GIFFIN v VASCONCELLOS

23CV46905

MITCHELL L. ABDALLAH'S
MOTION TO BE RELIEVED AS COUNSEL

Attorney Mitchell Abdallah moves to be relieved as counsel of record for defendant Vasconcellos. Counsel's declaration meets the statutory requirements.

Accordingly, Counsel's motion to be relieved is **GRANTED**.

The clerk shall provide notice of this ruling to the parties forthwith. Counsel to submit an MC-053 Order.

WALKER, et al v JODY A. TAYLOR and SHARON L. CLARK, Trustees of the Double Springs Ranch Trust, et al

24CV47475

DEFENDANT'S MOTION FOR PREFERENTIAL TRIAL SETTING PURSUANT TO CCP 36(a)

This civil action stems from dispute concerning an easement and questions over title to a certain stretch of property. Randy Walker ("Walker") and Jessica Albonico ("Albonico") (collectively, "Plaintiffs") filed this action to determine the parties' respective rights and duties as well as to quiet title. Defendants are Jody A. Taylor ("Taylor") and Sharon L. Clark ("Clark") Trustees of the Double Springs Ranch Trust; Carol A. Gates, Trustee of the Carol A. Gates Family Trust ("Gates"); Perry Williard; Cheryl Willard Alden R. Houbein and Virginia A Houbein, Trustees of the Houbein Revocable Trust DTD March 21, 1996; John M. Taylor, Katherine L. Taylor, and Mark Van Lobel Sels and Mary Van Lobel Sels (collectively "Van Lobel Sels").

The complaint was filed on July 3, 2024. A cross-complaint was filed by Taylor and Clark as Trustees, Gate as Trustee, and the Van Lobel Sels on April 29, 2025.

On July 11, 2025, the Court granted the Cross-Complainants' request for preliminary injunction. Plaintiffs were thereby prohibited from entering, traversing, or performing any acts of use upon the Cross-Complaints' property, and any real property described in the Complaint, in order to prevent the creation of prescriptive easement.

Now before the Court is Defendant/Cross-Complainant Taylor's motion for trial preference.

I. Legal Standard

California Code of Civil Procedure § 36(a) provides:

> A party to a civil action who is over 70 years of age may petition the court for a preference, which the court shall grant if the court makes both of the following findings:

(1) The party has a substantial interest in the action as a whole.

(2) The health of the party is such that a preference is necessary to prevent prejudicing the party's interest in the litigation.

Taylor's motion states that he is over 70 years of age. (Declaration of Justin A. Mankin ("Mankin Decl.") ¶ 4.) Mr. Mankin is Mr. Taylor's attorney and avers that Mr. Taylor is "currently bedridden and suffers from serious health-related limitations associated with aging, which significantly impair their ability to participate in the litigation over time.

(*Id.* ¶ 5.) Taylor's age and health status lead his counsel to request that the case be tried on a preferential basis. (*Id.* ¶ 6.)

There is no opposition to this motion.

II. Analysis

Preferential trial setting is mandatory where the Court finds that a party to a civil action is over the age of 70, the Court finds the party has a "substantial interest in the entire action," and the party's health justifies preference. (Code Civ. Proc. § 36(a).) A declaration submitted in support of a motion for preference under Code of Civil Procedure section 36, subdivision (a), "may be signed by the attorney for the party seeking preference based upon information and belief as to the medical diagnosis and prognosis of any party." (Code Civ. Proc., § 36.5.)

In determining a motion for mandatory trial preference under section 36, subdivision (a), the court does not weigh the parties' respective interests or consider any inconveniences to the court or the parties. (*Swaithes v. Superior Court* (1989) 212 Cal.App.3d 1082, 1085.) Nor does the Court consider whether there is outstanding discovery or other outstanding pretrial matters. (*Ibid*.) If a party meets the statutory standards for trial preference, the motion must be granted, and the case must be set for trial not more than 120 days from that date. (Code Civ. Proc. § 36(f).)

Plaintiffs have not filed an opposition.

The court finds that Taylor who is 70 years of age and has a substantial interest in this case. The evidence presented in the motion demonstrates that plaintiff's health is such

that preference is necessary to prevent prejudicing his interest in the litigation. Taylor's health or condition. (*Fox v. Superior Court* (2018) 21 Cal.App.5th 529, 536 [lack of specifics about the health prognosis was insufficient reason to deny trial preference].)

