TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, June 17, 2026 3:00 p.m.
Courtroom 17– Hon. Jeanine Nadel for the 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~~ 19 in person or remotely by Zoom, a web conferencing platform.

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

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.***

THE MATTERS BELOW ARE ASSIGNED TO VISITING JUDGE JEANINE NADEL

ANY REQUEST FOR ORAL ARGUMENT WILL BE HEARD IN DEPT. 19 WITH DEPT. 19's ZOOM INFORMATION

TO JOIN ZOOM ONLINE
Courtroom 19
Meeting ID: 160-421-7577
Password: 410765
https://sonomacourt-org.zoomgov.com/j/1604217577

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

1-2. Anguiano Mendoza v. Watson

Defendant/Cross-Complainant/Cross-Defendant City of Petaluma ("Petaluma") moves for summary judgment, or in the alternative summary adjudication, ("Petaluma MSJ-MSA") as to Plaintiff Maria Anguiano Mendoza's ("Plaintiff") Complaint. Pursuant to Code of Civil Procedure ("C.C.P.") section 437c, the Petaluma MSJ-MSA is **GRANTED**.

Defendant/Cross-Complainant/Cross-Defendant Team Ghilotti, Inc. ("Ghilotti") also moves for summary judgment, or in the alternative summary adjudication, ("Ghilotti MSJ-MSA") against Plaintiff's Complaint. The Ghilotti MSJ-MSA is **GRANTED**.

I. PROCEDURAL HISTORY

The Complaint alleges that on June 4, 2023, Plaintiff sustained serious injuries after being struck by Defendant David Watson at or near the intersection of N. McDowell Blvd. and Candlewood Dr. in Petaluma, California. (Complaint, p. 7; Petaluma Undisputed Material Facts ["UMF"] No. 1; Ghilotti UMF No. 1.) Initially, Plaintiff alleged that Defendant Watson was attempting to turn right from N. McDowell Blvd. onto Candlewood Dr., but alleges there were construction signs blocking the view of the crosswalk which resulted in Defendant Watson ultimately colliding into Plaintiff. (Complaint, p. 7; Petaluma UMF Nos. 13-14; Ghilotti UMF Nos. 2, 5.) However, based on the evidence submitted by the parties, Defendant had actually made a left turn onto Candlewood Dr. from N. McDowell Blvd., not a right turn. (Ghilotti UMF Nos. 2-5.)

Plaintiff alleges a cause of action for Motor Vehicle against only Defendant Watson and Does 1 to 10. (Complaint, p. 5.) As to the remaining Defendants, including Petaluma and Ghilotti, Plaintiff alleges causes of action for premises liability and general negligence. (*Id*. at pp. 7-8.) Plaintiff alleges that Ghilotti improperly placed the construction signs at the intersection and that Petaluma owns the intersection where the collision occurred, so the action is brought against Petaluma under Government Code section 835. (*Id*. at pp. 7-8; Ghilotti UMF No. 6.)

Plaintiff also alleges that the McDowell/Candlewood intersection was "a dangerous condition because there were construction signs placed in a way that affected the sightlines of drivers traveling near the intersection and pedestrians in the crosswalk, and the crosswalk had inadequate markings." (Complaint, pp. 7-8; Petaluma UMF No. 8; Ghilotti UMF Nos. 9-10.) On the north side of the Candlewood Dr. crosswalk along McDowell, there was a construction sign that read "RIGHT LANE CLOSED AHEAD" and on the south side a different sign that read "ROAD WORK AHEAD." (Petaluma Volume of Evidence, Exhibit G, Przybyla Decl., p. 6, ¶ 9.) Furthermore, Plaintiff alleges that "the sightline obstructions and lack of adequate crosswalk markings and/or poor design, construction, engineering, and maintenance of the intersection" created a dangerous condition. (*Ibid*.)

