

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, May 13, 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>

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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. 24CV04839, Gallardo v. Peo

Defendant Peo (“Peo”) moves for summary judgment, or in the alternative summary adjudication, (“MSJ”) as to Plaintiff Gallardo’s (“Gallardo”) Complaint and the First Cause of Action for Negligence alleged against Peo. pursuant to Code of Civil Procedure (“C.C.P.”) section 437c, summary judgment OR adjudication is **GRANTED**.

I. PROCEDURAL HISTORY

Gallardo alleges that on or about February 4, 2024, he was travelling northbound on the 101 near the SR-116 ramp when he lost control of his vehicle due to debris left on the roadway by Peo. He also alleges that California Highway Patrol (“CHP”) failed to warn about the hazard. (Complaint, ¶¶ 1-6; Undisputed Material Fact [“UMF”] No. 1.) Gallardo alleges the First Cause of Action for Negligence against only Peo and the Second Cause of Action for Dangerous Condition of Public Property against only California Highway Patrol. (*Id.* at ¶¶ 15-25; UMF No. 33.)

Peo claims that, while driving, Gallardo had initially been in lane 3, but saw that Peo's car was on the shoulder, moved into lane 1, then hit the center divider and hydroplaned into Peo's car towards the right shoulder. (UMF No. 5.) Peo's vehicle, a Tesla, was pulled off on the right shoulder because he himself had hydroplaned and run into the middle divider. (UMF No. 6.) A CHP Officer, Emily Corda, was already on the scene to witness Gallardo's Land Rover striking Peo's Tesla and gave deposition testimony stating that Peo's Tesla was already disabled on the right shoulder off the road waiting for a tow truck. (UMF No. 9-10.)

Peo moves for summary judgment or adjudication against Gallardo's First Cause of Action for Negligence alleged against him arguing that he cannot establish a required element of the claim. (MSJ Memorandum of Points and Authorities ["MPA"], 1:22-28.) Gallardo filed an Opposition to the MSJ and Peo filed a Reply.

II. ANALYSIS

Legal Standard

Motion for Summary Judgment

Per 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 a judgment as a matter of law." (C.C.P. § 437c(c).)

Summary Adjudication

Per C.C.P. section 437c(f), a party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, if the party contends that there is no affirmative defense to the cause of action, or that there is no merit to an affirmative defense as to any cause of action, or that one or more defendants either owed or did not owe a duty to the plaintiff or plaintiffs.

Negligence

For a cause of action for negligence, the elements are well established as "(a) a legal duty to use due care; (b) a breach of such legal duty; [and] (c) the breach as the proximate or legal cause of the resulting injury." (*Ladd v. County of San Mateo* (1996) 12 Cal.4th 913, 917.) A breach of a legal duty means the "failure to meet the standard of care." (*Coyle v. Historic Mission Inn Corp.* (2018) 24 Cal.App.5th 627, 643.) For the causation requirement to be satisfied, there must be a connection between the defendant's alleged breach and the plaintiff's sustained injury. (*Id.* at 24 Cal.App.5th at 645.) The court determines and formulates the standard of conduct to which a defendant must conform per the duty and it is a question of law. (*Regents of University of California v. Superior Court* (2018) 29 Cal.App.5th

890, 902-903.) A duty can be “imposed by law, be assumed by the defendant, or exist by virtue of a special relationship.” (*Doe v. United States Youth Soccer Assn., Inc.* (2017) 8 Cal.App.5th 1118, 1128.)

Peo’s MSJ

Peo argues that Gallardo cannot establish causation to support his claim for negligence against Peo as a matter of law because Peo’s car was disabled on the side of the road. Peo cites *Lane v. Jaffe* (1964) 225 Cal.App.2d 172 (“*Lane*”) to support the argument that, if a vehicle is disabled and subsequently hit by another vehicle, the legal cause of the collision is the conduct of the driver who crashed into the disabled vehicle. (MPA, 9:8-14.) Here, as the cause of the collision appears to be hydroplaning, Gallardo’s speed, or debris on the road not cleared up on time by CHP, Peo argues that his actions or vehicle did not cause the collision. (*Id.* at pp. 11-12.)