Therefore, plaintiff's motion for trial preference is **GRANTED**; a five (**5) day jury trial is set for January 7, 2026, at 8:30 a.m. in Dept. 3. A Trial Confirmation Conference is scheduled for January 6, 2026, at 11:30 a.m. in Dept. 3. A Trial Readiness Conference is scheduled for December 16, 2025, at 11:30 a.m. in Dept. 3. Motions in Limine, trial briefs, lists of witnesses, and lists of exhibits must be filed and served by 3:00 p.m. on December 11, 2025.**

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

MARTIN v SANCHEZ, et al

24CV47669

DEFENDANT EA FAMILY SERVICES' DEMURRER TO FAC

Plaintiff Caleb Martin ("Plaintiff") filed his Complaint arising out of allegations of sexual child abuse against Janine Ann Sanchez ("Sanchez"), Environmental Alternatives[1], EA Family Services ("EA Services") and Does 1-50 (collectively, "Defendants"). After the Court sustained an earlier demurrer, Plaintiff filed a First Amended Complaint on July 17, 2024. Now before the Court is a renewed demurrer filed by EA Services to the first cause of action for sexual abuse.

I. Facts

Plaintiff, while a minor of approximately 14 years of age, was placed by EA Services as a foster child into the home of Sanchez. Subsequently, Plaintiff claims that he was subjected to sexual abuse by Sanchez. Plaintiff contends that Sanchez coerced him into participating in the sexual conduct. On July 19, 2016, Sanchez was arrested for various felonies related to allegations of sexual abuse against Plaintiff. Plaintiff asserts that the alleged abuse resulted in mental, physical, and emotional pain and suffering.

Plaintiff has brought the instant action against moving Defendant EA Services under the cause of action titled "child sexual abuse." Plaintiff alleges that EA Services is a business that serves foster children and provides "background checks, health screening, provide pre-approved training and education of safety issues, educational and special needs, child abuse identification and prevention, discipline, and how to work with birth parents and placement so the child will thrive in the foster care environment." (FAC ¶ 4.) Plaintiff further alleges that EA Services was responsible for placing the Plaintiff in Sanchez's home where he was abused. (*Id.* ¶ 5.) Plaintiff also alleges that EA Services had an ongoing duty to ensure the safety of the children which it placed into foster homes. (*Id.* ¶ 7.) Plaintiff finally alleges that a result of the placement and abuse, he was damaged.

---

r

II. Legal Standard

"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." (*Fremont Indemnity Co.,* 148 Cal. App. 4th 100, 111.) In considering the demurrer, the court must accept the allegations set forth in the complaint as true. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 591.)

III. Discussion

Civil causes of action for sexual abuse are allowable and have no statute of limitations as set forth in Code of Civil Procedure section 340.1. (*Angie M. v. Superior Court* (1995) 37 Cal.App.4th 1217, 1225.) Section 340.1 applies to conduct that would be criminally prosecutable under various sections of the Penal Code, including those alleged by Plaintiff. (Complaint ¶ 8.) A civil cause of action for damages arising out of child sexual abuse can be brought against the perpetrator, and/or – as the case here – "against any person or entity who owed a duty of care to the plaintiff, if a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff." (CCP Section 340.1(a)(2).)

Plaintiff is essentially bringing a cause of action for negligence against EA Services. To prevail in a negligence action, "a plaintiff must show the defendant owed a legal duty to her, the defendant breached that duty, and the breach proximately caused injury to the plaintiff." (*Doe v. L.A. County Dep't. of Children & Family Servs.* (2019) 37 Cal.App.5th 675, 682.) However, a "defendant does not owe a legal duty to protect against third party conduct, unless there exists a special relationship between the defendant and the plaintiff." (*Ibid*.) In addition, the third-party's conduct must have been – or should have been – known to the defendant. (*Ibid*.)

Here, reading the allegations in the FAC liberally, the Plaintiff alleges that EA Services was in the business of ensuring that foster children are placed in safe homes with families that have been background checked and trained/educated by EA Services. Plaintiff alleges that EA Services trained and then approved Sanchez as a foster parent.

Plaintiff alleges therefore that EA Services had a special relationship with Plaintiff of the sort that *could* give rise to a legal duty to protect against third-party conduct. Plaintiff further alleges that this obligation to protect extended throughout Plaintiff's placement.