As to Petaluma and Ghilotti, Plaintiff claims that they "negligently constructed, maintained, repaired, designed, controlled, engineered, planned, and/or otherwise failed to keep, operate, or maintain the subject intersection in a safe condition and/or a manner reasonably calculated to protect members of the public and their safety, allowing for a dangerous condition to exist at said location." (*Ibid*.)

Both Petaluma and Ghilotti separately move for summary judgment or adjudication as to the claims alleged against them in the Complaint on the basis that: (1) their alleged conduct was not a substantial factor in causing Plaintiff's injuries; and (2) Plaintiff cannot meet the evidentiary burden to prevail on the claims for premises liability and general negligence against them. (Petaluma Notice of Motion, 1:27, 2:1-4; Ghilotti Notice of Motion, 2:1-5.) Plaintiff opposed both motions and the parties submitted replies and objections to evidence. The two motions are now considered below.

II. EVIDENTIARY OBJECTIONS

1. Plaintiff's general objections to Ghilotti's separate statement and specific objections Nos. 1 and 4 are **OVERRULED**. Objections Nos. 2(a)-(d) and 3(a)-(e) are **SUSTAINED**.

2. Plaintiff's objections to Petaluma's separate statement as to UMF Nos. 12 and 59 are **OVERRULED**.

3. Ghilotti's objections to the Declaration of Nevin Q. Sams are **OVERRULED**.

4. Ghilotti's objections to the Declaration of Anthony D. Andre are **SUSTAINED**.

5. Petaluma's objections No. 1 (a)-(f) and 2 to the Declaration of Nevin Q. Sams are **OVERRULED**. Objection No. 3 is **SUSTAINED**.

6. Petaluma's objections to the Declaration of Anthony D. Andre are **SUSTAINED**.

III. 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… that there is no affirmative defense to the cause of action, 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."

Premises Liability & General Negligence

A negligence claim and a premises liability claim have the elements: (1) legal duty of care; (2) breach of that duty; (3) proximate cause between breach and injury; and (4) injury to one owed duty of care. (*Kesner v. Superior Ct.* (2016) 1 Cal.5th 1132, 1158.) With a premises liability claim, the owner of the premises has a duty to exercise ordinary care in management of the premises to avoid exposing people to an unreasonable risk of harm. (*Brooks v. Eugene Burger Management Corp.* (1989) 215 Cal.App.3d 1611, 1619.) When the owner of the premises fails to exercise this duty of care, it is negligence. (*Ibid*.)

In *Ortega v. Kmart* (2001) 26 Cal.4th 1200 ("*Ortega*"), a store owner is not considered an insurer of safety for the store's patrons, but rather owes its patrons a duty to exercise reasonable care in keeping the premises reasonably safe. Generally, a store owner must have actual or constructive notice of a dangerous condition on the property before liability is imposed, which notice plaintiff has the burden of demonstrating. (*Ortega*, 26 Cal.4th 1200, 1206.) However, a property owner will not be liable for damages caused by a minor, trivial, or insignificant defect, even with actual notice of it. (*Fajardo v. Dailey* (2022) 85 Cal.App.5th 221, 226.)

Dangerous Condition of Public Property

Government Code section 835 provides for the conditions of liability of a public entity for injury caused by a dangerous condition of its property. Under section 835, a plaintiff must establish that: (1) the property was in a dangerous condition at the time of the injury; (2) that the injury was proximately caused by the dangerous condition; (3) that the dangerous condition created a reasonable foreseeable risk of the kind of injury incurred; and (4) that either a negligent or wrongful act or omission within the scope of employment of a public entity's employee created the dangerous condition, or the public entity had actual or constructive notice of the dangerous condition a sufficient time prior to the injury to take measures and protect against it. (Gov. Code § 835.)

City of Petaluma's MSJ-MSA

Government Claim

Petaluma argues that the claim for dangerous condition of public property against Petaluma is limited to construction sign obstruction because the government claim she submitted to Petaluma under Government Code section 945.4 stated that the "crosswalk was a dangerous condition because it was obstructed by construction signs…" (Petaluma MSJ-MSA Memorandum of Points and Authorities ["Petaluma MPA"], 10:5-9; Petaluma UMF No. 2.) Plaintiff cites to *Shoemaker v. Myers* (1992) 2 Cal.App.4th 1407, 1411-1412, in which case the Court of Appeal held that a government claim must fairly describe the entity's conduct and any theory of recovery not included in the government claim cannot be maintained thereafter. (*Id*. at 9:26-28, 10:1-2.)