Gallardo’s Opposition

Gallardo argues that even if Peo’s vehicle became disabled, he still breached his standard of care by driving too fast in the rain and also there is a triable issue of material fact as to whether the debris from Peo’s vehicle that was on the roadway following his crash caused Gallardo’s vehicle to crash into Peo’s vehicle. (Opposition, pp. 3-8.)

Peo’s Reply

Peo reaffirms the arguments made in the motion and disagrees with Gallardo’s “debris” theory arguing that it does not create a triable issue of material fact because Peo admitted he hydroplaned due to water on the roadway and Officer Corda already testified that Peo attributed the loss of control of the vehicle to the hydroplaning rather than the debris. (Reply, 3:14-26.)

Application

The Court finds that Gallardo did not sufficiently meet the burden of proving that there remains a triable issue of fact as to causation. Peo’s vehicle had hydroplaned and been involved in a collision prior to Gallardo’s collision and Officer Corda was already on the scene parked behind Peo’s vehicle with the emergency lights on. Based on Gallardo’s discovery responses and deposition testimony and based on Officer Corda’s deposition testimony, Gallardo lost control of his vehicle due to the hydroplaning before he collided with Peo’s vehicle that was disabled on the right shoulder. Following the ruling in *Lane*, the Court does not find that Gallardo can establish causation on the part of Peo due to his disabled vehicle in the right shoulder of the road after a collision.

III. CONCLUSION

Based on the foregoing, the Court **GRANTS** Peo’s MSJ. Peo shall submit a written order on this motion to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

2. 25CV02984, Borgnis v. Arellanes

Plaintiff James D. Borgnis’ (“Plaintiff”) motion for an Interlocutory Judgment of Partition and Appointment of Referee for the real property commonly known as 1714 Sherwood Court, Santa Rosa, California (“Subject Property”) is **GRANTED**. The Court, in its discretion, appoints Kevin Singer as Partition Referee.

I. PROCEDURAL HISTORY

Plaintiff’s Complaint is for the partition of real property located at 1817 Sherwood Court, Santa Rosa (APN 014-031-019), in which Plaintiff and Defendant each own a one-half interest. (Complaint, ¶¶ 1-3.) Based on the March 25, 2025, Litigation Guarantee and the 2021 Grant Deed that are both attached to the Complaint as Exhibits A and D, Plaintiff and Defendant Gilberto Arellanes are both 50% tenant-in-common title owners of record of the single-family house and property located at the Subject Property, legally described as:

LOT 17, AS NUMBERED AND DESIGNATED ON THAT MAP OF THE ORCHARD SUBDIVISION, ETC.; AS FILED MAY 24, 1973 IN BOOK 191 OF MAP, PAGES 1, 2, 3, AND 4, SONOMA COUNTY RECORDS

(Motion, 2:6-14.) Plaintiff states that the Subject Property is encumbered by a 2017 note and first deed of trust in the amount of \$289,987.00, with a current principal balance of about \$280,000.00. (*Id.* at 2:14-17.) The Subject Property is vacant and has a monthly mortgage payment of \$2,800.00, but it has become the source of neighbor complaints due to occupation by transient individuals and the City of Santa Rosa has issued a code violation due to unpermitted parking and storage of vehicles on the Subject Property’s side yard and for accumulations of garbage and trash. (*Id.* at 2:17-23.)

Per this motion, Plaintiff moves for an Interlocutory Judgment for Partition of the Subject Property by sale and for the appointment of Michael S. Pecherer as Partition Referee. Defendant is in agreement regarding partition, but opposes on the basis that Kevin Singer should be appointed instead as Partition Referee. Plaintiff submitted a Reply to advocate for his proposed Referee.

