

**TENTATIVE RULINGS
LAW & MOTION CALENDAR
Wednesday, September 30, 2026 3:00 pm
Courtroom 19 –Hon. Oscar A. Pardo
3055 Cleveland Avenue, Santa Rosa**

The 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, **YOU MUST NOTIFY** the Judge’s Judicial Assistant by telephone at **(707) 521-6602**, and all other opposing parties of your intent to appear, **and whether that appearance is in person or via Zoom**, no later 4:00 p.m. the court day immediately preceding the day of the hearing.

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

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1. 24CV03527, Creditors Adjustment Bureau, Inc. v. Faris Contracting Inc.

Plaintiff Creditors Adjustment Bureau, Inc. (“Plaintiff”) filed the complaint in this action against defendant Faris Contracting Incorporated (“Defendant”) for damages based on breach of contract (the “Complaint”). This is on calendar for Plaintiff’s motion for summary judgment or in the alternative summary adjudication in their favor on the grounds that each element of the causes of action have been proven by Plaintiff. Defendant has not filed an opposition to the motion. The motion is GRANTED.

I. Facts

State Compensation Insurance Fund issued a workers compensation policy to Defendant covering June 18, 2020, through June 3, 2021. Plaintiff’s Separate Statement of Undisputed Facts (PSS), ¶ 1. The policy expressly provided that premiums were based on estimated payroll, and that the final premium amount would be based on an audit of Defendant’s operations and payroll records. PSS, ¶ 2. On June 17, 2020, Defendant submitted a Submission Summary identifying Brad Faris as the corporation’s President, Secretary, and Treasurer. PSS, ¶ 3. The Submission Summary sought exclusion only for the Secretary and Treasurer positions and did

not seek exclusion for Brad Faris as President. PSS, ¶ 3. Consistent with the information provided in the Submission Summary, SCIF issued a Quote providing workers' compensation coverage for Brad Faris as President. PSS, ¶ 3. On June 19, 2020, SCIF issued an Endorsement Agreement 1651. Endorsement Agreement 1651 excluded Brad Faris only in his capacities as Secretary and Treasurer and did not exclude Brad Faris as President. PSS, ¶ 4. The 2020 Policy was cancelled effective June 3, 2021, and following cancellation, SCIF made multiple attempts to conduct a final payroll audit of Defendant's operations. PSS ¶ 5; On or about May 1, 2025, SCIF completed a final audit of the Policy and the audit determined that Defendant had no reportable payroll during the policy period. PSS, ¶ 6. Brad Faris remained a covered executive officer under the 2020 Policy, and pursuant to Endorsement Agreement 3015, SCIF included executive officer remuneration in the amount of \$52,356.16 when calculating the earned premium due under the policy. PSS, ¶ 7. After completion of the audit, SCIF issued an Audit Final Display Bill and a Billing invoice, reflecting a balance due of \$10,585.73. PSS, ¶ 8. To date SCIF has not received any payment towards the balance assigned to Plaintiff in connection with the policy at issue. PSS ¶ 9. Damages are accordingly shown in the amount of \$10,585.73. PSS, ¶ 10.

II. Burdens on Summary Judgment

A. Generally

Summary adjudication “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.” CCP § 437c(c). All evidence and inferences reasonably drawn therefrom must be viewed in the light most favorable to the party opposing summary adjudication. *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843.

“A plaintiff moving for summary judgment “bears the burden of persuasion that ‘each element of’ the ‘cause of action’ in question has been ‘proved,’ and hence that ‘there is no defense’ thereto.” *Thompson v. Ioane* (2017) 11 Cal.App.5th 1180, 1195; citing *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.

If a plaintiff meets its initial burden moving for summary judgment, the burden shifts to the defendant to provide sufficient evidence to raise a triable issue of fact as to the defense asserted. CCP § 437c(p)(1). An issue of fact exists if “the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the party opposing the motion in accordance with the applicable standard of proof.” *Aguilar*, 25 Cal.4th at 845.

A moving party does not meet its initial burden if some “reasonable inference” can be drawn from the moving party’s own evidence which creates a triable issue of material fact. *See, e.g. Conn v. National Can Corp.* (1981) 124 Cal.App.3d 630, 637; *Binder v. Aetna Life Ins. Co.* (1999) 75 Cal.App.4th 832, 840. All the papers submitted must be considered in determining whether or not there is a triable issue of any material fact. CCP § 437c(c).

B. Breach of Contract

Breach of written contract has a four-year statute of limitations. Civ. Code § 337(a). A cause of action for breach of contract requires a Plaintiff to prove: 1) the existence of a contract; 2) plaintiff's performance or excuse for non-performance; 3) defendant's breach; and 4) the resulting damages. *Reichert v. General Ins. Co. of America* (1968) 68 Cal.2d 822, 830.

III. Plaintiffs Shift Their Burden

Plaintiff has presented facts addressing the underlying basis for the cause of action for breach of contract. The creation and breach of the contract are clearly established, and Defendant has filed no opposition challenging the material facts.

However, Plaintiff fails to present a fact within the separate statement that they have standing to assert that cause of action. Plaintiff is, allegedly, an assignee of State Compensation Insurance Fund. See, generally, FAC. However, at summary judgment, the burden is on the moving party to provide sufficient evidence that there is *no* triable issues of fact. The Separate Statement fails to refer to evidence that substantiates that assignment occurred. However, having carefully reviewed the evidence, the Court found the necessary evidence attached to the motion in the form of the Iwahasi Declaration, ¶ 12 and Exhibit 12 to the motion. Plaintiff is cautioned to place such matters within the Separate Statement in the future. While the Court must determine summary judgment based on "all the papers" (CCP §437c(c)), "if it is not set forth in the separate statement, *it does not exist.*" *Consumer Cause, Inc. v. SmileCare* (2001) 91 Cal.App.4th 454, 472. Nonetheless, considering such matters is in the Court's discretion. *San Diego Watercrafts, Inc. v. Wells Fargo Bank, N.A.* (2002) 102 Cal.App.4th 308, 315. Given the lack of opposition, it appears appropriate to consider the substantive nature of the Plaintiff's showing.