Dangerous Condition

Petaluma argues that Plaintiff cannot establish that a "Dangerous Condition" existed because the two north and south temporary traffic control signs were standard advance-warning devices placed in compliance with the Manual on Uniform Traffic Control Devices ("MUTCD"). (Petaluma UMF Nos. 14-17.) Furthermore, Petaluma argues that Plaintiff cannot identify any defective physical characteristic of the intersection or the standard warning devices. (Petaluma MPA, pp. 10-14.)

Government Claims Act Precludes Liability

Petaluma states that the Government Claims Act limits liability for unforeseen accident where

the act or omission creating the condition, or the measures taken to protect against the risk, were reasonable. (Petaluma MPA, 14:19-28, 15:1-3.) Petaluma argues that it cannot be held liable for implementing standardized, MUTCD-consistent advance-warning devices to protect road users. (*Id*. at 15:7-12.)

Causation

Petaluma argues that Plaintiff cannot establish that Petaluma's alleged dangerous condition was the substantial factor of her injuries when the undisputed evidence shows that the collision occurred because the driver failed to keep a proper lookout and yield to her crossing the crosswalk under Vehicle Code section 21950. (Petaluma MPA, pp. 15-17.)

Reasonably Safe for Users Exercising Due Care

Petaluma states that liability is not imposed in conditions where it endangers only those who are inattentive or not using due care. (Petaluma MPA, 18:4-9.) The motion argues that Plaintiff's theory that the very warning signs required for public safety were a distraction that drew Plaintiff's attention away from traffic is untenable and inconsistent with Government Code section 835. (*Id*. at 18:10-25.)

Notice

Finally, Petaluma argues the lack of evidence is compelling that Petaluma had no notice of any dangerous condition at the intersection and the intersection was heavily used without any other automobile collision within the 10 years preceding this accident. (Petaluma MPA, pp. 18-20.)

<u>Team Ghilotti's MSJ-MSA</u>

Substantial Factor

Ghilotti argues that Plaintiff cannot establish that Ghilotti's conduct was a substantial factor in causing the collision because the construction signs were not a concurrent independent cause as they were MUTCD-compliant and did not impede Defendant Watson's view of Plaintiff, per Defendant Watson's own testimony. (Ghilotti MSJ-MSA Memorandum of Points and Authorities ["Ghilotti MPA"], pp. 16-20; Ghilotti UMF Nos. 15-43.) Defendant Watson gave the following testimony at his deposition:

> "Q. Did you believe there were any pedestrians that you were going to encounter when you made your left turn?
>
> A. I did not see any.
>
> Q. All right. Do you have a recollection of being aware of your surroundings at that time?

A. Yes.

MR. CHRISP: All right. I'm going to hand you Exhibit 6 and Exhibit 7. For the record, those are in plaintiff's production for counsel online, Bates 25 and Bates 29. (Plaintiff's Exhibit Nos. 6 and 7 marked for identification.)

Mr. CHRISP: Can I have Exhibit 6?

Q. Do you recognize—let me ask this: Prior to making your left turn, did you observe any construction signs on sidewalk D?

A. I did not, no.

Q. Okay. In Exhibit 6, do you see any construction signs or traffic control devices on sidewalk D?

A. I don't."

(Chrisp Decl., Exhibit 1, p. 79.) Based on this testimony, Ghilotti asserts that Plaintiff's relies on mainly speculations and assumptions by Plaintiff's expert Anthony Andre that the construction signs, specifically on the south side, probably would have obstructed Defendant Watson's view even though Defendant Watson specifically testified he did not notice the construction signs at all.

