

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Friday, April 24, 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. 25CV00992, Elizabeth Joan Ramsay Palmer, Trustee v. Fairweather & Associates, Inc.

Defendants Simonetta Baldwin, Amanda Barlow, Fairweather & Associates, Inc., Simon Fairweather, and Jose Velez (together as “Defendants”) move to bifurcate the accounting discrepancy in this action to be decided by the Court prior to trial pursuant to C.C.P. sections 128(a)(3) and 598. The motion is **DENIED**.

I. FACTUAL & PROCEDURAL HISTORY

On February 6, 2025, Plaintiff Joan Ramsay Palmer, an individual, (“Plaintiff”) filed her Complaint against Defendants alleging intentional misrepresentation, negligent misrepresentation, fraud, financial elder abuse, breach of contract, unfair competition (“UCL”), construction defects, negligence, and defamation arising out of a contract between the parties for the construction of a new home and other buildings on Plaintiff’s property located at 3655/3657 Westside Road, Healdsburg, California (the “Project”). On March 26, 2025, Plaintiff amended her Complaint, now as Trustee of the Elizabeth Joan Ramsay Palmer Trust. In the interim, Defendants filed a separate action against Plaintiff, individually

and as Trustee, for breach of contract, violations of Civil Code (private works of improvement), foreclosure on mechanic's lien, quantum meruit, and breach of implied warranty of correctness of plans and specifications arising out of the construction contract. (See Complaint in Case No. 25CV01839, filed March 14, 2026). On August 1, 2025, the Court consolidated these two actions. (See Joint Stipulation and Order, filed August 1, 2025.) On August 8, 2025, Plaintiff filed the Second Amended Complaint ("SAC") in response to Defendants' November 5, 2025 demurrer to the First Amended Complaint. (See Ruling Issued on Submitted Matter, filed November 13, 2025.) Trial is currently set for July 31, 2026, and Defendants now move the Court to exercise its discretion to establish the order of proof and bifurcate the accounting issues to be decided by the Court before trial.

II. DISCUSSION

A. Governing Law

A trial court has inherent and statutory authority to provide for the orderly conduct of proceedings [C.C.P. section 128(a)(3)], regulate the order of proof [Evidence Code section 320], and order that the trial of any issue or any part thereof precede the trial of any other issue (bifurcation) for the convenience of witnesses or judicial economy and efficiency of handling the litigation [C.C.P. section 598]. Such authority is discretionary. (*Ibid.*) Under C.C.P. section 1048(b), a court may separate trial of any cause of action or of any separate issue "in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy ... preserving the right of trial by jury required by the Constitution or a statute of this state or of the United States."

B. Moving Papers

Defendants argue that the competing narratives in this case—Plaintiff's claim that Fairweather & Associates, Inc. overcharged her and failed to substantiate \$2.4 million in charges and Defendants claim that all costs are accounted for and only increased due to Plaintiff-directed changes—require the determination of whether \$2.4 million discrepancy exists as a matter of fact before these narratives can be meaningfully evaluated. (MPA, 2:13–4:26.) Defendants maintain that this accounting issue is document-driven and technical, which is better suited for the Court to decide rather than a jury. (*Id.* at 5:1–14.) Defendants further assert that establishing the order of proof prevents prejudice and promotes judicial economy because allegations of fraud and financial elder abuser carry a significant risk of prejudice if presented to a jury before the factual basis for those claims is established. (*Id.* at 5:17–25.) Defendants request that "the Court order that the accounting and cost substantiation issues be tried first in a bench proceeding limited to evidence concerning the contract change orders, invoices, payroll and time records, subcontractor bills, and job cost documentation" and "[o]nly if the Court determines that a material accounting discrepancy exists should the case proceed to a jury trial on Plaintiff's claims framed by the Court's accounting findings." (*Id.* at 5:27–6:3.)

Plaintiff opposes the motion arguing that Defendants do not cite any statute or case law that supports the Court taking accounting issues away from the jury. Plaintiff contends that the accounting

dispute in this case is not threshold issues but is central to Plaintiff's fraud and other legal claims and the technicality of accounting issues does not provide a basis for removing such issues from jury consideration. (Opposition, 7:3–8:6.) Plaintiff insists that judicial resources will be wasted by bifurcation because the accounting issues will require the same evidence as the other issues in the case (the same witnesses, experts, documents) and Defendants fail to identify any facts that would be resolved in a bench phase that would eliminate the need for jury adjudication of those same facts. (*Id.* at 8:9–17.)

In Reply, Defendants assert that the accounting dispute is a threshold issue, which is an equitable proceeding that may be tried before other legal claims. (Reply, 1:24–2:26.) Defendants argue that they do not seek dismissal of Plaintiff's legal causes of action or to prevent a jury from hearing claims after the accounting issue is resolved but instead seeks a determination of a discrete factual issue that supplies the factual foundation for the remainder of the case. (*Id.* at 3:1–18.) Defendants again cite the Court's authority under C.C.P. sections 598, 1048(b), and 128(a) to order the bifurcation sought here. (*Id.* at 3:22–4:13.) Lastly, Defendant maintains that resolution of the accounting issue will conserve judicial resources by significantly narrowing the scope of trial and will avoid prejudice of Plaintiff's emotionally charged rhetoric as evidenced in her Opposition. (*Id.* at 4:16–5:11.) Defendants filed a Supplemental Reply two days after its initial Reply to present additional authority that the allows the Court to determine preliminary factual issues prior to the admission of evidence to the jury (Evidence Code sections 310, 312, and 400). (Supplemental Reply, 1:4–2:11.)

