

ARIZA v LAKESIDE VENTURES, LLC

22CV46059

DEFENDANT'S MOTION FOR TERMINATING SANCTIONS

This matter involves a lengthy and ongoing dispute over the sale of a mobile home estate located at 1475 Railroad Flat Road, Mokelumne Hill, CA ("Mobile Home Estate.") Before the Court is the motion for terminating sanctions filed by Lakeside Ventures, LLC and Bonnie K. Tuckerman-Aho (Hurley) ("Defendants.")

The Court continues this matter to April 24, 2026, to be heard on the same calendar as Plaintiff's Motion for Relief of Order For Financial Hardship.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

DISCOVER BANK v WEBER

23CF14324

PLAINTIFF'S MOTION FOR JUDGMENT

This matter involves nonpayment of a credit card debt brought by Discover Bank ("Plaintiff") against Tiffany Weber ("Defendant.")

Now before the Court is Plaintiffs' motion to enter judgment pursuant to Code Civil Procedure section 664.6. The motion is not opposed.

I. Background

On May 1, 2025, the parties filed a stipulation of settlement. Pursuant to that settlement, Defendant agreed she owed \$2,214.87 on a credit card account. (Declaration of Zhen Ren ("Ren Decl.") ¶5, Ex. A)("Agreement.") However, Plaintiff and Defendant agreed that Plaintiff would pay \$1,622.07 to resolve the matter. (*Id.* ¶ 4.) The Agreement called for Defendant to make monthly payments of \$67.60 starting on November 28, 2024, and continuing monthly, with final payment to be on October 28, 2026. (*Id.* ¶ 6.) However, Defendant did not pay according to the terms of the Agreement, instead making a first payment on December 3, 2024, in the amount of \$125.00. (*Id.* ¶ 7) and a last payment on December 2, 2025. (*Ibid.*)

The Agreement contained the following language:

Pursuant to Code of Civil Procedure 664.6, and should Defendant(s) fail to make any payment on or before the stated due date, the Plaintiff shall immediately be free to pursue all available penalty remedies including by not limited to Code of Civil Procedure section 664.6 and to file a Motion, ExParte Application, Declaration and Order and/or a new lawsuit to vacate any dismissal and to have judgment entered against Defendant for \$2,214.87 plus Court costs, less any amounts received by Plaintiff from Defendant. (Agreement ¶ 6.)

II. Legal Standard and Analysis

Cal. Civ. Proc. Code § 664.6(a) provides that:

If parties to pending litigation stipulate, . . . orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement. If the parties to the settlement agreement or their counsel stipulate in writing or orally before the court, the court may dismiss the case as to the settling parties without prejudice and retain jurisdiction over the

parties to enforce the settlement until performance in full of the terms of the settlement.

“On a motion to enforce, the court must determine whether the settlement agreement is valid and binding. The court assesses whether the material terms of the settlement were reasonably well defined and certain, and whether the parties expressly acknowledged that they understood and agreed to be bound by those terms.” (Estate of Jones (2022) 82 Cal.App.5th 948, 952.) A section 664.6 motion may be used “even when issues relating to the binding nature or terms of the settlement are in dispute, because, in ruling upon the motion, the trial court is empowered to resolve these disputed issues and ultimately determine whether the parties reached a binding mutual accord as to the material terms.” (*In re Marriage of Assemi* (1994) 7 Cal.4th 896, 905.)

The Agreement required Defendant to make monthly payments of \$67.06 until October 28, 2026. Defendant stopped making payments in December of 2025. Plaintiff’s counsel avers that at the time Plaintiff stopped making her payments she had paid \$1,529.00 of the \$1,622.07 owed. Meaning, at the time she stopped making payments, she owed a remaining \$93.07.

Plaintiff now seeks \$685.87 which reflects the amount requested in the Complaint (\$2214.87) minus the credit of \$1,529.00, and costs in the amount of \$293.50, for a total judgment of \$979.37.

Pursuant to the terms of the Agreement which Plaintiff signed, in the event that she failed to make payment by the due date, then Defendant could seek judgment in the amount of \$2214.87 plus costs, minus any credit for payment made. Accordingly, the motion is **GRANTED**, and Judgment is entered requiring Plaintiff to pay \$979.37 to Defendant.

The clerk shall provide notice of this ruling to the parties forthwith. The Court intends to sign the submitted proposed Order.

FOOTE, et al v GOTTA LUV PIZZA, et al

24CV47525

PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

This matter involves a class action for wage and hour violations. Alison Foote, Jason Ross and Courtney Jones ("Plaintiffs") filed this class action lawsuit against Gotta Luv Pizza, Inc. dba Round Table Pizza #05 ("Defendants.") Plaintiffs bring causes of action for wage and hour violations, including failure to pay overtime wages, wage statement violations, waiting time penalties and unfair competition. Plaintiffs seek penalties and damages under the Labor Code, Business and Professional Code, and the Private Attorney General Act ("PAGA").

Plaintiffs report the matter has settled and move for preliminary approval of the settlement agreement ("Agreement"). (Code Civ. Proc., § 382, Cal. Rules of Court, rule 3.769.)

I. Settlement Approval Process

There are three stages to the Court's settlement approval process: (1) preliminary approval of the proposed settlement at an informal hearing; (2) notice of the settlement to all affected class members; and (3) final approval after a formal hearing. The current motion is the first stage of the process. The Court may approve settlements reached before or after certification of the class. (*Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 240, disapproved on another ground in *Hernandez v. Restoration Hardware, Inc.* (2018) 4 Cal.5th 260, 269.) Here, the class was not certified prior to the settlement, and Plaintiffs seek class certification at this time. The certification issue is addressed below.

When an action includes PAGA claims, the Court must review and approve the settlement and the proposed settlement shall be submitted to the Labor and Workforce Development Agency (LWDA) at the same time that it is submitted to the Court. (Lab. Code, § 2699, subd. (1)(2).) Plaintiffs has provided notice to the LWDA. (Declaration of Tyler J. Woods ("Woods Decl." ¶ 4.)

II. The Proposed Settlement

The terms of the Agreement provide that Defendant shall pay a Gross Settlement Amount (“GSA”) of \$450,000.00 to be allocated across approximately 353 Settlement Class Members. The settlement amount for each will be determined by dividing the Net Settlement Amount (“NSA”) by the total number of Workweeks worked by all Participating Class Members during the Class Period and then multiplying the result by each individual Participating Class Member’s Workweeks. (Agreement ¶ 3.2.4.)