Evidentiary Burden on Premises Liability and Negligence

Ghilotti argues that Plaintiff does not possess and cannot obtain sufficient evidence to demonstrate that Ghilotti's alleged conduct in placing the construction signs was a substantial factor in causing the collision or Plaintiff's injuries. (Ghilotti MPA, 20:12-28.)

<u>Plaintiff's Oppositions</u>

Plaintiff filed Oppositions to both motions making similar arguments. Plaintiff argues that she was walking north, although Defendants asserted that it cannot be determined which direction she was walking at the time of the accident. (Petaluma Opposition, 5:6-14; Ghilotti Opposition, 5:26-28, 6:1-7.)

Plaintiff also argues that there are triable issues of fact as to whether improper placement of the construction signs created a dangerous condition because Defendant Watson testified that he scanned the sidewalk and did not see anyone walking there until after Plaintiff had passed the construction sign, which Plaintiff's expert Anthony Andre opines is because his view must have been obscured by the sign. (Petaluma Opposition, pp. 5-7; Ghilotti Opposition, pp. 6-9.)

Plaintiff claims that Petaluma is liable for the alleged dangerous condition because Petaluma reviewed Ghilotti's construction plan and approved it, hired Ghilotti as the contractor for the project, and had an inspector on site who ensured that the traffic control plan was properly implemented, so Petaluma had notice that the south construction sign was too close to the intersection. (Petaluma Opposition, pp. 8-11.) Plaintiff argues that Ghilotti failed to correct the placement of the South

construction sign even though it reassessed the placement of the sign on a daily basis. (Ghilotti Opposition, pp. 9-10.)

Defendants' Replies

In Petaluma's Reply, Petaluma reaffirms the arguments and points made in the motion and argues that Plaintiff's causation theory is speculative and wholly dependent on assumptions about whether Defendant Watson failed to properly observe Plaintiff on the sidewalk or the construction signs obstructed his view. (Petaluma Reply, pp. 3-5.)

In Ghilotti's Reply, Ghilotti reaffirms its arguments made in its motion and re-emphasizes that Plaintiff cannot establish a triable issue of fact as to whether Ghilotti caused the accident. (Ghilotti Reply, 1-8.) Furthermore, Ghilotti argues that California MUTCD Section 6A.01 (13) states, "TTC plans may deviate from the typical applications described in Chapter 6H to allow for conditions and requirements of a particular site or jurisdiction." (Ghilotti Reply, 8:22-28, 9:1.) Ghilotti states that the South "ROAD WORK AHEAD" sign could not have been placed further South because the sign would have been within the bus stop area, while the "RIGHT LANE CLOSED AHEAD" sign was intentionally moved closer to the intersection to warn motorists turning northbound onto N. McDowell Blvd. from Candlewood Dr. of the upcoming closed lane condition. (*Id*. at pp. 8-10.)

Application

The Court finds that in both of Plaintiff's Oppositions, Plaintiff failed to show that there continues to exist a triable issue of material fact based on the evidence provided. Plaintiff instead relies on assumptions and speculations by Plaintiff's expert regarding Defendant Watson's state of mind and observations at the time of the accident instead of Defendant Watson's actual testimony on what he observed when he scanned the sidewalk for pedestrians. Defendant Watson stated he did not notice the construction signs at all, so it does not appear they could have obstructed his view of Plaintiff, a woman of average height, who was already walking onto the crosswalk when Defendant Watson made the left turn.

As to the City of Petaluma, the Government Claims Act does not impose liability on a public entity solely because a motorist failed to perceive and yield to a pedestrian at an ordinary intersection which is what happened here. The court also finds that there is no triable issue of fact that a dangerous condition existed or that the City created or had actual or constructive notice of the dangerous condition.

Plaintiff also failed to adequately argue that either Petaluma or Ghilotti's alleged conduct was a substantial factor in causing Plaintiff's accident. Plaintiff's theory of causation for both Defendants relies on Plaintiff's expert's speculation that the reason Defendant Watson did not observe Plaintiff on the sidewalk earlier must have been because of the construction sign obstructing his view even though, as stated above, Defendant Watson did not testify that the sign did obstruct his view but rather than he did not see Plaintiff at an earlier point and later did see her.