II. PARTITION AND APPOINTMENT OF REFEREE

Legal Standard

A partition action may be commenced by “an owner of an estate of inheritance, an estate for life, or an estate for years in real property where such property or estate therein is owned by several persons concurrently or in successive estates.” (C.C.P. § 872.210(a).) Under C.C.P. section 872.710(b), a plaintiff has a right to partition as to concurrent interests in property unless barred by a valid waiver. This right to partition is absolute absent a valid waiver. (*LEG Invs. v. Boxler* (2010) 183 Cal.App.4th 484, 493.) A valid waiver can be done by contract, either express or implied. (*Ibid.*) Courts determine at trial whether plaintiff does have this right. (C.C.P. § 872.710(a).)

Per C.C.P. section 873.010(a), “the court shall appoint a referee to divide or sell the property as ordered by the court.” The court may: (1) determine whether a referee’s bond is necessary and fix the amount of the bond; (2) give the referee instructions; (3) fix the reasonable compensation for the services of the referee and provide for payment of the referee's reasonable expenses; (4) provide for the date of commencement of the lien of the referee allowed by law; (5) require the filing of interim or final accounts of the referee, settle the accounts of the referee, and discharge the referee; (6) remove the referee; and (7) appoint a new referee. (C.C.P. § 873.010(b).)

Analysis

Plaintiff’s motion argues that he is entitled to an interlocutory judgment of partition under C.C.P. sections 872.210 and 872.710. (Motion, 3:12-20.) Arguing that there is no waiver to partition, Plaintiff seeks the Court to order the Subject Property to be partitioned by sale and for Michael S. Pecherer to be appointed as Partition Referee. (Motion, 3:18-27, 4:1-8.)

Defendant proposed the Court appoints Kevin Singer as Partition Referee instead, but otherwise does not oppose the motion apart from requesting that the Partition Referee not be instructed to adjudicate disputed issues between the parties such as responsibility for alleged neglect. (Opposition, 2:9-25, 3:1-22.) Defendant also requested that the motion be postponed until after the hearing on Defendant’s motion to disqualify Plaintiff’s Counsel. The Court notes that the hearing was already postponed for this reason and the other motion has been granted.

Plaintiff argues that the Court has full discretion to appoint the Partition Referee if the parties cannot agree, but requests that Mr. Pecherer be appointed because he is not less qualified. (Reply, pp. 2-6.)

Application

Finding that both parties agree that partition is appropriate, that there has been no valid waiver as to partition, and that both parties agree to a partition by sale, the Court will grant the motion in full except regarding the appointment of Partition Referee. Both Mr. Pecherer and Mr. Singer are qualified to serve as Partition Referee, but the Court in its discretion shall appoint Mr. Singer.

III. CONCLUSION

Based on the foregoing, Plaintiff’s Motion is granted in all respects except that Kevin Singer shall be appointed as the Partition Referee to assist in the parties’ dispute. Plaintiff shall submit a written order on the motion consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a)-(b).

3-4. 25CV05167, Hallock v. Weisman

Defendant Weisman moves unopposed to specially strike (the “anti-SLAPP”) the single cause of action for Perjury alleged against her in Plaintiff Hallock’s First Amended Complaint (“FAC”) The anti-SLAPP is **GRANTED without leave to amend** per Code of Civil Procedure (“C.C.P.”) section 425.16. Weisman’s request for fees and costs are also **GRANTED** as a mandatory award for prevailing party, which will be considered in a separate fees motion to be filed by Weisman.

Defendant’s concurrently filed and unopposed Demurrer is **DENIED as moot** due to the granting of the Anti-SLAPP without leave to amend.