The Court agrees that Plaintiff has clearly alleged some type of duty on the part of EA Services. However, the FAC does not contain any allegations of a breach of that duty. Plaintiff's own allegations are that EA Services conducted the requisite background check and training procedures. There are no allegations that EA Services knew or should have known that Sanchez intended to, or would, engage in illegal conduct. Nor are there are any allegations suggesting that EA Services knew that its background checks and training were insufficient to afford protection to foster children.

Because the FAC does not contain sufficient allegations of a breach of duty on the part of EA Services, the demurrer is **SUSTAINED**, with twenty (20) days leave to amend. (The Court notes that while this tentative ruling was being prepared, plaintiff dismissed Defendant EA Family Services, without prejudice. The Court is issuing this tentative ruling to provide direction in the event plaintiff seeks to reinstate EA Family Services as a defendant in this action.)

The clerk shall provide notice of this ruling to the parties forthwith. In light of the dismissal of EA Family Services, no further formal Order is required.

RINAURO v STATE OF CALIFORNIA – EMPLOYMENT DEVELOPMENT DEPARTMENT

24CV47789

DEFENDANT'S DEMURRER

This is dispute involving unpaid tax assessments and an alleged settlement agreement regarding those assessments. Now before the Court is a demurrer filed by State of California Employment Development Department ("Defendant") to the Complaint brought by Christopher Rinauro ("Plaintiff.")

I. Factual and Procedural Background

Plaintiff owns and operates a tree trimming business within Calaveras County. (Complaint ¶ 12.) During the relevant time period, Plaintiff employed approximately 10 individuals. (*Ibid*.) Between 2012 and 2016, due to a bark beetle epidemic, Plaintiff had to add roughly three to five additional personnel to assist with the added business. (*Ibid*.) Plaintiff alleges that these individuals were independent contractors, set their own hours and schedule, and represented that they would pay their own taxes. (*Ibid.*) Plaintiff alleges that during the relevant time period, he paid all his employment taxes and that no unemployment claims were made. (*Id.* ¶ 13.)

In or around 2018, after a complaint from a competitor, Defendant opened an investigation into Plaintiff's employment books. (Complaint ¶ 14.) During this investigation, Defendant allegedly found payments made to third parties which they interpreted to be for work performed and assessed Plaintiff excess income taxes, penalties and interest. (*Ibid.*) Plaintiff alleges most of these taxes were unjustified and that Defendant never interviewed the independent contractors. (*Ibid*.)

0n April 3, 2018, Defendant asked the Calaveras County District Attorney to file criminal charges against Plaintiff alleging several counts of failing to file reports and making false statements on his tax forms. (Complaint ¶ 15.) The criminal matter (Case No. 18F7290) case was resolved for two misdemeanor counts. Defendant also, however, sought restitution in excess $166,000. (*Ibid*.)

Prior to a hearing on the restitution issue, Defendant agreed to accept $27,028.65 as satisfaction of their assessed claims related to their allegations. (Complaint ¶ 16 citing December 10, 2020, Order ("Restitution Order.") Plaintiff made payment via check on or about April 21, 2021, with a memo line that stated "Final Restitution." (*Id.* ¶ 17.)

In May of 2023 Defendant sent a statement to Plaintiff alleging he still owed approximately $160,000 for the same assessments. (Complaint ¶ 18.) Plaintiff, via counsel, objected, expressing that the Restitution Order settled the matter for $27,028.85, and that the same had been sent, received, and deposited by Defendant. (*Ibid*.) Subsequently, on January 23, 2024, Defendant attached several of Plaintiff's bank accounts and accounts receivable for various long-term clients. (*Id.* ¶ ¶ 19-20.)

Plaintiff alleges that as a result of Defendant's actions, he is unable to pay his employees, make an income, or pay state and federal obligations. (Complaint ¶ 21.)

On December 18, 2024, Plaintiff filed the instant action seeking a preliminary injunction against Defendant that would restrain Defendant from levying any accounts or property and reimbursing Plaintiff for the monies that have already been taken.

II. Legal Standard

"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." (*Fremont Indemnity Co.,* 148 Cal. App. 4th 100, 111.) In considering the demurrer, the court must accept the allegations set forth in the complaint as true. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 591.)