As such, the Court will grant both motions.

IV. CONCLUSION

Based on the foregoing, the Court **GRANTS** both motions. Petaluma and Ghilotti shall submit a written order on their respective motions to the Court consistent with this tentative ruling and in compliance with Rule of Court 3.1312(a) and (b).

3-4. 24CV02196, Disbrow v. Emerald Triangle Management Group, Inc.

Plaintiff's Disbrow's unopposed motion to compel Emerald Triangle Management Group, Inc. to serve full, verified, objection-free responses to post-judgment interrogatories and requests for documents is **GRANTED**, per Code of Civil Procedure sections 708.010, et seq. Unless oral argument is requested, the Court will sign the proposed order lodged with this Court regarding this motion.

Plaintiff's other motion to amend judgment to add as additional debtors Hailos, Inc. and Axel Properties, LLC is **CONTINUED** to August 26, 2026, at 3:00 P.M. in Department 17. The parties shall submit further briefing by August 14, 2026, on ETMG, Hailos, and Axel to demonstrate what similarities exist or do not exist between the management, ownership, day-to-day business, products, processes, procedures, and models of the entities to resolve the issue of unity of interest and ownership. The continuance will also allow Hailos and Axel to respond to the new arguments and evidence submitted with Plaintiff's Reply brief.

5. 25CV00313, Gonzales v. F. Korbel & Bros Inc.

The unopposed application of Austin J. Spillane, Esq. to appear *pro hac vice* on behalf of Defendant F. Korbel & Bros., Inc. is **GRANTED** pursuant to California Rules of Court, Rule 9.40(b). Unless oral argument is requested, the Court will sign the proposed order lodged with this Court regarding this motion.

6-7. 25CV01277, O'Brien v. Brown

Defendant Sonoma Valley Health Care District's ("Defendant") demurrer to self-represented Plaintiff Kory T. O'Brien's Complaint is **SUSTAINED with leave to amend** per Code of Civil Procedure ("C.C.P.") sections 430.10. Defendant's requests for judicial notice are **GRANTED**.

Defendant's concurrent and unopposed motion to strike punitive damages from the Complaint is **GRANTED**.

I. PROCEDURAL HISTORY

The Court first notes that following a hearing, the Court granted Defendant's motion to deem

Plaintiff as a vexatious litigant on June 4, 2026. (Order After Hearing dated June 3, 2026, 1:23-28.) The grounds upon which the motion was granted were that there were at least five dispositive adverse rulings against Plaintiff in at least 12 actions Plaintiff filed in the last seven years. (*Id*. at 4:13-18.) In that motion, Defendant had noted that a separate demurrer had been filed, which raised the issue that Plaintiff's Complaint was barred because Defendant is a public entity and Plaintiff failed to serve a timely Government Code claim on Defendant or otherwise comply with the Government Code procedurally in bringing the action against Defendant. (Order After Hearing dated June 4, 2026, 4:19-23.)

The Court now considers Defendant's demurrer and unopposed motion to strike punitive damages, which was filed concurrently with the demurrer. Plaintiff's Complaint alleges one cause of action for Intentional Tort against Defendant stating that a doctor providing medical care to Plaintiff at Defendant's facility was negligent in performing a surgery on Plaintiff's shoulder.

Prior to filing the motions, Defendant attempted to meet and confer with incarcerated self-represented Plaintiff on two occasions, but Defendant did not respond. Plaintiff filed only an opposition to the demurrer.

II. REQUEST FOR JUDICIAL NOTICE

The Court **GRANTS** Defendant's request for judicial notice per Evidence Code section 452(h) that it is a public health care district and therefore a public entity pursuant to the California Government Code.

III. ANALYSIS

Legal Standard

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*.)