I. PROCEDURAL HISTORY

Hallock’s FAC alleges one cause of action for perjury under Penal Code section 118(a) against Weisman based on her testimony given against Hallock in the matter of *Wendy Chapin Hallock v. Carter Chapin Hallock*, Case No. 25CV02725. (Anti-SLAPP, 2:2-8.) Weisman testified that Hallock withdrew \$60,000.00 from a company account of CMOUTS, LLC, which company Wendy Chapin Jardine (a.k.a. Hallock) owns, and deposited into his own personal account. (*Id.* at 2:9-11.) In that other matter, the Court granted a restraining order against Hallock based on that testimony given by Weisman, which now Hallock is insisting was false based on a typo that stated the unauthorized withdrawal of the company funds happened on March 13, 2025, instead of March 13, 2023, when it actually happened. (Anti-SLAPP, 3:11-21.)

Weisman’s anti-SLAPP motion moves to strike the FAC and single cause of action because it arises from Weisman’s protected speech that specifically was given in a judicial proceeding. Weisman also demurs to the FAC and its single cause of action as failing to plead facts sufficient to state a cause of action. Though Weisman submitted two Reply briefs responding to Hallock’s Oppositions, there does not appear to be any record in the Court’s file of any opposition filed by Hallock to these motions or any submission pending on E-File.

As a side note, Weisman notified the Court of Hallock’s ongoing litigation in this Court in the matter *Hallock v. CMOUTS, LLC*, Case No. 25CV01244 and another suit filed in Contra Cosa County titled *Hallock v. Jardine*, Case No. C25-02746.

II. ANTI-SLAPP MOTION

Special Motion to Strike (“Anti-SLAPP”)

C.C.P. section 425.16(b)(1) provides that a cause of action against a person “arising from any act of that person in furtherance of the person’s right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue” shall be subject to a special motion to strike or “anti-SLAPP” motion, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim. The anti-SLAPP statute further defines the foregoing phrase to include “any written or oral statement or writing made before a

legislative, executive, or judicial proceeding, or any other official proceeding authorized by law.” (C.C.P. § 425.16(e)(1).) It is well established that, the “constitutional right to petition... includes the basic act of filing litigation or otherwise seeking administration action.” (*Briggs v. Eden Council for Hope Opportunity* (1999) 19 Cal.4th 1106, 1115 (“*Briggs*”).) Section 425.16 does not require that the parties meet and confer before filing an anti-SLAPP motion. (*Trinity Risk Mgmt., LLC v. Simplified Lab. Staffing Sols., Inc.* (2021) 59 Cal.App.5th 995, 1008.)

First Prong: Protected Speech in the anti-SLAPP

A defendant has the initial burden in the anti-SLAPP motion to make a prima facie showing that the complaint “arises from” the exercise of free speech or petition rights. (*Equilon Enterprises, LLC v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 61.) “At the first step of the analysis, the defendant must make two related showings. Comparing its statements and conduct against the statute, it must demonstrate activity qualifying for protection... Comparing that protected activity against the complaint, defendant must also demonstrate that the activity supplies one or more elements of a plaintiff’s claims.” (*Wilson v. Cable News Network, Inc.* (2019) 7 Cal.5th 871, 887.) If defendant meets that initial burden, the burden shifts to the plaintiff to establish that there is a “probability” of prevailing on the claims which are based on protected activity. (C.C.P. § 425.16(b)(1).)

Second Prong: Probability of Success on the Merits

To establish a “probability” of prevailing on the merits, plaintiff must demonstrate that the claim is both legally sufficient and supported by a prima facie showing of facts sufficient to support a favorable judgment if the evidence submitted by the plaintiff is credited. (*Navelier v. Sletten* (2002) 29 Cal.4th 82, 89.) To demonstrate a probability of prevailing on the merits, the plaintiff must produce admissible evidence sufficient to overcome any privilege or defense that the defendant has asserted to the claim. (*Flatley v. Mauro* (2006) 39 Cal.4th 299, 323.)