Plaintiff also presents evidence showing the amount of damages, \$10,585.73. Therefore, Plaintiff has shifted their burden. There is no opposition. Plaintiff's motion for summary judgment is **GRANTED** in the amount of \$10,585.73.

Plaintiff's counsel 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). Thereafter the Court will sign the proposed judgment.

2. 24CV07606, Oswald v. American Honda Motor Co, Inc.

Plaintiff Andrew Oswald ("Plaintiff") filed the complaint (the "Complaint") in this action against defendants American Honda Motor Co., Inc., ("Defendant") and Does 1-10, relating to Plaintiff's purchase of a 2019 Honda Odyssey (the "Vehicle").

This matter is on calendar for the motion by Plaintiff to compel deposition against Defendant's person most qualified under Code of Civil Procedure ("CCP") § 2025.480. The Motion is **GRANTED in part**.

I. Governing Law

A party may take the deposition of an entity by examining an officer or agent designated by the entity to testify on its behalf. In such a case, the notice of deposition must “describe with reasonable particularity the matters on which examination is requested” and the entity must “designate and produce at the deposition those of its officers, directors, managing agents, employees, or agents who are most qualified to testify on its behalf as to those matters to the extent of any information known or reasonably available to the deponent.” CCP § 2025.230. Additionally, when documents are requested pursuant to CCP § 2025.220, the witness must “make in inquiry of everyone who might be holding responsive documents or everyone who knows where such documents might be held.” *Maldonado v. Sup. Ct.* (2002) 94 Cal.App.4th 1390, 1396. After service of a deposition notice, a party may object to disclosure of privileged or protected information. CCP § 2025.460. Objections to the sufficiency of the deposition notice must be served three court days prior to the deposition. CCP § 2025.410.

CCP § 2025.450(a), provides: “If, after service of a deposition notice, a party to the action or an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under Section 2025.230, without having served a valid objection under Section 2025.410, fails to appear for examination, or to proceed with it, or to produce for inspection any document or tangible thing described in the deposition notice, the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice.”

CCP § 2025.480(a), provides: “If a deponent fails to answer any question or to produce any document, electronically stored information, or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking discovery may move the court for an order compelling that answer or production.” CCP, § 2025.480. In compelling further answers to deposition, the burden is on the objecting party to justify their refusal to answer. *Goro v. Flowers Foods, Inc.* (2018 S.D. Cal.); 334 F.R.D. 275, 284; *San Diego Professional Ass’n v. Sup. Ct.* (1962), 58 C2d 195, 199. A motion to compel further answers “shall be made no later than 60 days after the completion of the record of the deposition, and shall be accompanied by a meet and confer declaration under Section 2016.040.” CCP § 2025.480(b). Along with the motion, all supporting documentation papers must be filed within 60 days of completion of the deposition record. *Weinstein v. Blumberg* (2018) 25 Cal.App.5th 316, 321. “Not less than five days prior to the hearing on this motion, the moving party shall lodge with the court a certified copy of any parts of the stenographic transcript of the deposition that are relevant to the motion.” CCP § 2025.480(h).

The scope of discovery is one of reason, logic, and common sense. *Lipton v. Superior Court* (1996) 48 Cal.App.4th 1599, 1612. The right to discovery is generally liberally construed. *Williams v. Superior Court* (2017) 3 Cal.5th 531, 540. “California law provides parties with expansive discovery rights.” *Lopez v. Watchtower Bible & Tract Society of N.Y., Inc.* (2016) 246 Cal.App.4th 566, 590-591. Specifically, the Code provides that “any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence.” CCP § 2017.010; see also, *Garamendi v. Golden Eagle Ins. Co.* (2004) 116 Cal.App.4th 694, 712, fn. 8. (“For discovery purposes, information is relevant if it ‘might

reasonably assist a party in evaluating the case, preparing for trial, or facilitating settlement...” See *Lopez, supra*, 246 Cal.App.4th at 590-591, citing *Garamendi, supra*, 116 Cal.App.4th at 712, fn. 8. “Admissibility is not the test and information[,] unless privileged, is discoverable if it might reasonably lead to admissible evidence.” *Id.* “These rules are applied liberally in favor of discovery, and (contrary to popular belief), fishing expeditions are permissible in some cases.” *Id.*

II. Analysis

Plaintiff noticed deposition of Defendant’s PMQ on 66 subject matters, and Defendant produced a witness for deposition on May 28, 2026. Plaintiff brought the instant motion under CCP § 2025.450, contending that Defendant’s produced PMQ was not qualified, and therefore Defendant must produce an appropriate witness.

A. Meet and Confer and Separate Statement Issues

Defendant avers that Plaintiff has not adequately met and conferred on the issue, and accordingly the Court cannot adjudicate the motion. Generally, Plaintiff sent Defendant a substantive meet and confer letter, to which Defendant deflected and delayed without ever substantively responding. Plaintiff’s efforts, in this context, appear sufficient.