Motion to Strike

The Court may strike a pleading that contains "irrelevant, false, or improper matter[s]" or is "not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." (C.C.P. §§ 435, 436(b).)

<u>Defendant's Demurrer</u>

Defendant demurs on two ground: (1) Plaintiff failed to present a mandatory Government Code Claim within six months of the injury for a personal injury claim; and (2) the Complaint is uncertain and fails to state facts sufficient to state a cause of action for "Intentional Tort." (Demurrer, pp. 3-6.) Defendant may not employ physicians per the Corporate Practice of Medicine Doctrine and the doctor named in the Complaint was not Defendant's employee. (*Ibid*.)

Plaintiff's Opposition claims that he was allowed to file a Government Claim until September 10, 2024 due to the delayed discovery rule because he argues he discovered the improper notes made by the doctor named in the Complaint when he was unable to have the second surgery performed in September of 2024. (Opposition, 2:19-28.) He also argues that there was not a proper meet and confer because Defendant's counsel only sent a letter with a request for Plaintiff to dismiss the Complaint and nothing else. (*Id*. at 1:24-28.) Plaintiff believes he served the Government Claim on a timely basis because he handed it to a prison official for mailing. (*Id*. at 3:8-15.)

In the Reply, Defendant reaffirms that Plaintiff failed to present a mandatory Government Claim and failed to timely file the Complaint within one year of the incident as required under Civil Code section 340.5. (Reply, pp. 1-3.) Furthermore, Defendant argues that, even if Plaintiff had until September of 2024 to file the Government Claim, Plaintiff has not established that he did comply with the Government Claims Act by that time. (Reply, 3:8-18.)

The Court **SUSTAINS** the demurrer, but will allow Plaintiff leave to amend to allow one opportunity to cure the defects if there is any reasonable possibility that Plaintiff may do so.

<u>Defendant's Motion to Strike</u>

Defendant moves unopposed to strike the punitive damages claimed in the Complaint. Defendant argues that, for actions for damages arising out of the professional negligence of a health care provider, punitive damages are only available after the court enters an order allowing an amended pleading that includes a claim for punitive damages to be filed, per C.C.P. section 425.13. (Motion, pp. 3-5.)

Defendant filed reply to note the non-opposition. The Court finds sufficient basis to strike the punitive damages requested in the Complaint and **GRANTS** Defendant's motion to strike.

IV. CONCLUSION

Based on the above, the demurrer is **SUSTAINED with leave to** amend. The motion to strike is **GRANTED** as to punitive damages. Plaintiff shall remove any request for punitive damages from the First Amended Complaint, which shall be filed and served within 20 days of service of this Court's order.

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

8. 25CV02732, Vickery v. Jamil

Plaintiff Vickery's motion for leave to amend the Complaint is **GRANTED**, pursuant to Code of Civil Procedure ("C.C.P.") section 473(a)(1). Plaintiffs shall file and serve the proposed amendment within 10 days of this Court's order.

ANALYSIS

Legal Standard

Motions for leave to amend pleadings are in discretion of the court, which may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading. (C.C.P. § 473.) Additionally, the court may allow the amendment of any pleading at any time before or after trial begins if it is in the furtherance of justice. (C.C.P. § 576.) C.C.P. section 473 and California Rules of Court, Rule 3.1324 require that the moving party accompany the motion for leave to amend with a copy of the amended pleading to be filed if leave is granted. When the plaintiff is the moving party, proximity to the trial date is not a ground for denial absent a showing of prejudice to defendant. (See *Mesler v Bragg Mgt. Co.* (1985) 39 Cal.3d 290, 297.) Even if some prejudice is shown, leave to amend may be permitted upon conditions imposed by the Court, such as, continuation of the trial date, reopening discovery, or ordering the party seeking amendment to pay opposing party's costs and fees incurred in preparing for trial. (C.C.P. §§ 473, 576; *Fuller v Vista Del Arroyo Hotel* (1941) 42 Cal.App.2d 400.)