Civil Code section 47(b) litigation privilege is a substantive defense the plaintiff must overcome to demonstrate probability of prevailing. “In making its determination, the court shall consider the pleadings, and supporting and opposing affidavits stating the facts upon which the liability or defense is based.” (C.C.P. § 425.16(b)(2).) There is no requirement of finding an intent to chill free speech, or actual chilling of free speech. (*Equilon*, 29 Cal.4th 58-59.)

Amendment

Leave to amend may not be allowed so that a pleading can be amended to allege (or omit) facts that demonstrate the pleading is not subject to the anti-SLAPP statute in order to avoid it. (Cal. Prac. Guide Civ. Pro. Before Trial Ch. 7(II)-F.) However, amendment may be allowed to show the probability of plaintiff prevailing on the merits based on evidence submitted in opposition to the anti-SLAPP motion because such an amendment would not be relevant to whether defendant engaged in any protected activity so it does not thwart the purpose of the anti-SLAPP statute. (*Ibid.*)

Fees and Costs on anti-SLAPP Motion

A prevailing party on an anti-SLAPP motion to strike may be entitled to recover fees and costs, but the standards for determining this differ depending on whether the prevailing party was the defendant moving to strike or the party opposing the motion to strike.

The “prevailing defendant” on a motion to strike an anti-SLAPP suit “shall be entitled” to recover fees and costs and if a plaintiff prevails, the court “shall award costs and reasonable attorney's fees” to the plaintiff, but only pursuant to C.C.P. section 128.5 and “[i]f the court finds that [the motion] is frivolous or is solely intended to cause unnecessary delay.” (C.C.P. § 425.16(c), emphasis added.) In both cases, the award is mandatory. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1131; *Foundation for Taxpayer & Consumer Rights v. Garamendi* (2005) 132 Cal.App.4th 1375, 1388 (mandatory for prevailing plaintiff if court finds motion to be frivolous).)

Anti-SLAPP Motion

Weisman argues that the FAC’s single cause of action for perjury arises from Weisman’s oral statements given in a judicial proceeding, which statements are considered a protected activity expressly stated under C.C.P. § 425.16(e)(1). (Anti-SLAPP, 4:1-25, 5:1-4.) Furthermore, Hallock has no clear chance of prevailing on the merits of the claim because, as is also argued in Weisman’s demurrer, Weisman’s statements are protected by the Litigation Privilege under Civil Code section 47(b) and because Hallock failed to state a valid cause of action because there is no cause of action for “perjury” as a civil claim as it is a criminal wrong. (Anti-SLAPP, 5:6-28, 6:1-23.)

As mentioned above, the Opposition has apparently not been filed in the Court’s record of this matter. The Reply reaffirms the arguments made in the motion and states that Hallock opposes the motion as an attempt to “intimidate and silence” him. (Reply, 1:18-23.)

The Court finds that the oral statements made by Weisman in the other judicial proceeding are squarely covered as protected activity under the anti-SLAPP statute and that Hallock cannot establish a probability of prevailing on the merits of the perjury cause of action for the reasons stated in Weisman’s motion.

The motion is **GRANTED without any leave to amend**.

III. DEMURRER

As mentioned above, Weisman demurs to the FAC because there is no civil cause of action for “perjury” and because the claim is otherwise barred by the Litigation Privilege under Civil Code section 47(b). Though the Court finds the demurrer to be warranted, as the Court is sustaining the anti-SLAPP motion in its entirety as to the FAC and its single cause of action, the demurrer is **DENIED as moot**.

IV. CONCLUSION

Weisman's anti-SLAPP motion against the FAC is **GRANTED without leave to amend**. The demurrer is **DENIED as moot**. Mandatory fees are granted to Weisman, which shall be considered in a separate motion to be filed by Weisman.

Weisman shall submit a written order to the Court consistent with this tentative ruling on both of the motions and in compliance with Rule of Court 3.1312(a) and (b).