III. Legal Discussion

A. Exhaustion of Administrative Remedies

Defendant first argues that the Complaint must be dismissed because Plaintiff failed to exhaust his administrative remedies. Defendant relies on California Unemployment Insurance Code § 1241(a) which states:

> No suit or proceeding shall be maintained in any court for the recovery of any amount of contributions, interest or penalties alleged to have been erroneously or illegally assessed or collected unless a claim for refund or credit has been filed pursuant to this chapter.

According to Defendant, because Plaintiff did not file a claim for refund of the monies assessed or collected, he has not exhausted his administrative remedies and the matter must be dismissed.

Generally, "where an administrative remedy is provided by statute, relief must be sought from the administrative body and this remedy exhausted before the courts will act." (*Abelleira v. District Court of Appeal* (1941) 17 Cal.2d 280, 292.) The exhaustion doctrine " 'operates as a defense to litigation commenced by persons who have been aggrieved by action taken in an administrative proceeding which has in fact occurred but who have failed to 'exhaust' the remedy available to them in the course of the proceeding itself.'" (*Tahoe Vista Concerned Citzens* (2000) 81 Cal.App.4th 577, 589. [citation omitted].) However, the "exhaustion of administrative remedies doctrine has never applied where there is no available administrative remedy." (*Id*. at 590.)

Here, Plaintiff was not required to exhaust his administrative remedies for two reasons. First, the Restitution Order which, for all intents and purposes, arguably served as a settlement agreement, was not an action taken in an administrative proceeding. Rather, the Restitution Order occurred in the Court as part of a criminal proceeding resolution. Second, Defendant has not cited to any administrative remedy that is available to provide the relief sought in Plaintiff's complaint. Specifically, Plaintiff is not only seeking to have the monies already taken reimbursed, but is also seeking a court order that would essentially: 1) determine that the Restitution Order constituted a valid settlement agreement between Defendant and Plaintiff, and 2) prohibiting the Defendant from attaching or levying any of his accounts or real property in violation of that agreement.

Accordingly, Plaintiff's Complaint is not barred for failing to exhaust administrative remedies.

B. Preliminary Injunction Analysis

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 preliminary injunction may be issued "when it appears by the complaint or affidavits that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury, to a party to the action." (Code Civ. Proc. § 526(a)(2).)

1. Likelihood of Success on the Merits

Although not labeled as such, a review of the Complaint shows that Plaintiff is basing his motion for an injunction on an alleged breach of a settlement agreement. (See, *Iverson, Yoakum, Papiano & Hatch v. Berwald* (1999) 76 Cal.App.4th 990,995 [the true nature of action is ascertained from the basic facts alleged].)[2] At the heart of Plaintiff's request for an injunction is his allegation that the Restitution Order agreed to by Defendant and Plaintiff in the criminal action constituted a full and complete settlement of any obligations owed by Plaintiff to Defendant.

"A party's obligation, whether under a guarantee or a settlement agreement, is contractual." (*Coles v. Glaser* (2016) 2 Cal.App.5th 384, 391.) To assert a claim for breach of contract, the Plaintiff must allege: 1) the existence of an agreement; 2)

---

[2] Plaintiff's failure to attach the alleged contract to the Complaint is not fatal to his cause of action. (*Miles v. Deutsche Bank National Trust Co.* (2015) 236 Cal.App.4th 394, 402.)

Plaintiff's performance or excuse for non-performance; 3) Defendant's breach; and 4) damages. (*Ibid*.)

Here, Plaintiff alleges that as part of the criminal proceeding the Court ordered restitution, agreed to by Defendant, pursuant to which Plaintiff would pay Defendant $27,028.85 in satisfaction of all outstanding monies owed. Plaintiff alleges that he performed the contract by paying. Plaintiff further alleges that Defendant breached the agreement by levying his accounts and property in an attempt to recoup more money than that agreed. Finally, Plaintiff alleges that he has been damaged because his business is suffering, he is losing income and potentially his home, and he is unable to pay his state and federal obligations.

Accordingly, Plaintiff has, at least at this stage of the proceeding, demonstrated a likelihood of success on his breach of contract claim.

B. Balance of Harm to the Parties

The Court must next look at 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.) The general purpose of a preliminary injunction is often to preserve the status quo. (*Harbor Chevrolet Corp. v. Machinists Local Union 1484* (1959) 173 Cal.App.2d 380, 384.)

Plaintiff's complaint adequately sets forth facts showing that the continuance of the attachments against him and his accounts will cause great or irreparable injury. The only harm Defendant cites to is a general and vague harm to the integrity of the administrative process. Thus, for purposes of this demurrer, Plaintiff has sufficiently pled and demonstrated a greater balance of harm if the injunction is not granted.