Plaintiff's Motion

Pursuant to C.C.P. section 474, Plaintiff would like to add "HAJI ALAM" as a Doe Defendant 1 in this matter. (Motion, 3:2-6.) Plaintiff argues that counsel learned that the proposed Doe Defendant 1 is an owner of Defendant 1460 AT ROHNERT PARK LLC, so it is in the interests of justice to permit the proposed amendment and Defendants will not be prejudiced by this because it will not delay trial or necessitate any added preparation costs. (*Id*. at 3:2-16.) The proposed amendment was attached as Exhibit D to the Declaration of Hipschman, though the Declaration mistakenly states that it was attached as Exhibit E.

Opposition

Defendants oppose the motion arguing that proposed amendment is late without any justification for the delay and it is futile because Haji Alam is protected from personal liability as the owner of the Defendant LLC. (Opposition, 1:21-28, 2:1-17.) They also argue that the amendment is highly prejudicial and requires a whole new set of discovery and a dispositive motion. (*Id*. at 2:15-20.)

Reply

In the Reply, Plaintiff argues that California law favors amendments so that dispute are resolved on their merits in one action and that Defendants' objections regarding futility and legal sufficiency are premature.

Application

Following California's liberal policy in allowing amendments, the Court finds a sufficient basis here to grant Plaintiff's motion and does not find that the amendment adding one defendant that owns the Defendant LLC already named in the Complaint will result in prejudice to Defendants. Defendants' other arguments regarding the legal sufficiency of the proposed amendment as to Haji Alam's potential liability are more appropriately addressed in other types of motions designed to test pleadings.

CONCLUSION

As such, the motion is **GRANTED**. The proposed amendment shall be served and filed within 10 days of this Court's order. Unless oral argument is requested, the Court will sign the proposed order lodged with this Court regarding this motion.

9. 25CV05137, American Express National Bank v. Hayeems

Self-Represented Defendant Natalie Hayeems moves for an order compelling arbitration pursuant to the arbitration clause in the Cardmember Agreement, Federal Arbitration Act ("FAA"), and California Code of Civil Procedure ("C.C.P.") section 1281 et seq. The motion is **CONTINUED** to October 14, 2026, at 3:00 P.M. in Department 17. The hearing is continued to allow Defendant to comply with the procedure outlined in the parties' arbitration agreement by submitting a claim notice with JAMs or AAA.

Plaintiff American Express National Bank ("Plaintiff") commenced this action to collect on credit card debt owed by Defendant Hayeems in an American Express Gold Card account, which was governed by a Cardmember Agreement containing a binding arbitration clause, attached as Exhibit A to Defendant Hayeems' declaration. (Motion, 4:8-12.) Defendant moves to compel arbitration per the Cardmember Agreement. (*Ibid*.)

Plaintiff concedes that there is a written agreement with an arbitration clause, but argues that it is permissive for either party to elect rather than mandatory, and that Defendant has to follow the

JAMS or AAA claims procedure before beginning arbitration to send a claim notice, and Defendant is responsible for sharing arbitration fees. (Opposition, pp. 4-6.) However, Plaintiff also requested that a status conference be set 120-180 days from the hearing date regarding initiating arbitration to strike a balance between Defendant's stated interests in resolving this matter by way of arbitration with Plaintiff's desire to litigate this matter should Defendant fail to initiate arbitration. (*Id*. at 6:21-27.)

In the Reply, Defendant reaffirmed interest in arbitration.

The Court finds that there is valid written arbitration agreement between the parties and that Defendant has elected to resolve Plaintiff's claim by way of arbitration allowed under the agreement. Based on Plaintiff's request in the Opposition, the Court will continue the hearing on Defendant's motion for several months to allow Defendant to comply with the claims procedure outlined in the arbitration clause of the Cardmember Agreement by submitting a claims notice with JAMS or AAA and also to pay Defendant's own share of fees to initiate arbitration. If Defendant fails to initiate arbitration as outlined in the agreement, the Court will deny this motion at the next hearing. In the meantime, the matter is not stayed as arbitration has not commenced.