Costs to be deducted from the GSA are: (1) a maximum of up to 1/3 of the GSA (\$150,000) and up to \$26,000 in costs to Plaintiffs’ counsel for services rendered; (2) an award of \$10,000.00 to the three named Plaintiffs as the class representatives; (3) up to \$7,500 to IYLM Group, Inc. for their fees and costs as settlement administrator; and (4) \$20,000 in PAGA penalties, with \$13,000 to be paid to the LWDA and \$7,000 added to the fund distributed to class members. (Agreement ¶ 3.2.5.)

After deductions, the estimated Net Settlement Amount (“NSA”) will be \$ \$216,500.00. Plaintiffs report there are approximately 353 Class Members, and the projected average individual payment will be approximately \$613.31. (Woods Decl. ¶ 26.) Class Members will not need to do anything to participate in the settlement and the gross settlement is non-reversionary.

III. Ascertainable Class

Under California law, the basic requirements to sustain a class action are an ascertainable class, a well-defined community of interest in the questions of law and fact involved, and substantial benefits from certification that render proceeding as a class superior to the alternatives. (Code Civ. Proc. § 382; *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1021.)

The Agreement defines the Class as “all current and former hourly non-exempt employees who performed work for Defendants in California during the Class Period.” (Agreement ¶ 1.5.) The “Settlement Class Period” is the period “from July 31, 2020, through the date on which the Court issues an order granting preliminary approval of the Settlement.” (*Id.* ¶ 1.13.) Additionally, the “PAGA Period” runs from June 21, 2023 to the date on which the Court issues an order granting preliminary approval of the Settlement. (*Id.* ¶ 1.33.) “Aggrieved Employees” means those Class Members who worked for Defendant within the PAGA Period. (*Id.* ¶ 1.4.)

Each PAGA Employee will receive a portion of the \$20,000 allocated as part of PAGA penalties, after deductions to the LWDA.

The Court finds the proposed Settlement Class is ascertainable and satisfies the numerosity requirement, that the action raises common wage and hour questions for

class members, and that Plaintiffs are adequate representatives of the class. The Court therefore conditionally certifies the proposed Settlement Class.

IV. Reasonableness of the Settlement

The purpose of preliminarily evaluating class action settlements is to determine whether the proposed settlement is within the “range of reasonableness” for possible approval, and whether it is worthwhile to issue notice to the class and schedule a formal hearing. (Cabraser, Cal. Class Actions and Coordinated Proceedings (2d ed. 2020) ¶ 14.02.) A presumption of fairness applies if there has been arm’s length bargaining, investigation has been sufficient to allow counsel and the court to act intelligently, class counsel is experienced in similar litigation, and the percentage of class members who object to the settlement is small. (*Ibid.*) “[P]re-certification settlements are routinely approved if found to be fair and reasonable.” (*Wershba v. Apple Computer, Inc.*, *supra*, 91 Cal.App.4th at p. 240.)

Plaintiff’s counsel reports that the parties engaged in an all-day, arm’s length mediation on August 27, 2025 before Hon. Carl J. West, an experienced mediator. (Woods Decl. ¶ 7.) Prior to mediation, the parties engaged in significant informal discovery, which included production of timekeeping and payroll data, and the employer’s written policies. (*Id.* ¶14.) Plaintiffs’ counsel has provided a declaration showing the class law firm has investigated and researched the claims in controversy, related documents and evidence, and the asserted defenses. Plaintiff’s law firm is experienced with this type of litigation and had sufficient data to make an informed decision regarding the fairness of the settlement. (*Id.* ¶¶ 39-40.) Based on the firm’s investigation, and balancing the risks and obstacles in the various claims, the class law firm has concluded that the proposed settlement is a favorable result for the Settlement Class. (*Id.* ¶ 27.) Having reviewed the claims at issue, Plaintiffs’ arguments in the memorandum of points and authorities, and the evidence submitted in support of the motion, the Court finds, for purposes of this preliminary approval, that the proposed settlement is fair and reasonable.

V. Notice

If the Court has certified the litigation as a class action, notice must be given to the class members and must contain an explanation of the proposed settlement, and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement. (Cal. Rules

of Court, rule 3.769(f).) Pursuant to California Rules of Court, rule 3.766(d), if class members are to be given the right to request exclusion from the class, the notice must include the following: (1) A brief explanation of the case, including the basic contentions or denials of the parties; (2) A statement that the court will exclude the member from the class if the member so requests by a specified date; (3) A procedure for the member to follow in requesting exclusion from the class; (4) A statement that the judgment, whether favorable or not, will bind all members who do not request exclusion; and (5) A statement that any member who does not request exclusion may, if the member so desires, enter an appearance through counsel.

Here, the proposed notice provides a background of the litigation and claims, sufficiently defines the class members, and informs them of the settlement and their respective rights. The proposed notice sets forth a breakdown of the settlement amount, including the total gross settlement amount, and the maximum amounts of the proposed deductions (i.e., class counsel's fees; class counsel's costs; settlement administrator's costs; representative plaintiff payment; and PAGA penalties). In addition, the proposed notice sets forth how each class member's payment will be calculated and further explains how class members can opt out of or object to the settlement. (Woods Decl., Ex. A.) Having reviewed the proposed notice, the Court finds that it complies with the California Rules of Court discussed above.

VI. Conclusion

Plaintiffs have satisfied the procedural requirements for preliminary approval of a class action settlement, and the settlement amount appears fair and reasonable at this stage. The Court grants preliminary approval of the settlement; appointment of Plaintiffs as the class representatives; appointment of Plaintiffs' counsel as class counsel; appointment of IYLM Group, Inc. as the third-party settlement administrator; and the proposed method and form of the notice. The Court also conditionally certifies the Settlement Class.

The Court sets the date for the final approval hearing of August 28, 2026, at 9:00 a.m. in Dept. 2..

The clerk shall provide notice of this ruling to the parties forthwith. The Court intends to sign the submitted proposed Order.

JP MORGAN CHASE BANK N.A. v WORMINGTON

25CF15463

PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS

This is an action by JP Morgan Chase Bank, N.A. ("Plaintiff") against Jones E. Wormington ("Defendant") for the collection of a credit card debt in the sum of \$6,690.96.