Accordingly, and for all the foregoing reasons, the demurrer to the Complaint is **OVERRULED**.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff to prepare a formal Order in compliance with Rule of Court 3.1312 in conformity with this Ruling.

CLEESE v CALAVERAS CONSOLIDATED FIRE PROTECTION DISTRICT

25CV47808

DEFENDANT CCFPD'S MOTIONS TO COMPEL AMENDED DISCOVERY RESPONSES

Jessica Cleese ("Plaintiff") brings this employment action against Calaveras County Consolidated Fire Protection ("CCFPD"), Aurelio Norte ("Norte"), and various John Does.

On August 11, 2025, CCFPD filed multiple motions to compel amended responses to various types of discovery. Subsequently, Plaintiff provided some amended responses leaving only two responses in dispute.

Given that many portions of the motions are now moot[3], now before the Court is CCFPD's motion to compel responses only to 1) Request for Production of Document ("RPD") No. 24 and 2) Special Interrogatory ("SROG") No. 39.

I. Facts and Procedural Background

Plaintiff is a woman employed by CCFPD as a Firefighter and Emergency Medical Technician ("EMT") from July 4, 2022, to March 27, 2024. Defendant Norte is also an employee of CCFPD. Plaintiff alleges that on numerous occasions, Norte sexually assaulted her or threatened to sexually assault her. Plaintiff brings claims for assault, harassment, retaliation, and discrimination.

On March 19, 2025, CCFPD served Plaintiff with discovery. After multiple extensions, Plaintiff provided her responses on June 17, 2025. Thereafter, the parties engaged in attempts to meet and confer to amicably resolve the issues. (*See e.g.* Declaration of Keren Carrillo ("Carrillo Decl.") to MTC RPDs ¶ ¶ 6-10.)

[3] In its Replies, CCFPD concedes the other requests are now moot.

II. Legal Standard

On receipt of a response to a Request for Production of Documents, the demanding party may move for an order compelling further responses to the demand if the demanding party deems that (1) a statement of compliance with the demand is incomplete, (2) a representation of inability to comply is inadequate, incomplete, or evasive, or (3) an objection in the response is without merit or too general. (CCP § 2031.310(a).)

Motions to compel further responses to RPDs must set forth specific facts showing good cause justifying the discovery sought by the request. (CCP § 2031.310(b).) To establish good cause, a discovery proponent must identify a disputed fact that is of consequence in the action and explain how the discovery sought will tend in reason to prove or disprove that fact or lead to other evidence that will tend to prove or disprove the fact. (*Digital Music News LLC v. Superior Court* (2014) 226 Cal.App.4th 216, 224, disapproved on other grounds by *Williams v. Superior Court* (2017) 3 Cal.5th 531; *see also Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98 [characterizing good cause as "a fact-specific showing of relevance"].) If good cause is shown by the moving party, the burden shifts to the responding party to justify any objections made to disclosure of the documents. (*Kirkland, supra*, 95 Cal.App.4th at 98.)

Where responses to interrogatories have been served but the requesting party believes that they are deficient because the answers are evasive or incomplete, or, because an objection is without merit, that party may move for an order compelling a further response. (Code Civ. Proc. § 2030.300(a).)

Both motions must be accompanied by a meet and confer declaration in compliance with Code Civil Procedure section 2016.040. (Code Civ. Proc. § 2030.300(b); 2031.310(b)(2).) The Court finds that the meet and confer efforts were sufficient and this requirement is satisfied.

III. Discussion

RPD No. 24 and SROG No. 39 both seek information related to the amount of attorney's fees Plaintiff claims to have incurred to date relating to this matter.

In response, Plaintiff provided predominately boilerplate objections, including that the request was overbroad and sought privileged material.

CCFPD argues that it is entitled to this information because she is demanding statutory attorney's fees as part of her claim for damages. CCFPD further argues that in general information related to billed attorney's fees are not categorically privileged and are routinely discoverable.