However, the Court does find that Plaintiff failed to contend in the meet and confer efforts that subjects 18, 24, 27-28, and 31-52 were lacking, as they are *not* included in Plaintiff’s meet and confer efforts. How was Defendant to know that Plaintiff found such subjects lacking if Plaintiff fails to make that apparent? Accordingly, further examination on Matters 18, 24, 27-28, and 31-52 is improper. Plaintiff’s Motion is DENIED as to those matters.

Plaintiff has not included the RPODs in the separate statement, despite requesting further responses thereon. Given the lack of separate statement any request for documents is DENIED.

B. Propriety of a Motion Under CCP § 2025.450

Plaintiff brings the instant motion under CCP § 2025.450, claiming that despite the fact that Defendant produced *a* witness, it was not a person knowledgeable on the issues in the deposition notice, and therefore a knowledgeable witness did not appear. Defendant argues in opposition that the label of the motion is improper, because a witness was produced, but Plaintiff was simply unsatisfied with the witness’ responses, and therefore the applicable statute would have been CCP § 2025.480.

Both sides argue this issue, but neither provides particularly applicable authority. Plaintiff’s proposition is the more persuasive one, conforming to the language of the statutes at issue. Defendant’s position is not illogical when examining only CCP § 2025.450 and CCP § 2025.480. Defendant did produce *someone*, that person did answer *some* questions. Plaintiff’s contention that the answers are insufficient would lend itself to Defendant’s interpretation. However, this fails to appreciate the context of a PMQ deposition. As the deponent, the burden is on Defendant to “designate and produce at the deposition those of its officers, directors, managing agents,

employees, or agents who are most qualified to testify on its behalf as to those matters to the extent of any information known or reasonably available to the deponent.” CCP § 2025.230. “(T)he burden is on the entity, not the examiner, to produce the right witnesses.” *LAOSD Asbestos Cases* (2023) 87 Cal.App.5th 939, 948. If Defendant does not produce a witness competent to testify to a subject, they have not produced the noticed witness. Plaintiff does not seek further answers from the PMQ already produced. Utilization of CCP § 2025.480 would only further obscure that issue.

Furthermore, an erroneous citation to statute in a notice of motion presents a *discretionary* basis for the Court to deny the motion, not a jurisdictional one. The Court may overlook a miscitation in the notice of motion so long as “the supporting papers make clear the grounds for the relief sought.” *Luri v. Greenwald* (2003) 107 Cal.App.4th 1119, 1125. The grounds here are abundantly clear from the supporting papers. Plaintiff has filed this motion, but nonetheless met and conferred and filed a separate statement as required under CCP § 2025.480. Defendant makes this argument at the tail end of their opposition, showing they had adequate information to address the substance of the motion. Accordingly, the court does not lack jurisdiction to determine the matter.

C. Lack of Relevance

Defendant asserts a line of argument asserted time and again in Song-Beverly cases. Defendant argues that the *entire* scope of relevance and discoverability in cases under the Act is the Vehicle, and that any external information is immaterial to trial. The parties argue extensively on this issue, but it is rendered irrelevant due to Plaintiff’s failure to address these relevant matters, categories, and document requests in the meet and confer efforts.

D. CCP § 871.26

In a related and interwoven argument, Defendant asserts multiple times that CCP § 871.26 codifies what is relevant in Song-Beverly cases. Defendant argues that the categories of deposition subjects contained in CCP § 871.26 (i) is the complete list of deposition categories relevant in a case under the Act. Defendant states that the Legislature has offered their own judgment as to what is relevant, and this Court should not order further responses. This contention fails for multiple reasons.

CCP § 871.26 became effective on January 1, 2025. It delineates the pre-complaint responsibilities of the parties in an action for restitution or replacement of a motor vehicle in any case filed after the effective date. Among the responsibilities of the parties are document disclosures and depositions to occur before mandatory mediation. CCP § 871.26 (d-i). Defendants are required to produce seventeen categories of documents, along with a person most qualified to be deposed. CCP § 871.26 (h-i). Outside of these required categories of information to be compulsory exchanged pre-mediation, discovery is otherwise stayed. CCP § 871.26 (e).

As to the general contention that CCP § 871.26 (i) produces an exhaustive list of the subjects for deposition relevant to a case under the Song-Beverly Act, Defendant is also unpersuasive. While Defendant is correct that the Legislature has spoken on pre-mediation discovery, they

misapprehend what was said. Nothing within the statute serves to preclude or preempt statutory discovery, and the language of CCP § 871.26 expressly countermands this theory. These initial disclosures are required “within 60 days after the filing of the answer or other responsive pleading”, “without awaiting a discovery request”. CCP § 871.26 (b). Other discovery methods are stayed until after mediation is concluded. CCP § 871.26 (e). CCP § 871.26 **does** provide guidance as to what is relevant, but counter to Defendant’s position, CCP § 871.26 (h) represents the **minimum** of what is relevant, not the outer bounds of relevancy. Defendant’s assertion that the deposition categories in CCP § 871.26(i) represents the only categories allowable for deposition **after** the close of the mediation period is not just incorrect, but without merit.

E. Reasonable Particularity

Defendant argues this issue but asserts the objection in an absurdly boilerplate manner. The objection is made to all 66 categories of information, and Defendant makes no effort to distinguish between them. Boilerplate objections are sanctionable conduct. Defendant does point the Court to RPOD 53, but the Court has already addressed the issue related to the RPODs. Defendant fails to show that the categories at issue are not reasonably particularized with any significant identification. Numerous categories are facially particular, and Defendant’s boilerplate assertions do not merit more consideration than the manner in which they were given. Defendant’s contention that the Matters require expert testimony also appears unfounded. Matters 3, 6, and 9 relate to what steps Defendant *had* taken, not determining their technical sufficiency. This is well within the ambit of PMQ Depositions.