In his Answer, Defendant did not deny the allegations in the Complaint but asserted, as a defense, that he had previously tried to set up payment plan.

Now before the Court is Plaintiff's motion for judgment on the pleadings.

I. Legal Standard

A motion for judgment on the pleadings serves the same function as a demurrer but is made after the time for demurrer has expired. (Code Civ. Proc., § 438(c)(2); *Cloud v. Northop Grumman Corp.* (1998) 67 Cal.App.4th 995, 999.) Except as provided by statute, the rules governing demurrers apply. (*Id.*) The court must accept as true the factual allegations of the complaint and must give them a liberal interpretation. (*Gerawan Farming, Inc., v. Lyons* (2000), 24 Cal. 4th 468, 515-516.) In addition, the court is limited in its consideration to the face of the pleadings or matters entitled to judicial notice. (Code Civ. Proc. § 438(d).)

If the motion is granted in favor of the plaintiff, "it shall be based on the grounds that the complaint states facts sufficient to constitute a cause of action against the defendant and the answer does not state facts sufficient to constitute a defense to the complaint. (Code Civ. Proc. §438(c)(3)(a).)

II. Legal Analysis

A breach of contract claim requires: 1) the existence of a contract, 2) plaintiff's performance or excuse for nonperformance, 3) defendant's breach, and 4) the resulting damages to the plaintiff. (*San Mateo Union High Sch. Dist. v. Cnty. of San Mateo*, (2013) 213 Cal. App. 4th 418, 439.) "Where contract language is clear and explicit and does not lead to absurd results, we ascertain intent from the written terms and go no further." (*Shaw v. Regents of Univ. of Cal.*, (1997) 58 Cal. App 4th 44, 53.)

Plaintiff and Defendant entered into a contract for a consumer credit card. (Declaration of Yatzka Hoyos ("Hoyos Decl.") ¶ 3.) Pursuant to the contract, Plaintiff provided credit and Defendant used that credit to make consumer purchases. (*Id.* ¶ 4.) Defendant incurred charges, was provided statements detailing those charges, and did not object or deny that he had incurred those charges. (*Id.* ¶¶4-6.) However, Defendant stopped

making payments towards the balance on the subject account and his last payment was on October 11, 2024. (*Id.* ¶ 7.) Defendant has an unpaid balance on his account of \$6,690.96 (*Id.* ¶8.)

Plaintiff has carried its burden of demonstrating evidence supporting all elements of its claim for breach of contract and that there are no affirmative defenses available. Defendant has not filed any opposition to the motion and makes no argument on his behalf.

III. Conclusion

Plaintiff's Motion for Judgment on the Pleadings is **GRANTED**. **The Trial Confirmation Conference scheduled for June 2, 2026, and the Court Trial scheduled for June 4, 2026, are Vacated.**

The clerk shall provide notice of this ruling to the parties forthwith. The Court intends to sign the submitted proposed Order.

BUTTS v FCA US, LLC, et al

25CV47877

DEFENDANTS' MOTION TO COMPEL DISCLOSURES

This is a lemon law matter brought by Plaintiff Alan Butts ("Plaintiff") against FCA US, LLC ("FCA") and Stoneridge Chrysler Jeep Dodge ("Stoneridge") (collectively "Defendants.") Now before the Court is Defendants' motion to compel initial mandatory disclosures.

I. Background

Plaintiff purchased a 2022 Ram 3500 vehicle on July 21, 2022, for a total sales price of \$117,829.44. Plaintiff filed the Complaint in this action on February 11, 2025. FCA US, LLC filed its Answer on May 5, 2025.

Pursuant to California Code of Civil Procedure section 871.26, subdivision (f), Plaintiff was required to provide all mandatory initial disclosures within 60 days of the filing of an Answer or other responsive pleading. Plaintiff apparently did not provide some of the mandatory disclosures. Plaintiff has not filed any opposition.

II. Legal Standard

Code Civil Procedure section 871.26 provides for expedited discovery procedures in lemon law actions. Specifically, section 871.26(f)(1)-(11) and (g)(1)-(11) provide for the production of specific documents within 60 days of the filing of the responsive pleading.

Code Civil Procedure section 871.26(j)(1) provides, in pertinent part, the following:

Unless the party failing to comply with this section shows good cause, notwithstanding any other law and in addition to any other sanctions imposed pursuant to this chapter, a court shall impose sanctions as follows:(1) [a] one-thousand five-hundred-dollar (\$1,500) sanction against the plaintiff's attorney. . . paid within 15 business days for failure to comply with the document production requirements as prescribed in subdivision (b).

There is no meet and confer requirement set forth in Code Civil Procedure section 871.26. (*Beltran v. FCA US LLC*, 2025 Cal.Super.LEXIS 79237.)

III. Discussion

FCA filed its answer on May 5, 2025, which required Plaintiff to produce the mandatory documents by July 4, 2025, pursuant to CCP § 871.26.

Defendants assert that Plaintiff did not provide all disclosures and seeks an order requiring Plaintiff to disclose the missing information – specifically, responses to subsections f(1)-(7) and (g)(1)-(9). (It is unclear whether Plaintiff produced responses to the other portions of subsection (f) or not).

Plaintiff has not filed any opposition or provided any explanation for the failure to provide the mandatory disclosures. Accordingly, the Motion to Compel is **GRANTED**.

IV. Sanctions

Defendants request mandatory pursuant to Code Civil Procedure section 871.26(j)(1).

Accordingly, Plaintiff is ordered to pay sanctions in the amount of \$1,500.00 within fifteen (15) days of this Order.

The clerk shall provide notice of this ruling to the parties forthwith. The Court intends to sign the submitted proposed Order.

SHERLOCK, et al v McRAY, et al

25CV48246

DEFENDANTS' DEMURRER AND MOTION TO STRIKE

This matter arises out of a dispute over the lease of residential real property brought by Joseph and Scarlett Sherlock ("Plaintiffs") against Scott and Mae McRay (collectively "Defendants.")

Now before the Court are a demurrer and motion to strike portions of the First Amended Complaint ("FAC") filed by Defendants. The motions are opposed.