"When authorized by statute, awards of attorney's fees are expressly defined as costs, not damages." (*Elton v. Anheuser-Busch Beverage Group* (1996) 50 Cal.App.4th 1301, 1308 [citing Code Civ. Proc. § 1033.5 (a)(10)(B)].) In contrast, attorney's fees which are pled as part of a cause of action, such as for bad faith, may be considered damages. (*Byers v. Superior Court* (2024) 101 Cal.App.5th 1003, 1008.) This is because a claim for bad faith against an insurance company necessarily would require proof of damages which were proximately caused by the insurer's breach. (*Brandt v. Superior Court* (1985) 37 Cal.3d 813, 817.) In such a case, the attorney's fees are "an economic loss – damages – proximately caused by the tort." (*Byers,* supra at 1011.)

Here, Plaintiff asserts claims for statutory attorney fees pursuant to Gov. Code §12965(c)(6), and Lab. Code §1102.5(j). She is not seeking these fees as an element of any cause of action and they are considered costs. (Code Civ. Proc. § 1033.5 (a)(10)(B).) As such they are not discoverable because the case is not currently at the point where the Court is considering a motion for attorney's fees. (See e.g.,*Concepcion v. Amscan Holdings, Inc.* (2014) 223 Cal.App.4th 1309, 1325-1326 [opposing party is allowed to see and review attorney's fees that were billed and sought as part of a motion for fees after the case].)

Allowing opposing counsel to review attorney's fees which are statutorily designated as costs, also serves the additional concern about attorney-client privilege. Attorney billing invoices are not "categorically" considered privileged. (*Los Angeles County Bd. of Supervisors v. Superior Court* (2016) 2 Cal.5th 282, 288.) However, neither are attorney's fees always discoverable by the opposing party. (*Id.* at 297.) Indeed, "to the extent that billing information is conveyed 'for the purpose…of legal representation' – perhaps to inform the client of the nature of amount of work occurring in connection with a pending legal issue – such information lies in the heartland of the attorney-client privilege." (*Ibid.*) Even where the information is general, such as aggregate fees, "it may come close enough to this heartland to threaten the confidentiality of information directly relevant to the attorney's distinctive professional role. (*Ibid*.) For example, "swings in spending" could reflect an impending filing or change in strategy which could reveal professional intentions. (*Ibid* ["real-time disclosure of ongoing spending amounts can indirectly reveal clues about legal strategy, especially when multiple amounts over time are compared."].)

Thus, even if the fees sought by Plaintiff were discoverable as “damages,” Plaintiff still reasonably and appropriately raised the objection that they are privileged.

Accordingly, the motions to compel further responses to RPD No.24 and SROG No. 39 are **DENIED**.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff to prepare a formal Order in compliance with Rule of Court 3.1312 in conformity with this Ruling.

VANCLEF v SUBARU OF AMERICA, INC, et al

25CV47968

DEFENDANT SUBARU'S DEMURRER

This case involves a dispute over a vehicle warranty dispute between Jordan E. Vanclef ("Plaintiff") and Subaru of America, Inc., ("Subaru"), Subaru of Sonora ("Sonora") and various John Does. Now before the Court is Subaru's demurrer to the Plaintiff's sixth cause of action for fraud.

I. Facts

On or about March 8, 2024, Plaintiff entered into a warranty contract with Subaru regarding a 2023 Subaru WRX, vehicle identification number JF1VBAF64P9819073 (hereafter "Vehicle"), which was manufactured and/or distributed by Subaru. (Complaint ¶ 7.) The warranty was broad and covered "bumper to bumper." (*Id*. ¶ 8, Ex. A.) Plaintiff has primarily used Vehicle for personal use. (*Id*. ¶ 9.) Within the applicable express warranty period defects and nonconformities to warranty manifested, including but not limited to, engine defects, transmission defects, and electrical defects. (*Id.* ¶ 12.)

Plaintiff alleges that Subaru knew, since prior to Plaintiff purchasing Vehicle, that the that the 2.4L engine and/or its related components installed in Vehicle have one or more defects that can result in loss of power, stalling, engine running rough, engine misfires, failure or replacement of the engine (the "Engine Defect"). (Complaint ¶¶ 53, 59.) Plaintiff alleges that the Engine Defect is a safety concern and renders the vehicle undriveable (*Id.* ¶ 59.) and vehicle is now of *de minimus* value and seeks damages.

II. Legal Standard

"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." (*Fremont Indemnity Co.,* 148 Cal. App. 4th 100, 111.) In considering the demurrer, the court must accept the allegations set forth in the complaint as true. (*Serrano v. Priest* (1971) 5 Cal.3d 584, 591.)