5-11. Arikat v. Grocery Outlet, Inc.

The Court rules as follows on the below seven motions filed by Defendant/Cross-Complainant/Cross-Defendant Basin Street Properties, Inc. ("Basin"):

1. Basin's Motion for Judgment on the Pleadings against Plaintiff Sawsan Abu Halawa ("Halawa")("JOTP Halawa") is **DENIED**.
2. Basin's Motion for Judgment on the Pleadings against Plaintiff Suhair Arikat ("Suhair")("JOTP Suhair") is **DENIED**.
3. Basin's Motion for Terminating Sanctions, or in the Alternative for Monetary Sanctions against Halawa ("Terminating Sanctions Halawa") **GRANTED in part** as to monetary sanctions and denied as to all else. The Court awards monetary sanctions against Halawa in the amount of \$575.00.
4. Basin's Motion for Terminating Sanctions, or in the Alternative for Monetary Sanctions against Michael Arikat ("Michael")("Terminating Sanctions Michael") **GRANTED in part** as to monetary sanctions and denied as to all else. The Court awards monetary sanctions against Suhair in the amount of \$525.00.
5. Basin's Motion for Terminating Sanctions, or in the Alternative for Monetary Sanctions against Suhair ("Terminating Sanctions Suhair") **GRANTED in part** as to monetary sanctions and denied as to all else. The Court awards monetary sanctions against Michael in the amount of \$1,175.00.
6. Basin's Motion to Compel Halawa's Responses to Supplemental Discovery ("MTC Halawa") is **GRANTED**. Halawa shall serve objection-free responses to the supplemental discovery requests within 20 days of this Court's order.
7. Basin's Motion to Compel Suhair's Responses to Supplemental Discovery ("MTC Suhair") is **GRANTED**. Suhair shall serve objection-free responses to the supplemental discovery requests within 20 days of this Court's order.

The Court also **GRANTS** Basin's request for judicial notice of the Court's February 5, 2025, Ruling Issued on Submitted Matter re: Motions to Compel Further Responses and Motions to Deem as Admitted ("Discovery Order"), per Evidence Code section 452(d).

I. PROCEDURAL HISTORY

Plaintiffs are successors-in-interest and heirs of Decedent Farida Arikat. (First Amended Complaint [“FAC”], ¶¶ 1-4.) Plaintiffs allege that on or about March 2, 2020, Decedent parked her vehicle in a disabled parking spot in front of a Grocery Outlet, next to a ramp designed for people with disabilities. (*Id.* at ¶¶ 12-13.) When trying to walk up the ramp, Decedent lost her balance due to the “crowded, uneven, and angled sidewalk” and fell into the parking lot. (*Id.* at ¶¶ 14-17.) Plaintiff sustained grievous injuries, experienced a decline in her physical and mental health steadily, became bedridden, and ultimately died on August 12, 2021. (FAC, ¶ 18.)

Plaintiffs allege causes of action for negligence, premises liability, violation of the Americans with Disabilities Act (“ADA”), violations of the California Disabled Persons Act (“CDPA”) and the Unruh Civil Rights Act, and loss of consortium against Basin and other defendants. (*Id.* at ¶¶ 24-62.) Basin served discovery that Plaintiffs only responded to with objections. (Orders After Hearing dated August 1, 2025, Exhibit A.) As Basin’s efforts to meet and confer regarding the outstanding discovery went unanswered, Basin filed multiple discovery motions against Plaintiffs, which the Court granted and deemed Basin Street’s requests for admissions as admitted against Plaintiffs. (*Ibid.*)

Based on the Court’s deeming those requests for admissions as admitted against Plaintiffs, Basin now moves for judgment on the pleadings against Halawa and Suhair and for terminating or monetary sanctions against all Plaintiffs. Basin also filed two motions to compel Plaintiffs Halawa and Suhair’s responses to supplemental discovery requests. Plaintiffs filed one combined Opposition to all seven motions via their counsel Eric Young. Basin filed a Reply to the combined Opposition.