I. FACTS AND PROCEDURAL HISTORY

On April 1, 2025, Plaintiffs signed a lease ("Lease") for real property located at 2295 Marti Drive, Arnold, California 95223 ("Property") (FAC ¶¶ 1, 14.) At the time of entering into the Lease, Scarlett Sherlock was "very pregnant" which was known to Defendants. (*Id.* ¶ 13.) On April 10, 2025, Plaintiffs gave Defendants an extensive list of issues with the Property, expecting Defendants would remedy the problems. (*Id.* ¶ 14.) Defendants responded by admitting they knew the property was in a state of disrepair at the time of lease, stating in an email dated April 11, 2025, "Wow, thank you for the detailed walk-thru. Some of the items we knew about and the others are new to us." (*Id.* ¶ 15.)

Upon moving into the Property, Plaintiffs discovered that many problems remained. After moving in, Plaintiffs discovered new problems, including: (1) severe bat infestation, (2) improperly maintained stairs, (3) improper weather protection, (4) electrical issues, (5) malfunctioning exterior door locks, (6) malfunctioning kitchen appliances, (7) water intrusion, (8) HVAC issues, (9) plumbing issues, (10) malfunctioning heating, (11) sagging floors, and (12) improper trash facilities ("Defective Conditions.") (FAC ¶ 16.) Plaintiffs repeatedly notified Defendants of these problems. (*Ibid.*)

In Plaintiffs' mind, one of the worst problems, particularly due to Scarlett's pregnancy, was the bat infestation. On June 1, 2025, after discovering bat guano, Plaintiffs learned that the Property was infested with bats. (FAC ¶ 30.) Prior tenants confirmed that the bats had been a problem for them, and the Defendants admitted that bats had been a problem for 8 to 9 years. (*Ibid.*) Because there were known bats in the house, and bat bites can often be invisible to the eye, Plaintiffs were required to undergo Rabies Post-exposure prophylaxis ("PEP.") (*Ibid.*) Because Scarlett was 41 weeks pregnant, she was considered at "high risk" to receive the PEP treatment. (*Ibid.*) The PEP treatment required injections in every limb of Plaintiffs' bodies. (*Ibid.*)

On June 2, 2025, in response to an email about the bat infestation, Defendants advised Plaintiffs to buy an ultrasonic plug for bat deterrence because this had been used by the previous tenants. (FAC ¶ 31.) Defendants further advised Plaintiffs that eight to nine years ago, Defendants had someone look at the bat issue but could not recall if they had any remediation performed. (*Ibid.*) Although Defendants knew of the bat infestation, they did not disclose that infestation to Plaintiffs prior to the Lease. (*Ibid.*)

On June 17, 2025, Plaintiffs had the property inspected by Western Bat Specialists. Western Bat Specialists found that bats gained access into multiple areas of the dwelling. Bat feces, urine, and body rub marks were present in multiple dwelling locations. (FAC ¶ 32.) Plaintiffs eventually had to get rid of many personal belongings because of the exposure to the bats and potential rabies.

Plaintiffs bring causes of action for 1) negligence, 2) breach of warranty of habitability, 3) private nuisance, 4) breach of covenant of quiet enjoyment in a contract, 5) breach of covenant of quiet enjoyment as a tort, 6) negligent misrepresentation, and 7) constructive eviction.

Defendants demur to the causes of action for breach of covenant of quiet enjoyment as a tort, negligent misrepresentation, and constructive eviction.

Defendants also move to strike the allegations related to punitive damages and attorney's fees.

II. LEGAL STANDARD FOR DEMURRER

"A demurrer tests the sufficiency of a complaint and admits all facts properly pleaded." (*Setliff v. E.I. Du Pont de Nemours & Co.* (1995) 32 Cal. App. 4th 1525, 1533.) The court assumes the truth of the allegations asserted but does not assume the truth of "contentions, deductions, or conclusions of law." (*California Logistics, Inc. v. State of California* (2008) 161 Cal. App. 4th 242, 247.) The court can further look at those facts that "reasonably can be inferred from those expressly pleaded, and matters of which judicial notice has been taken." (*MKB Management, Inc. v. Melikian*, (2010), 184 Cal.App.4th 796, 802.) If a complaint does not sufficiently state a cause of action, "but there is a reasonable probability that a defect can be cured by amendment, leave to amend must be granted." (*Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal. 4th 26, 38.)

"A demurrer tests the pleadings alone and not the evidence or other extrinsic matters. Therefore, it lies only where the defects appear on the face of the pleading or are judicially noticed." (*SKF Farms v. Superior Court* (1984) 153 Cal.App.3d 902, 905.) "The only issue involved in a demurrer hearing is whether the complaint, as it stands, unconnected with extraneous matters, states a cause of action." (Hahn, *supra*, at p. 747.)

Defendants assert that Plaintiffs' FAC is subject to demurrer pursuant to Civ. Code 430.10 (e) (failure to state a claim) and (f) (uncertainty.)

III. Analysis

A. Breach of Covenant of Quiet Enjoyment

Under Civil Code section 1927, “there is an implied covenant on the part of a landlord that a tenant shall have quiet enjoyment and possession of the premises during the continuation of the term.” (*Lee v. Placer Title Co.* (1994) 28 Cal.App.4th 503, 512.) This covenant, “implies a term in a contract, and a breach of the covenant gives rise to an action in contract.” (*Ginsberg v. Gamson* (2012) 205 Cal. App.4th 873, 896-897.) Thus, generally, damages arising from such breach are contract damages. (*Ibid.*) However, “some courts have implicitly or explicitly indicated a tenant may recover punitive damages in connection with a claim for breach of the implied covenant of quiet enjoyment, or identified the claim, as a tort.” (*Id.* at 898.) Such tort claims are only recognized where there is also a claim for actual or constructive eviction. (*Ibid.*) Thus, a plaintiff may seek damages beyond the terms of the contract (such as lost profits) in some cases, where the landlord deprives the tenant of the “beneficial enjoyment of the premises [which] amounts to a constructive eviction.” (*Andrews v. Mobile Aire Estates* (2005) 125 Cal.App.578, 590.)

Here, Plaintiffs alleges that the Defective Conditions went beyond mere annoyances and led to constructive eviction and emotional and physical injury and damages. These are allegations outside the contract terms. Defendants cite no case law for their assertion that Plaintiffs cannot bring both a constructive eviction claim and a breach of the covenant of quiet enjoyment as a tort claim.