III. Discussion

Subaru demurs to the Plaintiff's Sixth Cause of Action for Fraudulent Inducement-Concealment on the grounds that the cause of action does not meet the heightened pleading requirements for fraud.

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, Plaintiff alleges that Subaru concealed the known Engine Defect from Plaintiff and other consumers. (Complaint ¶ ¶ 52, 58-59.) Plaintiff alleges that Subaru had a duty to disclose this fact because it had superior knowledge of the fact due to "pre-release testing data; early consumer complaints… dealership repair orders; testing conducted in response to those complaints; and other internal sources of information possessed exclusively by…" Subaru. (*Id.* ¶ 57.) Plaintiff alleges that in failing to inform Plaintiff of

the Engine Defect, Subaru intended to mislead Plaintiff into believing that Vehicle was drivable and safe. Plaintiff alleges he lacked any knowledge of the Engine Defect and relied on the representations made in Defendant's materials (which did not disclose the Engine Defect) in purchasing Vehicle. (*Id*. ¶ ¶ 69, 71.) Finally, Plaintiff alleges that he suffered damages as a result of the concealment.

Subaru, however, argues that the 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 the Plaintiff has adequately pled the elements of fraudulent concealment with enough particularity at this stage.

Accordingly, and for all the foregoing reasons, the Subaru's demurrer is **OVERRULED**.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff to prepare a formal Order in compliance with Rule of Court 3.1312 in conformity with this Ruling.

GREENROOT v WEBSTER

25CV48032

DEFENDANTS WEBSTER'S MOTION TO COMPEL RESPONSE TO RFPD SET TWO

This case involves a contract dispute concerning real property brought by Lorna Greenroot ("Plaintiff") against Pennelope Webster ("Pennelope")[4], Randy Webster ("Randy") (collectively "Websters") and Gregory Stanley ("Stanley.") Now before the Court is a motion to compel further responses to Request for Production of Documents, Set Two (RPD Set Two) brought by Pennelope against Plaintiff.

I. Relevant Procedural Background

On May 20, 2025, Pennelope served an initial set of discovery on Plaintiff which became the subject of a previous set of motions to compel. (*See* Aug 29, 2025, Ruling.) As part of the Court's Ruling, Plaintiff was ordered to provide initial responses to Special Interrogatories, Set One ("SROG Set One") and Requests for Production of Documents, Set one ("RPD Set One.") At issue in that matter were sixty-two (62) RPDs to which Plaintiff had not responded. Plaintiff was ordered to provide the discovery responses on or before September 19, 2025.

Two days after the first sets of discovery were sent to Plaintiff, Pennelope served RPD, Set Two on Plaintiff. (Declaration of Michael Fluetsch ("Fluetsch Decl.") ¶ 3, Ex. A.) Plaintiff responded on June 23, 2025. Plaintiff's responses to RPD, Set Two, were comprised primarily of boiler plate objections, were not verified, and did not result in the production of any documents. On June 27, 2025, Pennelope's counsel attempted to call Plaintiff but was unable to reach her. Thereafter, counsel sent Plaintiff a "meet and confer" letter. (Fluetsch Decl. ¶ 7, Ex. C.)

[4] Given the common surnames, the Court may refer to some parties by their first names. No disrespect is intended.

II. Legal Standard

On receipt of a response to a Request for Production of Documents, the demanding party may move for an order compelling further responses to the demand if the demanding party deems that (1) a statement of compliance with the demand is incomplete, (2) a representation of inability to comply is inadequate, incomplete, or evasive, or (3) an objection in the response is without merit or too general. (CCP § 2031.310(a).)

Motions to compel further responses to RPDs must set forth specific facts showing good cause justifying the discovery sought by the request. (CCP § 2031.310(b).) To establish good cause, a discovery proponent must identify a disputed fact that is of consequence in the action and explain how the discovery sought will tend in reason to prove or disprove that fact or lead to other evidence that will tend to prove or disprove the fact. (*Digital Music News LLC v. Superior Court* (2014) 226 Cal.App.4th 216, 224, disapproved on other grounds by *Williams v. Superior Court* (2017) 3 Cal.5th 531; *see also Kirkland v. Superior Court* (2002) 95 Cal.App.4th 92, 98 [characterizing good cause as "a fact-specific showing of relevance"].) If good cause is shown by the moving party, the burden shifts to the responding party to justify any objections made to disclosure of the documents. (*Kirkland, supra*, 95 Cal.App.4th at 98.)