II. JOTP MOTIONS

Legal Standard

Meet and Confer

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.*)

Defendant’s (or Cross-Defendant’s) JOTP

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).)

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.)

Analysis

Basin's counsel filed a supportive declaration with each of the JOTP motions, but neither declaration states that counsel met and conferred as required under C.C.P. section 439 in person, by telephone, or by video conference with Plaintiffs or their counsel regarding the issues raised in the JOTP motions before filing the motion. The declarations simply state that Basin's counsel met and conferred regarding discovery responses back in 2024 and 2025 before filing multiple discovery motions, which the Court granted in the Discovery Order. (Wooten Declarations, ¶¶ 2-9; Request for Judicial Notice, Exhibit 1.)

Based on the admissions that were deemed as admitted against Halawa and Suhair by the Discovery Order, Basin argues that the allegations in the FAC cannot be proven and that the FAC fails to state facts sufficient to state the five causes of action that are asserted against Basin. (JOTP Halawa, 4:27-28, 5:1-8; JOTP Suhair 4:27-28, 5:1-8.)

Plaintiffs argue in the Combined Opposition that they will be filing a motion for relief from the Discovery Order, which will render the JOTP motions moot. (Combined Opposition, 2:25-27.)

The Reply argues that the Combined Opposition fails to provide any substantive argument against the JOTP motions and that Plaintiffs have not yet taken any action to withdraw the admissions or seek relief from the Discovery Order. (Reply, 5:17-26.)

Application

Though the Combined Opposition fails to argue any sufficient basis upon which the Court should deny the JOTP motions, the Court does find that both of the JOTP motions have failed to comply with express procedure under C.C.P. section 439. Basin failed to properly meet and confer to discuss the JOTP motions with either Plaintiffs or their counsel before filing the motions as is expressly required. It is not enough to support the JOTP motions to rely on the previous meet and confer efforts of Basin's counsel regarding the discovery motions in 2024 and 2025. Section 439 requires a meet and confer

specifically as to the JOTP motions and what issues will be raised in them so that the parties might resolve the issues before filing.

As such, the Court will **DENY** both motions as procedurally deficient.

III. TERMINATING & MONETARY SANCTIONS MOTIONS

Legal Standard

A decision ordering terminating sanctions should not be made lightly, and must be preceded by a history of willful violations, abuse of the discovery process, and evidence showing that less severe sanctions would not produce compliance with the discovery rules. (See, *Mileikowsky v. Tenet Healthsystem* (2005) 26 Cal.Rptr.3d 831.) At the very minimum, where terminating sanctions are ordered, there must have been notice to the party against whom the sanctions were ordered and an opportunity to be heard; thus, a motion for terminating sanctions may not be made ex parte and a default entered absent proper notice is invalid and void. (See, *Department of Fair Employment & Housing v. Ottovich* (2014) 173 Cal.Rptr.3d 881.)

Analysis

Basin seeks terminating sanctions, or in the alternative monetary sanctions, for Plaintiffs Halawa, Suhair, and Michael's willful failure to comply with discovery obligations by failing to reasonably meet and confer, to comply with multiple court orders, and failure to pay sanctions owed. (Terminating Sanctions Halawa, , pp. 4-7; Terminating Sanctions Michael, pp. 6-9; Terminating Sanctions Suhair, pp. 4-7.) Basin, in the alternative, seeks monetary sanctions of \$575.00 against Halawa, \$525.00 against Suhair, and \$1,175.00 against Michael. (Wooten Decl. re Halawa, ¶ 19; Wooten Decl. re Suhair, ¶ 19; Wooten Decl. re Michael, ¶ 26.)