Accordingly, **the demurrer as to the breach of implied covenant of quiet enjoyment as a tort is OVERRULED.**

B. Negligent or Fraudulent Misrepresentation

Defendants demur to the sixth and seventh causes of action for negligent and fraudulent misrepresentation on the grounds that these causes of action are not pled with the requisite specificity.

“The elements of a cause of action for negligent misrepresentation are: 1) the defendant must have made a representation as to a past or existing material fact; 2) the representation was untrue; 3) the defendant must have made the representation without any reasonable ground for believing it to be true; 4) the representation must have been made with the intent to induce plaintiff to rely upon it; 5) the plaintiff must have been unaware of the falsity of the representation and justifiably acted in reliance on it; and 6) as a result of the reliance, plaintiff sustained damages. (*Friedman v. Merck & Co.* (2003) 107 Cal.App.4th 454, 476.)

Intentional misrepresentation is similar; however, in that case the defendant must have made the statement knowing it to be false or without regard for the truth or falsity of the

statement. (*Lauckhart v. El Macero Homeowners Assn.* (2023) 92 Cal.App.5th 889, 903.) For both types of misrepresentation, the allegations “must be pleaded with particularity, with facts showing how, when, where, to whom, and by what means the representations were tendered.” (*SI 59 LLC v. Variel Warner Ventures, LLC* (2018) 29 Cal.App.5th 146, 155 [citations omitted].)

Both the negligent and intentional misrepresentation claims are based on alleged omissions rather than specific misrepresentations. Plaintiffs allege that Defendants concealed material information from them to make Plaintiffs believe that the Property was safe and habitable. While claims for fraudulent or intentional misrepresentation can be based on concealment or omission, negligent misrepresentation cannot. (*Vega v. Jones, Day, Reavis & Pogue* (2004) 121 Cal.App.4th 282, 290 [“a negligent misrepresentation claim cannot be based on an omission or nondisclosure”].)

Accordingly, the demurrer as to the negligent misrepresentation claim is SUSTAINED, with fifteen (15) days leave to amend.

To establish a claim for fraudulent concealment, a plaintiff must plead and prove the following elements: (1) concealment or suppression of a material fact; (2) by a defendant with a duty to disclose the fact to the plaintiff; (3) intent to defraud by intentionally concealing or suppressing the fact; (4) the plaintiff’s lack of knowledge of the concealed or suppressed fact and resulting reliance; and (5) damages sustained as a direct result of the concealment or suppression. (*Hambridge v. Healthcare Partners Medical Group, Inc.* (2015) 238 Cal.App.4th 124, 162, quoting *Graham v. Bank of America, N.A.* (2014) 226 Cal.App.4th 594, 606.)

A cause of action for fraud based on nondisclosure or concealment must also establish that the defendant had a legal duty to disclose the withheld facts. (*OCM Principal Opportunities Fund, L.P. v. CIBC World Markets Corp.* (2007) 157 Cal.App.4th 835, 845.) Absent a fiduciary relationship between the parties, courts recognize three circumstances where nondisclosure or concealment may constitute actionable fraud: (1) where the defendant possesses exclusive knowledge of material facts unknown to the plaintiff; (2) where the defendant actively conceals a material fact from the plaintiff; and (3) where the defendant makes partial representations while suppressing other material facts. (*Bigler-Engler v. Berg, Inc.* (2017) 7 Cal.App.5th 276, 311, quoting *LiMandri v. Judkins* (1997) 52 Cal.App.4th 326, 336.)

Here Plaintiffs allege that Defendants concealed the known Defective Conditions – particularly the bats -- from Plaintiffs. They allege that Defendants knew that the Property had a bat problem for the prior 8 or 9 years (FAC ¶ 30) and knew that the prior tenants had to take precautions and tactics to keep the bats at bay. (*Id.* ¶ 31.) They allege that Defendants were well aware of the numerous Defective Conditions but actively concealed those same hazards from Plaintiffs to get Plaintiffs to rent the Property. (*Id.* ¶¶ 36, 87-89.) Plaintiffs allege that in failing to inform them of the Defective Conditions, Defendants intended to deceive or mislead them. (*Id.* ¶ 88.) Plaintiffs allege they lacked any knowledge of the Defective Conditions and relied on the representations made in Defendants’ partial disclosures about the Property’s condition in deciding to rent the Property. (*Id.* ¶¶ 87-88.) Finally, Plaintiffs allege they suffered damages as a result of the concealment.

It is true that this claim is not pled with specificity, including the date, time and place of the concealment. However, “less specificity is required where the defendant necessarily possesses the information.” (*Bajaras v. Ford Motor Co.* 2025 Cal.Super.LEXIS 1185, *3-4, citing *Committee on Children’s Television, Inc. v. General Foods, Inc.* (1983) 35 Cal.3d 197, 216-217.) Further, “it is not practical to require allegations of specific facts showing how, when, and by what means something did not happen.” (*Id.*) The Court finds Plaintiffs adequately plead the elements of intentional misrepresentation based on omission or fraudulent concealment with enough particularity at this stage.

At the demurrer stage, the Court takes the allegations in the FAC as true. The Plaintiff has sufficiently pled allegations of intentional misrepresentation. Accordingly, **the demurrer is OVERRULED as to this cause of action.**

IV. Motion to Strike

Filed concurrently with their demurrer, Defendants also move to strike portions of Plaintiffs’ FAC related to punitive damages and attorney’s fees.

A motion to strike lies either to strike: (1) any “irrelevant, false or improper matter inserted in any pleading”; or (2) any pleading or part thereof “not drawn or filed in conformity with the laws of this state, a court rule or order of court.” (CCP § 436.) A motion to strike may also be used to strike allegations related to an improper request for relief. (*Saberi v. Bakhtiari* (1985) 169 Cal.App.3d 509, 517.) A motion to strike can be used to attack the entire pleading, or any part thereof—i.e., even single words or phrases. (*Warren v. Atchison, Topeka & Santa Fe Ry. Co.* (1971) 19 Cal.App.3d 24, 40.)

Punitive damages are recoverable where a plaintiff proves “by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice.” (Civ. Code, § 3294.) Relevant to this case, “malice” means 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 rights or safety of others. (*Ibid.*)

Plaintiffs have alleged that Defendants knew about the bats and other hazards but concealed those Defective Conditions from Plaintiffs. As a result of the potential bat exposures, Plaintiffs were required to undergo significant medical treatment during the late stages of pregnancy which caused extreme emotional distress. While this might arguably be evidence of a disregard for their safety – there is no allegation that the Defendants knew or had reason to know that the bat infestation itself could lead to these medical treatments.