III. Discussion

To each RPD, Plaintiff replied in a substantially similar manner, stating:

> Responding party objects to this request on the grounds that it is vague, ambiguous, overbroad, unduly burdensome, duplicative, and not reasonably calculated to lead to the discovery of admissible evidence. This request seeks testimony that is equally available to the propounding party through court records. Responding party also objects on the basis of privacy and undue harassment.
>
> Responding party is not in possession of the requested documents. Any records that exist are believed to be a matter of public record and may be obtained directly from the court. Responding party reserves the right to supplement this response should responsive documents come into her possession.

Boilerplate objections, such as those made by Plaintiff, fail to satisfy the level of specificity required by the discovery statutes. (*Korea Data Systems Co. v. Super. Court* (1997) 51 Cal.App.4th 1513, 1516.) Indeed, it can be a misuse of the discovery process to provide, without substantial justification, an unmeritorious objection to discovery or to make an evasive response to discovery. (Code Civ. Proc. § 2023.010(e), (f).) Here, Plaintiff's responses were not code-compliant because they did not state with "particularity any document, tangible thing, land or electronically stored information falling within the category of item in the demand to which objection is being made." (Code Civ. Proc. § 2031.240(b)(1.) Nor does Plaintiff state the particular privilege she intends to invoke nor does she provide "sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log." (*Id.* § subd. (c)(1).)

Based on the foregoing, the Motion to Compel Further Responses to RFPD Set Two is **GRANTED**. Plaintiff is ordered to provide code-compliant responses to RPD, Set Two, on or before October 3, 2025. Although the responses were not verified, Plaintiff is not required to provide objection-free responses pursuant to Code Civ. Proc. §2031.250 [verification is not required where the responses only contain objections].)

The Court has discretion to impose sanctions. (Code Civ. Proc. § 2023.030(a).) The Court has previously been reluctant to award mandatory sanctions pursuant to Code Civ. Proc. section 2023.050(e) given Plaintiff's pro se status. However, this is now the second motion to compel discovery that Pennelope has had to bring due to Plaintiff's misuse of the discovery process. The Court has also previously warned Plaintiff to comply with all meet and confer requirements and to avoid involving the Court in unnecessary motion practice. (July 11, 2025 Ruling; Aug. 29, 2025 Ruling.) Accordingly the Court believes sanctions are appropriate in this case.

Counsel for Pennelope seeks sanctions in the amount of $2,535.00. (Fluetsch Decl. ¶ 9.) Mr. Fleutsch avers that he has a billing rate of $550 and incurred four hours drafting the motions. As no opposition was filed, he did not incur his anticipated further charges. The Court finds that $550 is outside the reasonable rate charged in this jurisdiction and lowers the rate to $300.00. The Court also finds that the instant motion was substantially similar to the previous motion and therefore reduces time spent to two (2) hours.

Accordingly, the Court **AWARDS SANCTIONS** in the amount of $600 and court filing fees in the amount of $60.00, resulting in total sanctions of **$660, to be paid by October 3, 2025.**

The clerk shall provide notice of this ruling to the parties forthwith. Pennelope to prepare a formal Order in compliance with Rule of Court 3.1312 in conformity with this Ruling.

HIX, et al v FCA US LLC, et al

25CV48078

DEFENDANT'S DEMURRER AND MOTION TO STRIKE PUNITIVE DAMAGES CLAIM

This case involves a breach of warranty/lemon law dispute. Now before the Court are a demurrer and a motion to strike FCA US, LLC.

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.

Additionally, after the motion was filed, Plaintiff filed a First Amended Complaint on September 9, 20245. Thus, the current demurrer and motion to strike and are also moot.

Accordingly, the demurrer is **OVERRULED** and the motion to strike is **DENIED**, without prejudice to refile.

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

POOLE v JAGUAR LAND ROVER NORTH AMERICA, LLC

25CV48080

DEFENDANTS' MOTIONS TO COMPEL ARBITRATION

This case involves a breach of warranty dispute brought by Christopher Poole ("Plaintiff") against Jaguar Land Rover North America, LLC ("Jaguar") and U LVL, LLC dba Jaguar Livermore ("ULVL") (collectively "Defendants.") Now before the Court are two motions to compel arbitration filed by each Defendant.

The Motions do 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 motions are **DENIED**, without prejudice to refile.

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