F. PMQ Depositions

While Defendant argues that Plaintiff’s categories are to blame for their produced deponent’s lack of knowledge, this is a fundamental misallocation of the burdens in producing a person most knowledgeable. “[i]f the subject matter of the questioning is clearly stated, the burden is on the entity, not the examiner, to produce the right witnesses. And, if the particular officer or employee designated lacks personal knowledge of all the information sought, he or she is supposed to find out from those who do!” *Maldonado v. Superior Court* (2002) 94 Cal.App.4th 1390, 1395–1396 (quoting Rutter Guide; Civil Procedure Before Trial).

On point is *Maldonado v. Superior Court* (2002) 94 Cal.App.4th 1390, which dealt with two PMQs who “did not know what the footprint was for Los Angeles County in 1998 and 1999, whether it had substantially changed since then, whether any maps depicting the footprint existed, where any such maps might be found, or whether there was anyone at the company who would know the answers to the questions. *Id.* at 1394. Instead of the specific information noticed, the PMQs “had general knowledge about the factors that went into deciding the limits of the footprint or sales and service area—such as estimated sales volume and the existence of technology support—but were unaware of whether any studies had been conducted to determine or predict whether the factors were favorable or unfavorable in a particular area.” *Ibid.* The trial court denied the motion to compel by the party seeking discovery but was reversed on appeal. *Id.* at 1397. Deponent “should have been ordered to bring their witnesses back to the depositions with the documents requested and with proof that the witnesses had undertaken some effort to familiarize themselves with the areas of their supposed ‘knowledge.’” *Ibid.*

Here, the PMQ produced failed to answer various questions, or provided such answers that relied on assumptions, rather than genuine knowledge. See, e.g., Plaintiff's Declaration in Support, Ex. 9, Garcia Deposition, pg. 92:16-93:7. Defendant must produce a PMQ who has or can obtain personal knowledge to present sufficient evidence. *LAOSD Asbestos Cases* (2023) 87 Cal.App.5th 939, 948. They have not done so here, and Defendant's objections are therefore overruled for the remaining matters.

Plaintiff's motion is GRANTED as to Matters 1-13, 17-18, 25-26, 29-30, 53-58, and 61-66.

Defendant's request for sanctions is DENIED. Plaintiff also requests sanctions within their reply, but no sanctions were requested in the notice of motion. See CCP § 2023.040. Plaintiff's request is DENIED.

III. Conclusion

Plaintiff's Motion to compel deposition is GRANTED as to Matters 1-13, 17-18, 25-26, 29-30, 53-58, and 61-66. It is in all other respects DENIED.

Plaintiff 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).

3-4. 25CV01119, Christian v. Rancho Grande Manufacture Home Community, LP

Plaintiff, Emory D. Christian ("Plaintiff"), has filed the currently operative first amended complaint (the "FAC") against defendants Rancho Grande Manufactured Home Community, LP ("Rancho Grande"), Burt Hamernick, Lisa Hamernick (Together with Burt Hamernick, the "Hamernicks", with Rancho Grande, "RG Defendants"), Barton Hotchkiss ("Hotchkiss"), Stacy Stephenson ("Stephenson", together with Hotchkiss, "Inspectors"), Susan Roberts ("Roberts", together with all other defendants, "Defendants"), and Does 1-20 with twenty-four causes of action related to alleged property disputes and civil rights violations.

This matter is on calendar for Demurrer and Motion to Strike filed by RG Defendants.

I. Governing Law

A. Motion to Strike

A motion to strike lies where a pleading 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." CCP § 436(b). However, "falsity," must be demonstrated by reference to the pleading itself or of judicially noticeable matters, not extraneous facts. See CCP § 437. In general, as with showing fraud, oppression, or malice sufficient to support punitive damages, while plaintiffs must plead facts, with respect to intent and the like, a "general allegation of intent is sufficient." *Unruh v. Truck Insurance Exchange* (1972) 7 Cal.3d 616, 632.). A motion to strike is properly directed to unauthorized claims for damages, meaning damages which are not allowable as a

matter of law. *See, e.g., Commodore Home Systems, Inc. v. Sup. Ct.* (1982) 32 Cal.3d 211, 214 (motion to strike lies against request for punitive damages when the claim sued upon would not support an award of punitive damages as a matter of law). Punitive damages may be stricken where the facts alleged do not rise to the level of “malice, fraud or oppression” required to support a punitive damages award. *See, e.g. Turman v. Turning Point of Central Calif., Inc.* (2010) 191 Cal.App.4th 53, 63.

B. Demurrers Generally

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. CCP § 430.30(a). In the event a demurrer is sustained, leave to amend should be granted where the complaint’s defect can be cured by amendment. *The Swahn Group, Inc. v. Segal* (2010) 183 Cal.App.4th 831, 852. 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 facts which are judicially noticed are also disregarded. *Coshov v. City of Escondido* (2005) 132 Cal.App.4th 687, 702. Generally, the pleadings “must allege the ultimate facts necessary to the statement of an actionable claim. It is both improper and insufficient for a plaintiff to simply plead the evidence by which he hopes to prove such ultimate facts.” *Careau & Co. v. Security Pac. Business Credit, Inc.* (1990) 222 Cal.App. 3d 1371, 1390; *FPI Develop., Inc. v. Nakashima* (1991) 231 Cal.App.3d 367, 384. 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. *Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6. “The distinction between conclusions of law and ultimate facts is not at all clear and involves at most a matter of degree.” *Burks v. Poppy Const. Co.* (1962) 57 Cal.2d 463, 473. 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.