C. Defendants' Request for Judicial Notice

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. (Evid. Code § 452(h).) The court must take judicial notice of any matter requested by a party, so long as it complies with the requirements under Evidence Code section 452. (Evid. Code § 453.) Courts may take notice of public records but not take notice of the truth of their contents. (*Herrera v. Deutsche Bank National Trust Co.* (2011) 196 Cal.App.4th 1366, 1375.)

In support of their motion to bifurcate accounting issues, Defendant requests judicial notice of the Second Amended Complaint in this action. The request is **GRANTED** but the Court does not take notice of the truth of its contents.

D. The Court Declines to Exercises its Discretion to Bifurcate Accounting Issues

The Court is not persuaded by Defendants' arguments to bifurcate the accounting issues in this case. As noted by Defendants, the accounting issues in this case are not confined to a single cause of action and such accounting issues are directly disputed by Defendants. The SAC alleges that Defendant Fairweather & Associates, Inc. agreed to the construction Project for a "Guaranteed Maximum" of \$10,880,439.00 which Plaintiff has paid \$16,136,449.50 to Defendant Fairweather & Associates, Inc. to date. (SAC, ¶¶ 26, 133.) Plaintiff alleges that Defendant Fairweather & Associates, Inc. engaged in a

pattern and practice of overbilling Plaintiff (an elderly woman) in the sum of at least \$2.4 million, including miscalculations of site supervision time and project management, vague and confusing invoicing, and refusing to provide Plaintiff with original receipts for materials and invoices from subcontractors when requested, along with defective construction that damaged Plaintiff. (SAC ¶¶ 1, 31–70, 134.) All causes of action incorporate accounting issues with the Fifth, Sixth, and Seventh Causes of Action incorporating accounting issues and construction defect issues. (SAC, pp. 32–50.) Plaintiff seeks restitution and injunctive relief prohibiting unlawful and unfair business practices under the Sixth Cause of Action for violation of UCL (SAC, p. 47) while all other causes of action seek monetary damages and/or attorney’s fees (SAC, pp. 21, 28, 31, 46, 50, and 64–65.)

Here, the Court is balancing judicial economy and efficiency with Plaintiff’s constitutional right to a jury trial and Defendants’ alleged prejudice they would face at a jury trial due to Plaintiff’s emotional presentation of neutral accounting evidence. In Reply, Defendants cite to *Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1240 which explained that “mixed cases” involving equitable claims and legal claims may be bifurcated so that a court may try the equitable claims first, without a jury or with an advisory jury, which consequently may also determine issues dispositive of the legal issues, possibly eliminating the need for a jury trial. The *Nwosu* court relied upon *Walton v. Walton* (1995) 31 Cal.App.4th 277 in affirming the trial court’s decision to conduct a trial of the equitable issues first (five of the six claims) which left nothing to be tried by a jury. Defendants cite *Prakashpalan v. Engstrom, Lipscomb & Lack* (2014) 223 Cal.App.4th 1105 to support their contention that accounting is an equitable proceeding and therefore should be heard first by the Court instead of a jury. Unlike *Prakashpalan*, the SAC does not contain a separate cause of action for accounting but instead incorporates the accounting issues into all causes of action, i.e., the basis of the fraud and related claims. The only standalone equitable claim in the SAC is the Sixth Cause of Action under the UCL, which seeks restitution and injunctive relief. (SAC, p. 47.) Defendants present no evidence or argument that the other seven causes of action are equitable in nature, supporting severance of clear legal and equitable causes of action, other than the fact that the “accounting issue” in this case touches all or most causes of action. However, even if the Court found that the remaining seven causes of action involve both legal and equitable aspects, the Court would then look to the “gist of the action.” (*Nwosu, supra*, 122 Cal.App.4th 1229, 1240.) The gist of the action here is legal, not equitable, as Plaintiff seeks monetary damages arising out of Defendants’ alleged fraud and negligence. (See *Raedeke v. Gibraltar Sav. & Loan Assn.* (1974) 10 Cal.3d 665, 670–671[“a suit to recover damages for fraud or breach of contract is an action at law in which a right to jury trial ordinarily exists”]; *Ceriale v. Superior Court* (1996) 48 Cal.App.4th 1629, 1634–1635 [negligence solely seeking damages is an action at law].)

Therefore, bifurcation of the accounting issue in this case is not proper as it is not a distinct cause of action and in essence allows the Court to pre-try the viability of the entire SAC or predetermine issues of fact while depriving Plaintiff of her right to a jury trial. Furthermore, the Court does not envision how bifurcating accounting issues in this case would preserve judicial economy as proving accounting issues would necessarily require the same evidence to prove all causes of action at trial (witnesses, invoices, experts, etc.). The Court’s power of bifurcation under all applicable authorities is *discretionary*.

Considering Plaintiff's right to jury trial and the framing of the issues in the SAC, the Court finds that bifurcation in this case does not promote judicial economy and efficiency.

The Court does not consider Defendants' arguments about the Evidence Code as a basis for relief because Defendants first present this argument in their Supplemental Reply, depriving Plaintiff of an opportunity to respond to Defendants. (See *Maleti v. Wickers* (2022) 82 CA5th 181, 228 quoting *Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537–1538 [under general rule of motion practice, new evidence not permitted with reply papers and is only allowed in exceptional cases].)

III. CONCLUSION

Defendants' motion to bifurcate the accounting discrepancy in this action is **DENIED**.

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