Accordingly, the **motion to strike references to punitive damages is GRANTED, with fifteen (15) days leave to amend.**

Defendants also move to strike references to attorney’s fees on the grounds that Plaintiffs did not identify any contract provision which would allow such fees. However, “unsupported attorney’s fee allegations need not be stricken pursuant to a motion to strike, since later discovery may reveal a basis for their recovery.” (*Barnes v. Fred*

Leeds Inv. Props. LP, 2025 Cal.Super.LEXIS 72698, *8-9 [citing *Camenisch v. Superior Court* (1996) 44 Cal.App.4th 1689, 1699].)

Accordingly, at this stage, **the motion to strike attorney's fees is DENIED, without prejudice to refile.**

IV. Conclusion Summary

Defendants' demurrer is overruled as to the causes of action for breach of covenant of quiet enjoyment and intentional misrepresentation. The demurrer is sustained, with leave to amend, as to the cause of action for negligent misrepresentation. The motion to strike references to punitive damages is granted, with leave to amend. The motion to strike references to attorney's fees is denied.

The clerk shall provide notice of this ruling to the parties forthwith. Defendants to submit formal Orders complying with Rule 3.1312 in conformity with this Ruling.

MALOON v MALOON

25CV48407

DEFENDANT'S MOTION TO STRIKE SUMMONS AND COMPLAINT

This matter involves allegations of fraud in relation to the contents of a trust. Now before the Court is Defendant's motion to strike summons and change jurisdiction.

The motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

3.3.7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence is limited pursuant to Local Rule 3.3. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

Pursuant to Local Rule 3.3.7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court [emphasis in original.]

Failure to include this language in the notice may be a basis for the Court to

deny the motion.

Accordingly, the motion is **DENIED**, Without prejudice to refile including the mandatory notice language.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

FARIDI v TDS TRUSTEE SERVICES

25CV48053

PLAINTIFF'S MOTION FOR JUDICIAL CLARIFICATION OF STANDING

Plaintiff Tariq Jamil Faridi ("Plaintiff") filed his Complaint arising out of a real property dispute with Defendant Steve Carlson ("Carlson").

Now before the Court is Plaintiff's motion seeking clarification on the issue of Plaintiff's standing.

The Motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion must include the following language:

3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall include the following language in the notice:

Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing will be held and the tentative ruling shall become the ruling of the court [emphasis in original.]

Failure to include this language in the notice may be a basis for the Court to deny the motion.

Accordingly, the Motion for Judicial Clarification of Standing is **DENIED**, without prejudice to refile.

Additionally, The Court notes that Plaintiff's **Motion to Correct Clerical Error in Court Record** scheduled for hearing on April 24, 2026, also lacks the mandatory language so the hearing on the Motion is advanced and said Motion is **also DENIED**, without prejudice to refile with the necessary Notice language.

However, the Court notes that plaintiff has previously been advised that any Motion failing to contain the mandatory Local Rules Notice will be denied. Based on plaintiff's continued failure to adhere to the local rules, **any future filed motions lacking the mandated language will be denied WITH Prejudice.**

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required.

**POKER FLAT PROPERTY OWNERS' ASSOCIATION
v RODRIGUEZ, et al**

26CV48556

PLAINTIFF'S REQUEST FOR PRELIMINARY INJUNCTION

This is a dispute involving allegations of violations of Covenants, Conditions and Restrictions of the Lake Tulloch Shores Subdivision ("CC&R") brought by Poker Flat Property Owners' Association, Inc. ("Plaintiff") against Rudy Rodriguez ("Rudy"), Michelle Rodriguez ("Michelle") and William Artau ("Artau") (collectively "Defendants.")

Now before the Court is an order to show cause as to why a preliminary injunction should not be issued.

The Court grants Plaintiff's Request for Judicial Notice.

I. Background Facts and Relevant Procedural History

The Association is a homeowner's association with 595 member lots including 122 that are lakefront. (Complaint ¶ 11.) The Association has approximately 150 homes with full-time residents with the remainder typically vacation homes for owner members. (*Id.* ¶ 12.) On or about May 1, 2013, Rudy purchased real property within the Association known as 609 Dolores Way ("609 Property") (*Id.* ¶ 2.) Later, on or about July 12, 2021, Rudy added Michelle to title as husband and wife, as Community Property with Right of Survivorship. (*Id.* ¶ 3.) On or about July 1, 2016, Artau started occupying the 609 Property. (*Id.* ¶ 4.)

All owners and occupants of the 609 Property are required to comply with the Association CC&Rs. (Complaint ¶ 15, Ex. 1.) Article Five of the CC&Rs provides that the properties within the Association may only be used for "single-family residential dwellings" and for no other purpose. (*Id.* ¶ 16.) However, Defendants have converted the first floor of the 609 Property into three separate studio apartments, each being occupied by separate individuals, and also have converted the second floor of the 609 Property into another three separate studio apartments that are being occupied by separate occupants. (*Id.* ¶ 18.) By renting out portions of the 609 Property as apartments, Defendants are not in accordance with the CC&Rs. Additionally, Defendants are allegedly in violation of Article 11 of the CC&Rs because of failing to comply with parking, noise, and pet restrictions. (*Id.* ¶ 21(a)-(g).) Finally, Defendants are alleged to be in violation of Article 15 because of excessive trash. (*Ibid.*)

On February 10, 2026, Plaintiff filed this lawsuit, alleging causes of action for a preliminary injunction and declaratory relief. On February 27, 2026, the Court granted

Plaintiff's ex parte application for a temporary restraining order ("TRO.") The TRO enjoined Defendants from renting, leasing, subleasing, or otherwise permitting occupancy of the individual units at the 609 Property. It further required that further occupancy of the 609 Property be in accordance with the CC&Rs.

Defendants filed an opposition on April 3, 2026.

II. Legal Standard and Discussion

When determining whether to issue a preliminary injunction, the court considers two interrelated questions: (1) the likelihood that the moving party will prevail on the merits, and (2) the relative balance of harms that is likely to result from the granting or denial of interim injunctive relief. (*White v. Davis* (2003) 30 Cal.4th 528, 554; *see also Robbins v. Sup. Ct.* (1985) 38 Cal.3d 199, 206; Code Civ. Proc., § 526.)