C. Statute of Limitations

Demurrers shall not be sustained based on statute of limitations unless the complaint shows clearly and affirmatively that the action is so barred. *Geneva Towers Ltd. Partnership v. City of San Francisco* (2003) 29 Cal.4th 769, 780. “It is not enough that a complaint shows that the action may be barred.” *Id.* If the failure of the cause of action due to the statute of limitations is apparent on the face of the complaint, the demurrer must be sustained. *SLPR, L.L.C. v. San Diego Unified Port District* (2020) 49 Cal.App.5th 284, 321. Where the demurrer based on statute of limitations is argued from judicially noticed documents, the truth of dates within those documents is inadmissible hearsay, and is not appropriate for judicial notice. *Richtek USA, Inc. v. uPI Semiconductor Corp.* (2015) 242 Cal.App.4th 651, 660-661. To sustain demurrer on such judicially noticed material is error. *Ibid.*

“Generally speaking, a cause of action accrues at ‘the time when the cause of action is complete with all of its elements.’ (Citation.) An important exception to the general rule of accrual is the “discovery rule,” which postpones accrual of a cause of action until the plaintiff discovers, or has

reason to discover, the cause of action.” *Fox v. Ethicon Endo-Surgery, Inc.* (2005) 35 Cal.4th 797, 806–807 (internal citations omitted).

“The relation-back doctrine requires that the amended complaint must (1) rest on the *same general set of facts*, (2) involve the *same injury*, and (3) refer to the *same instrumentality*, as the original one.” *Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 408–409. Where a series of wrongs or injuries may be viewed as each triggering its own limitations period, a suit for relief may be partially time barred as to older events, but timely as to events within the statute of limitations, per the principle of continuing accrual. *Aryeh v. Canon Business Solutions, Inc.* (2013) 55 Cal.4th 1185, 1192.

Federal law provides automatic tolling while state law claims are pending before the federal court if the federal court declines to exercise jurisdiction over those claims. “The period of limitations for any claim [asserted under supplemental jurisdiction], and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period. 28 U.S.C. § 1367 (d). The tolling period applies equally to time spent appealing a federal decision dismissing federal claims and declining supplemental jurisdiction over state law claims. *Artis v. District of Columbia* (2018) 583 U.S. 71, 87–88.

Similarly, California law allows for application of equitable tolling of state claims while federal and state claims are pending before the federal court. *Addison v. State of California* (1978) 21 Cal.3d 313, 320. This tolling applies equally to claims against public agencies. *Id.* at 320-321. However, equitable tolling “applies only in a situation where the plaintiff commences a second action which is in reality a continuation of an earlier action ‘involving the same parties, facts, and cause of action. ...’” *Sierra Club, Inc. v. California Coastal Com.* (1979) 95 Cal.App.3d 495, 503.

D. Conspiracy, Aiding, and Abetting

“To support a conspiracy claim, a plaintiff must allege the following elements: ‘(1) the formation and operation of the conspiracy, (2) wrongful conduct in furtherance of the conspiracy, and (3) damages arising from the wrongful conduct.’” *AREI II Cases* (2013) 216 Cal.App.4th 1004, 1022. “‘Bare’ allegations and ‘rank’ conjecture do not suffice for a civil conspiracy.” *Choate v. County of Orange* (2000) 86 Cal.App.4th 312, 333. “While a complaint must contain more than a bare allegation the defendants conspired, a complaint is sufficient if it apprises the defendant of the ‘character and type of facts and circumstances upon which she was relying to establish the conspiracy.’” *AREI II Cases* (2013) 216 Cal.App.4th 1004, 1022. “A (civil) conspiracy cannot be alleged as a tort separate from the underlying wrong it is organized to achieve.” *Moran v. Endres* (2006) 135 Cal.App.4th 952, 955.

“(A)ctual knowledge of the planned tort, without more, is insufficient to serve as the basis for a conspiracy claim. Knowledge of the planned tort must be combined with intent to aid in its commission.” *Kidron v. Movie Acquisition Corp.* (1995) 40 Cal.App.4th 1571, 1582. “Mere

knowledge, acquiescence, or approval of an act, without cooperation or agreement to cooperate is insufficient to establish liability.” *Michael R. v. Jeffrey B.* (1984) 158 Cal.App.3d 1059, 1069.

“Conspiracy is not an independent tort; it cannot create a duty or abrogate an immunity. It allows tort recovery only against a party who already owes the duty and is not immune from liability based on applicable substantive tort law principles.” *Applied Equipment Corp. v. Litton Saudi Arabia Ltd.* (1994) 7 Cal.4th 503, 514. “A cause of action for civil conspiracy may not arise, however, if the alleged conspirator, though a participant in the agreement underlying the injury, was not personally bound by the duty violated by the wrongdoing and was acting only as the agent or employee of the party who did have that duty.” *Doctors’ Co. v. Superior Court* (1989) 49 Cal.3d 39, 44.

“Liability may also be imposed on one who aids and abets the commission of an intentional tort if the person (a) knows the other's conduct constitutes a breach of duty and gives substantial assistance or encouragement to the other to so act or (b) gives substantial assistance to the other in accomplishing a tortious result and the person's own conduct, separately considered, constitutes a breach of duty to the third person.” *Saunders v. Superior Court* (1994) 27 Cal.App.4th 832, 846.

