasonable possibility that a party may cure the defect through amendment. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) The burden of proving that there is a reasonable possibility to cure the defect is squarely on the party that filed the pleading, but if that burden is met and leave to amend is not granted, then that constitutes an abuse of discretion by the trial court. (*Ibid*.)

The parties' Amended Settlement Agreement specifically states in Paragraph 13:

> "This is a full and final mutual release of all claims which exist or may exist between or among these parties and their agents which arise or arose out of Defendants's(s') tenancy of the subject premises, including all claims known and unknown, and the parties specifically waive all rights under Civil Code § 1542, which reads as follows:
>
> A general release does not extent to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have material affected his or her settlement with the debtor or released party."

(Request for Judicial Notice, Exhibit C.) The Settlement also states that, "the waiver in Paragraph 13 does not apply to case 23CV01136. There are no other exceptions to Paragraph 13's waiver." (*Ibid*.)

Despite these very clear terms, Plaintiffs filed the Complaint in this action in direct violation of the parties' Amended Settlement Agreement for claims arising out of their tenancy at Defendant's premises, which claims also were known to Plaintiffs at the time the settlement was completed. Plaintiffs also are attempting to enforce certain terms of the parties' settlement through the Complaint, but such a motion to enforce settlement would more appropriately be filed in the matter in which the settlement agreement was filed (Case No. 23CV00803), rather than filing a separate action alleging claims in violation of the settlement.

Defendant properly demurred to the Complaint, and Plaintiffs failed to oppose the demurrer and failed to meet their burden of showing there is any reasonable possibility to cure the fatal defect of the Complaint through amendment. Thus, the Court will sustain the demurrer without leave to amend as there appears no reasonable possibility that Plaintiffs can bring these claims that are in direct violation of the parties' settlement.

### IV. CONCLUSION

The demurrer is **SUSTAINED without leave to amend** due to the Complaint's allegations and claims being subject to and in direct violation of the parties' Amended Settlement Agreement filed in Defendant's unlawful detainer action (Case No. 23CV00803). Defendant's requests for judicial notice are **GRANTED**. Unless oral argument is requested, the Court will sign the proposed order lodged with this motion.

## 5. 25CV05137, American Express National Bank v. Hayeems

Self-represented Defendant Natalie Hayeems' motion to quash service of summons is **DENIED**, pursuant to Code of Civil Procedure ("C.C.P.") section 418.10. Defendant shall file a response to the Complaint within ten days of this Court's order.

### I. PROCEDURAL HISTORY

Plaintiff American Express National Bank ("American Express") filed the Complaint against Defendant for breach of contract alleging that American Express extended credit to Defendant for purchases, but Defendant failed to make monthly payments on the credit card and accrued debt up to $17,250.00. (Complaint, p. 3, ¶ BC-1.) American Express filed a proof of service of summons stating that Defendant was served by substituted service on September 14, 2025, at "2836 Canyonside Drive, Santa Rosa, CA 95404" and the Complaint and Summons were left by the process server with a co-habitant of Defendant described as a white male aged 46-50 above 6 feet in height and of average weight with brown hair who refused to give his name to the process server. (Proof of Service of Summons, ¶¶ 4, 5, 7.)

Defendant moves to the quash the service of summons for improper service not compliant with C.C.P. sections 415.10 and 415.20. (Notice of Motion, p. 2.) American Express filed an Opposition, in response to which Defendant filed the Reply.

## II. ANALYSIS

Legal Standard

Per C.C.P. section 418.10(a), "a defendant, on or before the last day of his or her time to plead within any further time that the court may for good cause allow, may serve and file a notice of motion … (1) to quash service of summons on the ground of lack of jurisdiction of the court over him or her."

Proper in-state methods of service of summons for general civil actions are outlined under C.C.P. sections 415.10, 415.20, 415.30, and 415.50. Furthermore, "[i]n the absence of a voluntary submission to the authority of the court, compliance with the statutes governing service of process is essential to establish th[e] court's personal jurisdiction over a defendant." (C.C.P. § 410.50; *Am. Express Centurion Bank v. Zara* (2011) 199 Cal.App.4th 383, 387.) Thus, without valid service, the court lacks personal jurisdiction over a defendant. (C.C.P. § 418.10(a)(1).)

A defendant is under no duty to respond in any way to a defectively served summons; it makes no difference that defendant had actual knowledge of the action because such knowledge does not dispense with statutory requirements for service of summons. (*Kappel v. Bartlett* (1988) 200 Cal.App.3d 1457, 1466.)

Defendant's Motion to Quash

Defendant argues that the service of process was improper because the Summons and Complaint were left outside on the doorstep of Defendant's residence after service was expressly refused and no follow-up mailing was ever made afterwards. (Notice of Motion, p. 2.) Defendant also claims that the person who answered the door at her property was her landlord and expressly refused to accept or take the documents from the process server. (Hayeems Decl., ¶ 4.)

Opposition

American Express argues that it filed a proper proof of service of summons by a registered California process server, Julia Ardoin, who declared that the Summons and Complaint were served by substituted service on Defendant's co-habitant who refused to give his name. (Opposition, 5:7-12.) The proof of service reflected multiple cars were in the driveway, but Defendant claims she was not home and the person who answered the door was her landlord. (*Id*. at 5:11-17.) The process server also made four separate attempts on different dates and times to effectuate service upon Defendant prior to the substituted service. (Jun Decl., Exhibit A.) Thus, Defendant's motion fails to rebut the presumption of proper service reflected by the proof of service of summons filed by American Express. (Opposition, pp. 5-6.)

Reply

Defendant claims that the following happened per a written transcript of an audio recording:

"Landlord: 'I can't accept that for her.'
Server: 'I can leave it for her here. I'm allowed to, um, per the codes, I can leave it. So, um, I'm authorized to do that.'
Landlord: 'I'm not willing to accept it.'
Server: 'Well, ok, I'm gonna leave it here then.'
After this exchange, the door was closed. The process server placed the summons and complaint on the ground outside the door and departed."

(Reply Hayeems Decl., Exhibit A.) Defendant did not produce the audio recording itself or verify that it occurred by any other means than the above transcription written by her. Defendant also did not produce any declaration by her landlord to confirm the same.

Application

American Express filed a proof of substituted service of the Complaint and Summons prepared by a registered California process server who completed service after diligently attempting to do so on four separate occasions which Defendant refused to accept. Defendant has failed to invalidate or rebut the proof of service. The transcription of an audio recording of an exchange did not occur in Defendant's presence. However, the details are supported by the Proof of Service filed by Plaintiff and show that substitute service was effective, even if the co-occupant of the house would not physically take hold of the document packet. Per the code requirements, substitute service did not occur until several unsuccessful attempts at personal service and as supported by a Declaration of Mailing along with documentation of the prior service attempts. Hence, Plaintiff complied with the appropriate procedures in serving the Complaint and Summons via process server, Furthermore, Defendant had actual notice of the Complaint and Summons.

## III. CONCLUSION

Based on the foregoing, Defendant's motion to quash is **DENIED**, and Defendant is ordered to file a response to the Complaint with this Court within 10 days.

American Express 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).