A. Success on the Merits

It is well established that an HOA's covenants and restrictions are "enforceable equitable servitudes." (Cal. Civ. Code §5975; *Villa De Las Palmas Homeowners Assn. v. Terifaj* (2004) 33 Cal.4th 73, 78), and only unreasonable covenants may be subject to being unenforceable. (*Ibid.*) Further, covenants and restrictions are assumed to be valid, and the burden is on the homeowner to prove otherwise. (*Terifaj*, supra 33 Cal.4th at 74.)

The Defendants do not dispute that there are tenants living at the 609 Property. (Declaration of Michelle Rodriguez ("Rodriguez Decl.") ¶ 9.) They simply dispute that they have converted the 609 Property into separate apartments, and they argue that the Fire Marshall has no issue with the living arrangements. However, the position of the Fire Marshall is not relevant to the issue of whether the Defendants are violating the CC&Rs – which, by renting out the 609 Property to non-family tenants they clearly are doing. The CC&Rs are clear that occupancy of the 609 Property is limited to "single-family dwellings."

The Court finds that the Plaintiff has a strong likelihood of success on the merits.

B. Balance of Harms

The Court must next consider the balance of harms to both parties if an injunction is issued.

Plaintiff argues that it will be considerably harmed if the Defendants are allowed to continue openly violating the CC&Rs. It asserts that it will lose legitimacy if the other residents of the Association begin to believe that they can violate the CC&Rs without repercussion. Further, they argue that inequitable application of the CC&Rs could lead to residents moving or refusing to pay HOA dues – both of which would harm Plaintiff and lead to its demise. Indeed, "a requirement for upholding covenants and restrictions in common interest developments is that they be uniformly applied and

burden or benefit all interests evenly.” (*Terifaj*, supra 33 Cal.4th at 84.) If the Defendants are allowed to operate outside the bounds of the CC&Rs, Plaintiff will be in the unfair predicament of unequally applying the burden of the CC&Rs among its members. Furthermore, the increased occupancy of the 609 Property is causing additional burdens on other homeowners due to congestion, parking, noise and trash. (Declaration of Jaclyn Hilfai (“Hilfai Decl.”) ¶10.)

In opposition, Defendants assert that they will be harmed because they will be unable to continue collecting rents from their tenants. As the operation of Property 609 as anything other than a single-family house is a violation of the CC&Rs, the Defendants cannot credibly argue that they will be harmed by not being allowed to profit from their violations.

The Court concludes that the balance of harms weighs in favor of granting the injunction.

III. Conclusion

Plaintiff’s motion for preliminary injunction is **GRANTED**.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff to submit formal Orders complying with Rule 3.1312 in conformity with this Ruling.

10:00 a.m. CALENDAR

MATTER OF EVELYN B. McDONNELL SURVIVOR'S TRUST

25PR8922

**PETITIONER'S MOTION TO CONTINUE TRIAL;
RESPONDENT'S MOTION TO STRIKE FIFTH AMENDED
PETITION**

This matter involves a dispute over an amendment to the Evelyn B. McDonnell Survivor Trust dated December 18, 2010 ("Trust.") Now before the Court are two motions: 1) Motion to Strike Amended Petition and 2) Motion to Continue Trial Date. As the motions are interrelated, the Court will consider them together herein.

I. Background

A. Original Petition

On August 14, 2025, Petitioner filed her Petition to Invalidate the Fifth Amendment to the Trust. Petitioner alleged that Evelyn B. McDonnell ("Decedent") died on May 17, 2025 at 100 years of age. (Petition ¶ 1.) Decedent was the Trustor of the Trust, which was a revocable subtrust formed under the McDonnell 1995 Revocable Trust which was entered into between Decedent and her husband George. (*Ibid.*) On December 18, 2010, George died and the terms for his one-half of the community property held in Trust became irrevocable. As the surviving Trustor, the subtrust was also created containing her one-half of community property in Trust. (*Ibid.*)

In June of 2024, Evelyn entered into a long-term nursing home and David indicated that she "may not have much time left." (Petition ¶6.) On September 10, 2024, however, Evelyn made a Fifth Amendment to the Trust. (*Id.*) At that time Gary was her sole caretaker and procured the entire estate planning process, including being the only witness present during its execution. (*Id.* ¶ 7.) In addition, he made all her daily healthcare and financial decisions. (*Ibid.*) The changes to the Trust benefited Gary.

At the time of her death, Evelyn had one living adult child, Gary Baker ("Gary") and one predeceased child, David Baker ("David.") (*Id.* ¶ 5.) David died on November 29, 2021, leaving his wife, Donna Baker, and their two children, Petitioner and James Travis Baker. (*Ibid.*)

B. Amended Petition

On March 16, 2026, Petitioner filed an Amended Petition in which she added Gary Baker's wife, Brenda Baker ("Brenda"), as a Respondent. Petitioner alleges that the Fifth Amendment to the Trust completely changed Decedent's long-standing approach to the equitable division of assets and instead gave everything to Gary. (Amended Petition ¶ 9.) Petitioner alleges that Brenda and Gary exercised increasing and substantial influence over Decedent, beginning in June 2024, as Decedent's healthcare began to decline. (*Id.* ¶ 12.) Petitioner alleges Brenda was present during the signing of the Amendment. (*Id.* 21.) The Amended Petition alleges that while Petitioner was aware of Brenda's participation to some degree prior to the filing of the original Petition, it was not until after discovery that she learned of the extent of Brenda's involvement. (*Id.* ¶¶ 42-49.)

II. Legal Standards and Discussion

A. Motion to Strike

A motion to strike lies either to strike: (1) any "irrelevant, false or improper matter inserted in any pleading"; or (2) any pleading or part thereof "not drawn or filed in conformity with the laws of this state, a court rule or order of court." (CCP § 436.) A motion to strike may also be used to strike allegations related to an improper request for relief. (*Saberi v. Bakhtiari* (1985) 169 Cal.App.3d 509, 517.) A motion to strike can be used to attack the entire pleading, or any part thereof—i.e., even single words or phrases. (*Warren v. Atchison, Topeka & Santa Fe Ry. Co.* (1971) 19 Cal.App.3d 24, 40.)