E. Trespass

“Trespass is an unlawful interference with possession of property.” *Girard v. Ball* (1981) 125 Cal.App.3d 772, 788. “The elements of trespass are: (1) the plaintiff's ownership or control of the property; (2) the defendant's intentional, reckless, or negligent entry onto the property; (3) lack of permission for the entry or acts in excess of permission; (4) harm; and (5) the defendant's conduct was a substantial factor in causing the harm.” *Ralphs Grocery Co. v. Victory Consultants, Inc.* (2017) 17 Cal.App.5th 245, 262. “Liability for trespass may be imposed for conduct which is intentional, reckless, negligent or the result of an extra-hazardous activity.” *Staples v. Hoefke* (1987) 189 Cal.App.3d 1397, 1406. “The general rule is simply that damages may be recovered for annoyance and distress, including mental anguish, proximately caused by a trespass.” *Armitage v. Decker* (1990) 218 Cal.App.3d 887, 905. In actions for trespass, even where plaintiff cannot show actual damages, plaintiff may be entitled to nominal damages. *Allen v. McMillion* (1978) 82 Cal.App.3d 211, 219.

“A trespass may be committed by the continued presence on the land of a structure, chattel, or other thing which the actor has tortiously placed there, whether or not the actor has the ability to remove it.’ Under this definition, ‘tortious conduct’ denotes that conduct, whether of act or omission, which subjects the actor to liability under the principles of the law of torts. (Rest.2d Torts, § 6.)” *Newhall Land & Farming Co. v. Superior Court* (1993) 19 Cal.App.4th 334, 345.

“A trespass may be committed by the continued presence on the land of a structure, chattel, or other thing which the actor or his predecessor in legal interest has placed on the land ‘(a) with the consent of the person then in possession of the land, if the actor fails to remove it after the consent has been effectively terminated, ...” *Mangini v. Aerojet-General Corp.* (1991) 230 Cal.App.3d 1125, 1141–1142, quoting Restatement (Second) of Torts § 160 (1965). Mistaken belief by the trespasser that they have permission is not a defense to a cause of action for

trespass, however reasonable that belief might be. *Cassinovs v. Union Oil Co.* (1993) 14 Cal.App.4th 1770, 1780.

Officers and agents of the Department of Housing and Community Development have the power to “(e)nter and inspect all [mobilehome] parks, wherever situated, and inspect all accommodations, equipment, or paraphernalia used in connection therewith...” Health & Saf. Code, § 18400 (b)(2). . “A public employee is not liable for an injury arising out of his entry upon any property where such entry is expressly or impliedly authorized by law.” Gov. Code, § 821.8. “A public employee is not liable for injury caused by his failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property...” Gov. Code, § 821.4.

F. Public Nuisance

Civil Code § 3479 defines nuisance as “(a)nything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property.” “[Nuisance] has meant all things to all people, and has been applied indiscriminately to everything from an alarming advertisement to a cockroach baked in a pie. There is general agreement that it is incapable of any exact or comprehensive definition.” *City of San Diego v. U.S. Gypsum Co.* (1994) 30 Cal.App.4th 575, 585 (“*Gypsum*”); quoting Prosser and Keeton, Law of Torts (5th ed. 1984) § 86, p. 616.

“A public nuisance is ‘one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.’” *Koll-Irvine Center Property Owners Assn. v. County of Orange* (1994) 24 Cal.App.4th 1036, 1040 quoting Civ. Code § 3480. “A private party can maintain an action based on a public nuisance ‘if it is specially injurious to himself, but not otherwise.’” *Ibid.* quoting Civ. Code § 3493. A plaintiff suing for public nuisance “must show special injury to himself of a character different in *kind*—not merely in degree—from that suffered by the general public.” *Institoris v. City of Los Angeles* (1989) 210 Cal.App.3d 10, 20. Failure to allege damages different in kind, and not just degree, means the cause of action for public nuisance is inadequately pled and cannot be maintained. *Brown v. Petrolane, Inc.* (1980) 102 Cal.App.3d 720, 726; *Koll-Irvine Center Property Owners Assn. v. County of Orange* (1994) 24 Cal.App.4th 1036, 1041. Failure to maintain common areas as required by the Mobilehome Residency Law is sufficient to plead the existence of a public nuisance. *Adams v. MHC Colony Park, L.P.* (2014) 224 Cal.App.4th 601, 612. “Unlike the private nuisance—tied to and designed to vindicate individual ownership interests in *land*—the “common” or *public* nuisance emerged from distinctly different historical origins. The public nuisance doctrine is aimed at the protection and redress of *community* interests and, at least in theory, embodies a kind of collective ideal of civil life which the courts have vindicated by equitable remedies since the beginning of the 16th century.” *People ex rel. Gallo v. Acuna* (1997) 14 Cal.4th 1090, 1103.

“[Nuisance] has meant all things to all people, and has been applied indiscriminately to everything from an alarming advertisement to a cockroach baked in a pie. There is general agreement that it is incapable of any exact or comprehensive definition.” *City of San Diego v.*

U.S. Gypsum Co. (1994) 30 Cal.App.4th 575, 585 (“*Gypsum*”); quoting Prosser and Keeton, *Law of Torts* (5th ed. 1984) § 86, p. 616.

G. The Ralph Act

“Under the Ralph Act, a plaintiff must establish the defendant threatened or committed violent acts against the plaintiff or their property, and a motivating reason for doing so was a prohibited discriminatory motive, or that the defendant aided, incited, or conspired in the denial of a protected right.” *Gabrielle A. v. County of Orange* (2017) 10 Cal.App.5th 1268, 1291. “The test is: ‘would a reasonable person, standing in the shoes of the plaintiff, have been intimidated by the actions of the defendant and have perceived a threat of violence?’” *Winarto v. Toshiba America Electronics Components, Inc.* (9th Cir. 2001) 274 F.3d 1276, 1289; see also California Civil Jury Instruction 3064.