Plaintiffs argue that they are going to abandon their loss of consortium claim and seek leave to amend their FAC in light of the death of Salim Arikat. (Combined Opposition, 3:1-13.) Plaintiffs' counsel paid monetary sanctions ordered by the Court to Basin's counsel and plan on taking other actions like serving the compelled discovery responses and supplemental response and filing a motion for relief from the Discovery order. (*Id.* at 2:16-27, 3:1-13.) As such, Plaintiffs request that the Court deny the motions for terminating sanctions as unnecessarily punitive. (*Id.* at 3:13-22.)

In the Reply, Basin reaffirms the arguments made in the motions that terminating sanctions are appropriate because of Plaintiffs' and their counsel's habitual failure to take part in the litigation or prosecute their claims. (Reply, pp. 2-5.)

Application

At this time, the Court will not order terminating sanctions against Plaintiffs as they have outlined a plan in the Combined Opposition for how they will remedy the lack of engagement in the

discovery process and in this litigation for the past two years due to Plaintiffs' Counsel's health issues. However, the Court will order the sanctions as requested against Plaintiffs.

IV. MOTIONS TO COMPEL SUPPLEMENTAL RESPONSES

Legal Standard

Interrogatories

A party who fails to serve a timely response to interrogatories absent evidence showing mistake, inadvertence, or excusable neglect, waives any right to object to the interrogatory, including objections based on privilege or work product, and the court shall impose monetary sanctions upon the party who unsuccessfully opposes a motion to compel initial responses. (C.C.P. § 2030.290.)

Demand for Production of Documents

A party to whom a document demand is directed must respond to each item in the demand with an agreement to comply, a representation of inability to comply, or an objection. (C.C.P. §2031.210(a).) If a responding party is not able to comply with a particular request, or part thereof, that party "shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand." (C.C.P. § 2031.230.) The statement shall also specify "whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party," and shall also set forth "the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item." (*Ibid.*) Otherwise, if a responding party is objecting to a demand only, then the responding party must identify the demanded document, tangible thing, land, or electronically stored information to which an objection is being made, set forth the grounds for objection, and if privileged, provide a privilege log for the demanded items that are privileged. (C.C.P. § 2031.240.) If the responding party fails to timely respond, the demanding party may move for an order compelling a response. (C.C.P. § 2031.300(b).)

Analysis

Basin served Supplemental Interrogatories and Supplemental Requests for Production of Documents to Halawa and Suhair, to which neither ever served any response. (MTC Suhair, 3:19-26; MTC Halawa, 3:20-27.) Basin seeks the Court to compel their objection-free responses to the outstanding supplemental discovery requests. (MTC Suhair, 5:10-16; MTC Halawa, 5:15-21.)

In the Combined Opposition, Plaintiffs argue that they will be providing the verified discovery responses and supplemental responses that are outstanding before the hearing date rendering the motions to compel moot. (Combined Opposition, 2:21-24.)

As of the Reply, Plaintiffs' counsel paid sanctions, but no discovery responses were provided. (Reply, 4:18-26.)

Application

The promise to provide verified discovery responses and supplemental responses is not sufficient to oppose the motions to compel brought by Basin Street for outstanding discovery that still has not been responded to as of the date of the Reply. As such, the Court **GRANTS** the two motions to compel in their entirety.

V. CONCLUSION

Based on the above, the Court rules as follows on Basin's seven motions:

1. The two JOTP Motions against Suhair and Halawa are **DENIED**.
2. The three Motions for Terminating Sanctions, or in the Alternative for Monetary Sanctions, are **GRANTED in part** as to monetary sanctions and denied as to all else. The Court awards monetary sanctions against Halawa in the amount of \$575.00, against Suhair in the amount of \$525.00, and against Michael in the amount of \$1,175.00.
3. The two Motions to Compel Suhair and Halawa's Responses to Supplemental Discovery are **GRANTED**. They each shall serve objection-free responses to the supplemental discovery requests within 20 days of this Court's order.

Basin shall submit a written order to the Court as to each motion consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).