Petitioner improperly filed the Amended Petition well after the responsive pleading had been made and without leave of Court. (Code Civ. Proc. § 472(a).) The Amended Petition was made without proper motion or declaration as required by California Rules of Court Rule 3.1324. As such, the Amended Petition was filed without conformity to the Rules of Court and may be properly stricken. (*Hataishi v. First American Home Buyers Protection Corp.* (2014) 223 Cal.App.4th 1454, 1469 [no abuse of discretion to require a plaintiff to bring a motion, compliant with Rules of Court to amend a pleading].)

Generally, the Court will allow for the liberal amendments to pleadings. Indeed, the "policy favoring amendment is so strong that it is a rare case in which denial of leave to amend can be justified." (*Howard v. County of San Diego* (2010) 184 Cal.App.4th 1422, 1428.) However, this liberal policy should only be applied where there is no prejudice to the adverse party. Unwarranted delay is a valid reason for denial of the motion, even if the motion is in proper form. (*Roemer v. Retail Credit Co.* (1975) 44 Cal.App.3d 926, 939 ["denial may rest upon the element of lack of diligence in offering the amendment after knowledge of the facts, or the effect of the delay on the adverse party."].) "Time and knowledge are important factors to be considered when granting or denying a motion to amend." (*Stockton v. Ortiz* (1975) 47 Cal.App.3d 183, 194.)

The trial court has wide discretion in determining whether to allow an amended pleading, but that exercise of discretion requires consideration of a number of facts "including the conduct of the moving party and the belated presentation of the amendment .[Citation]...The law is well settled that a long deferred presentation of the proposed amendment without a showing of excuse for the delay is itself a significant factor to uphold the trial court's denial of the amendment. [Citation.]" (*Leader v. Health*

Industries of America, Inc. (2001) 89 Cal.App.4th 603, 613 [internal citations omitted].) “The law is also clear that even if a good amendment is proposed in proper form, unwarranted delay in presenting it may -- of itself -- be a valid reason for denial.” (*Roemer v. Retail Credit Co.* (1975) 44 Cal.App.3d 926, 939-940.; see also *Green v. Rancho Santa Margarita Mortgage Co.* (1994) 28 Cal.App.4th 686, 692 [“There is a platoon of authority to the effect that a long unexcused delay is sufficient to uphold a trial judge’s decision to deny the opportunity to amend pleadings”].)

The opposition contends the motion to strike should be granted as petitioner filed the Amended Petition only seven (7) weeks before the scheduled trial date. Additionally, while Petitioner asserts that she was only aware of Brenda’s involvement in the matter after discovery, materials attached to original Petition are cited to undermine this contention. For instance, Exhibits 10 attached to the Petition is a detailed statement by Petitioner recounting the extent of Brenda’s involvement in Decedent’s affairs and the amendment to the Trust. Similarly, Exhibit 11 is a statement by James Baker also detailing Brenda’s involvement in the Decedent’s affairs and role in the Trust amendment.

In addition to claimed unwarranted delay in bringing the amendment, and the failure to file a proper notice of amendment, allowing the Amended Petition is claimed to also prejudice Respondent and Brenda. First, it does not appear that Brenda was properly served with a summons. (Declaration of K. Greg Peterson (“Peterson Decl.”) ¶ 8.) Second, as evidenced by the Petitioner’s own motion to continue the trial, allowing the Amended Petition with a brand-new party, will require the trial date to be moved potentially significantly into the future. Petitioner will need to file a properly noticed and code-compliant motion to amend, properly serve Brenda, allow her time to obtain counsel and file a responsive pleading, and then engage in her own discovery and defense. This is expressed as substantially prejudicing Respondent who asserts that he has already expended significant time, energy, and finances in preparing for the trial currently scheduled for May 2026.

In ruling on the motions, the Court is tasked with two contradictory dictates: to hold a pro se litigant to the standard of an attorney, but at the same time to insure that a pro se has a fair opportunity to have their position determined on the merits, the latter reflecting a larger public policy. While counsel is correct that petitioner improperly amended a pleading without necessary leave of Court, did not properly verify that amended petition, and improperly served new party Brenda Baker without an issued summons, the balancing of equities tips in petitioner’s favor. Although the exhibits pointed to possible involvement of Brenda Baker, Petitioner sought to involve her as a party only after receiving responses to discovery that essentially expressed documents and information that could be provided by Brenda Baker would not be forthcoming because she was a non-represented, non-party. Additionally, while respondent’s argument focuses on the filing of the purported amendment and motion to continue “only seven weeks before trial”, an alternate view of the timing is that filings occurred within two weeks of receipt of the discovery responses, timing that cannot be reasonably described as delayed.

Additionally, the Court does not find the arguments of prejudice very persuasive as the trial preparation efforts will not be in vain as they will carry forward to a new trial date.

Based on the foregoing, the Court balances the equities and **GRANTS** the Motion to Strike. **However, Petitioner is granted leave** to file a properly verified amended petition naming Brenda Baker within ten (10) Court days of this Ruling, and have a summons issued to allow proper service. If counsel represented Gary Baker will also be representing Brenda Baker, the Court requests Petitioner be notified of this as well as if counsel then will accept service on her behalf to expedite fully involving her in the case so necessary discovery can be conducted.

B. Motion to Continue Trial

A trial court has broad discretion in considering a request for a trial continuance. (*Pham v. Nguyen* (1997) 54 Cal.App.4th 11, 13-18.) The court may grant a continuance only on an affirmative showing of good cause requiring the continuance. (Cal. Rules Ct., Rule 3.1332(c); *In re Marriage of Falcone and Fyke* (2008) 164 Cal.App.4th 814, 823.) Cal Rule of Court 3.1332 provides guidance and factors for the Court to consider in determining whether to grant a motion to continue trial.

In light of the Court's rulings on the motion to strike, a new party will be involved in this litigation rendering the matter no longer at issue. Therefore, the current trial date is vacated and the matter is set for a Trial Setting Conference on June 9, 2026, at 11:30 a.m. in Department 2. At the TSC the Court will expect to be presented with realistic but expeditious timeframes for discovery involving Brenda Baker to be completed, and calendar availability to set the new trial date at the earliest possible date.

The clerk shall provide notice of this ruling to the parties forthwith. Petitioner to submit formal Orders complying with Rule 3.1312 in conformity with these Rulings.