H. Fair Employment and Housing Act (“FEHA”) Discrimination

It is unlawful “(f)or the owner of any housing accommodation to discriminate against or harass any person because of the race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, veteran or military status, or genetic information of that person.” Gov. Code, § 12955(a).

II. Pleading, Evidentiary and Procedural Issues

A. Excessive Briefing

RG Defendants have filed a demurrer to each cause of action alleged against them in the SAC. The Court notes that the allowable scope of Memoranda is 15 pages. Rule of Court, Rule 3.1113(d). “Except in a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 15 pages.” *Ibid.* Here, RG Defendants, under the auspices of a single demurrer, have filed *three separate memoranda*, one for each of the RG Defendants. The three memoranda together come in at **48 pages** of briefing. Were this not enough, Rancho Grande’s Memorandum *alone* exceeds the 15-page limitation, being 21 pages in length. Lisa Hamernick’s Memorandum lacks the table of contents and authorities required once a brief exceeds 10 pages. Rule 3.1113 (f). The pagination of Burt Hamerick’s Memorandum was simply out of sequence.

The Court is entitled to consider the oversized memorandum “in the same manner as a late-filed paper.” Rule 3.1113(g). Late papers may be disregarded at the Court’s discretion. *Bozzi v. Nordstrom, Inc.* (2010) 186 Cal.App.4th 755, 765 (late filing may be disregarded). Furthermore, conduct intended to end around page limit rules has been found sanctionable in an appeal. *In re Marriage of Green* (1989) 213 Cal.App.3d 14, 28. Here, given the scope of the conduct, the appropriate remedy is disregarding the entire memorandum. Therefore, there is no appropriate memorandum supporting the demurrer.

On this basis, the Demurrer is disregarded and therefore OVERRULED.

B. Previously Overruled Demurrers

Even if the Court were inclined to consider the memoranda, the content of the demurrers appears potentially sanctionable. In the demurrer, RG Defendants argues the insufficient pleading of Plaintiff's causes of action for Trespass, Violation of the Ralph Act, Violation of the Unruh Act, and FEHA violations.¹ As Plaintiff points out in her oppositions, the Court has already addressed RG Defendant's demurrer to these causes of action in response to the original complaint. On these arguments Defendant's demurrer amounts to an untimely request for reconsideration. More concerning, the demurrer fails to remotely address the fact that the Court has already fully examined the issue. The demurrer here provides no coherent distinction raised from the allegations of the SAC and its predecessors that would merit any renewed examination.

Defendants may disagree with the Court's prior ruling, but that disagreement does not allow re-raising the same arguments without following the proper procedure. To do so is potentially frivolous. However, the indicia of frivolity here derives not from disagreeing with the Court's prior order, but the complete disregard for its existence. Motions for reconsideration have extensive procedural requirements. They require stringent timelines, new or different facts or law, clear disclosure of the prior ruling to the Court. CCP § 1008(a). They also have specific punishments for violations thereon, allowing the court to impose sanctions under CCP § 128.7 or even contempt. CCP § 1008 (d).

Here, RG Defendants offer no new facts or law. They do not address the Court's prior ruling. RG Defendants have not timely moved for reconsideration, as the prior demurrer was adjudicated over nine months before the instant demurrer was filed. Most concerning, the demurrer appears to omit mention of the prior ruling in a seemingly conscious and intentional manner. RG Defendants conveniently omit it from the statement of facts. While RG Defendants submit various documents from the litany of pleadings in both this case and its federal predecessor, they notably omit the August 20, 2025, Order After Hearing from this chronology.

RG Defendants will presumably argue that it does not request reconsideration. This ignores the law on the issue. Where the court has overruled a demurrer as to causes of action, those causes of action are not properly addressed by subsequent demurrer absent a supported motion under CCP § 1008. *Berg & Berg Enterprises, LLC v. Boyle* (2009) 178 Cal.App.4th 1020, 1035. The same is not true for those causes of action where the Court sustained the demurrer, which may be addressed for the deficiencies already identified. *Ibid.* Where the reconsideration is requested by a party, they must show that the requirements of CCP § 1008 are met, or the Court lacks jurisdiction to reconsider the motion. CCP § 1008(e); *Le Francois v. Goel* (2005) 35 Cal.4th 1094, 1107. RG Defendants have met **none** of the requirements for reconsideration. Again, the most perturbing issue is not that RG Defendants disagree with the Court's prior ruling, but the recalcitrance in attempting to avoid the same result by omitting its existence. This is conduct which squarely falls within the purview of counsel. CCP § 128.7 particularly is directed to counsel of represented parties.

¹ RG Defendant's attempt to drop only the Trespass cause of action on reply does not cure the impropriety of the conduct for the reasons below.

Any Demurrer to the causes of action for which might have been raised on the merits has long since expired under CCP § 1008. The attempt to re-raise the issue now, while failing to acknowledge the prior ruling is improper.

C. CCP § 430.41

RG Defendants also appear to have waived any other bases for demurrer here. As has been addressed, RG Defendants Demurred to the original complaint. That demurrer was sustained in part. See Court's 8/20/2025 Order After Hearing. Thereafter, Plaintiff filed a First Amended Complaint on September 2, 2025. RG Defendants filed an answer on October 15, 2025, while Roberts and Inspectors filed demurrers thereon. RG Defendants now raise multiple issues on which they previously failed to demur.

A party demurring to a pleading that has been amended after a demurrer to an earlier version of the pleading was sustained shall not demur to any portion of the amended complaint, cross-complaint, or answer on grounds that could have been raised by demurrer to the earlier version of the complaint, cross-complaint, or answer." CCP, § 430.41 (b).

Rancho Grande did not demur to the causes of action for breach of contract, breach of the covenant of good faith and fair dealing, and breach of the covenant of quiet enjoyment to the original complaint, but otherwise did demur to that pleading. They did not demur at all to the first amended complaint. They now demur for the first time to these causes of action. The demurrer to these causes of action fall squarely within CCP § 430.41, and therefore are an improper "piecemeal" demurrer.

While RG Defendants *did* demur to the causes of action for public nuisance and retaliation in the original complaint, they then answered the First Amended Complaint. While it is not clear whether CCP § 430.41 applies to such circumstance, RG Defendants procedural abuses remove the issue from genuine consideration.

III. Motion to Strike

RG Defendants move to strike the request for punitive damages from the SAC. They argue that Plaintiff has not pled malice oppression, or fraud, and as such punitive damages are not recoverable.

While RG Defendants aver that the SAC contains no malice, oppression, or fraud, they fail to appreciate the definitions of malice. Malice requires "conduct which is intended by the defendant to cause injury to the plaintiff **or** despicable conduct which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others." Civ. Code § 3294 (c)(1) (Emphasis added). Intentional torts presumably meet the standard of the statute, so long as they have facts sufficient to support the finding of malice. Issues of intent are typically easily resolved at the pleadings in favor of the plaintiff, as conclusory allegations will typically suffice. *Unruh v. Truck Insurance Exchange* (1972) 7 Cal.3d 616, 632 (superseded by statute on other grounds).

Defendants also ignore the causes of action at issue. Multiple causes of action have their own allowance of punitive damages under the applicable statute. Civ. Code § 1942.5 allows for recovery of statutorily set punitive damages on proving malice, oppression, or fraud. Civ. Code § 1942.5 (h)(2). The Ralph Act explicitly allows for recovery of exemplary damages. Civ. Code § 52 (b)(1). The Unruh act turns on similar considerations. See, e.g., *Do No Harm v. David Geffen School of Medicine at UCLA* (C.D. Cal. 2025) 812 F.Supp.3d 1035, 1044.

Plaintiff alleges multiple facts meeting the standard for malice. Intentional discriminatory conduct based on racial animus is sufficient to state a claim for punitive damages under the Unruh Act. Given the requirement that the Ralph Act include a threat of harm to person or property with the same animus, a sufficiently stated Ralph Act claim supports punitive damages. The conduct alleged against RG Defendants is both intentional and discriminatory. See, e.g., SAC ¶ 193. It has already been found to sufficiently state Ralph Act and Unruh Act causes of action. See, Court's 8/20/2025 Order After Hearing. RG Defendants do not identify any key element previously identified now missing from the SAC.

As to Rancho Grande's contention of lack of managerial authority, Plaintiff specifically alleges the Hamernicks exercised such authority. SAC ¶ 7. The various factual allegations regarding their conduct and authority are sufficiently stated to move past the pleading stage.

The motion to Strike is DENIED.

IV. Conclusion

The Demurrer is **OVERRULED**. The Motion to Strike is **DENIED**.

Plaintiff 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).

5. 25CV06384, Anderson v. Chavez

Plaintiff filed the instant motion for leave to amend to file the Second Amended Complaint. The parties have since stipulated to the filing of the Second Amended Complaint, and an order thereon has been signed. The motion is therefore **MOOT**.

6. SCV-271759, Zepeda Aguilar v. Cattlemens

Plaintiff Marco Antonio Zepeda Aguilar ("Plaintiff Aguilar"), individually and on behalf of other employees pursuant to the California Private Attorney General Act ("PAGA"), filed the currently operative first amended complaint under Sonoma case number SCV-271759 against defendants Cattlemens, Inc. ("Cattlemens" or "Defendant"), Russell Hollett ("Hollett"), John Frenzel ("Frenzel"), Peter Mrozik ("Mrozik"), John Geary ("Geary"), and Barbara O'Connor (all together "Defendants"), and Does 1-100 for causes of action arising out of Defendants' alleged Labor Code violations, and civil penalties thereon (the "Sonoma Complaint").

Thereafter, a Petition for Coordination was filed, moving to coordinate Plaintiff Aguilar's action with actions filed in other counties and was assigned Judicial Council Coordination Proceeding No. 5376. Plaintiff Aunjuli Esperson ("Plaintiff Esperson") filed two actions for class and PAGA claims against Cattlemens in Alameda County Superior Court, case numbers RG21109769 (the lead case) and 21CV003077, which were consolidated. Plaintiff Lawrence Elroy ("Plaintiff Elroy", together with Plaintiff Aguilar and Plaintiff Esperson, "Plaintiffs") filed case number 34-2021-00301133-CU-OE-GDS against Cattlemens for class and PAGA claims in Sacramento County Superior Court. All three cases were referred to a coordination motion judge for ruling. On July 1, 2025, the Judicial Council of California issued an Order Assigning Coordination Trial Judge, assigning coordination to this Court.

After multiple case management conferences, the parties subsequently settled. This matter is on calendar for Plaintiffs' unopposed motion for conditional certification of the class and preliminary approval of the class action settlement (the "Motion").

However, while on May 5, 2026, the parties stipulated to the filing of a second amended complaint by all the Plaintiffs in the instant action, the Second Amended Complaint itself was never filed with the Court. The Plaintiffs are ORDERED to file the Second Amended Complaint within 3 court days of this order.

In consideration for the necessity of timely action for the benefit of the Class, the Court continues this matter to Wednesday October 14, 2026, at 3:00 pm in Department 19.

****This is the end of the Tentative Rulings.****