

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 02/18/26      TIME: 1:30 P.M.      DEPT: H      CASE NO: CV2203062

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

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PLAINTIFF:      JANE DOE (F.T.)

vs.

DEFENDANT:    DOE #1, ET AL

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NATURE OF PROCEEDINGS: MOTION – COMPEL - DISCOVERY FACILITATOR PROGRAM

**RULING**

The court has received a notice of settlement of the entire case. Appearances are required to address status of Defendant's motion for discovery at defense medical examination.

***All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.***

***The Zoom appearance information for February, 2026 is as follows:***

***<https://marin-courts-ca-gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjjEOSHnzEGafG.1>***

***Meeting ID: 161 548 7764***

***Passcode: 502070***

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 02/18/26      TIME: 1:30 P.M.      DEPT: H      CASE NO: CV2300973

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

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PLAINTIFF:      MYRON WICK

vs.

DEFENDANT: KIMBERLY CALL

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NATURE OF PROCEEDINGS: MOTION - SET ASIDE/VACATE

**RULING**

Defendant Kimberly Call's ("Defendant") motion to set aside and vacate the August 7, 2025 voluntary dismissal is DENIED.

On February 11, 2026, the court granted Defendant's motion for reconsideration and granted attorney's fees pursuant to *CDF Firefighters v. Maldonado* (2011) 200 Cal.App.4<sup>th</sup> 158. At that time, the court also considered and rejected Defendant's request for reconsideration on its ruling that Defendant was not entitled to have Plaintiff's dismissal converted to a dismissal with prejudice. This request to now have the court set aside the voluntary dismissal appears to be another way of requesting reconsideration, which the court previously denied. Additionally, Defendant has brought this motion under section 473(b) of the Code of Civil Procedure but has failed to make a showing of his "mistake, inadvertence, surprise, or excusable neglect."

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 02/18/26      TIME: 1:30 P.M.      DEPT: H      CASE NO: CV0003631

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

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PLAINTIFF:      CHRISTOPER J. EMGE, ET  
AL

vs.

DEFENDANT:    PHILIP BUNDSCHU, ET  
AL

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NATURE OF PROCEEDINGS: MOTION – ATTORNEY’S FEES

**RULING**

Guardian ad Litem Rebecca Guyette’s (the “GAL”) motion for an order awarding her fees (including attorney’s fees) is DENIED.

**BACKGROUND**

This is a nuisance action. Plaintiffs Christopher and Kimberly Emge (“Plaintiffs”), a married couple, allege that their property adjoins the residence of Defendant Philip Bundschu II (“Defendant”). (Complaint, ¶¶ 3, 12.) The owner of Defendant’s residence is Ellen B. McKnight (“Trustee”) as trustee of the PSB and MFB Residual Trust (the “Trust”).<sup>1</sup> (*Id.* at ¶¶ 6, 8.) Plaintiffs allege that Defendant makes loud, violent, and profane outbursts, overtly threatens them with violence or death, and harasses passersby at all hours of the day and night. (Complaint, ¶¶ 15, 17, 19, 23.) Plaintiffs have allegedly attempted to sell their house due in part to Defendant’s conduct, and even went under contract to sell it, but the buyer witnessed Defendant’s behavior and cancelled the contract. (*Id.* at ¶ 33.) Plaintiffs assert causes of action for private and public nuisance and nuisance per se against Defendant and Trustee. Plaintiffs filed their complaint in August 2024. (Brekhus Dec., ¶ 3.) The next month, Plaintiffs’ counsel received a message from Lindsay Goulding, an attorney appointed by Nationwide Insurance to represent Defendant. (*Id.* at ¶ 4.) After requesting and receiving numerous extensions of time to answer the complaint, Ms. Goulding ultimately stated that she believed Defendant lacked legal capacity and needed a guardian or conservator in order for any legal relief to be sought against him. (*Id.* at Ex. C.) She further stated that she and her colleagues were attempting to secure a guardian or conservator for him. (*Ibid.*) By March 2025, defense counsel

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<sup>1</sup> As originally filed, the complaint sued the Trustee as “trustee of the Mary F. Bundschu Revocable Trust[.]” (Complaint, ¶ 7.) By way of a June 26, 2025 amendment and associated court order, Plaintiffs amended the complaint to sue “Ellen B. McKnight, in her capacity as successor trustee of the PSB and MFB Residual Trust[.]”

still had not located a representative for Defendant and had not answered the complaint. (*Id.* at ¶ 12.) In an effort to move their lawsuit forward, Plaintiffs filed an ex parte application for appointment of guardian ad litem for Defendant. (Pltf. RJN,<sup>2</sup> Ex. 7.) On April 8, 2025, the Court granted that application and appointed the GAL, having “conclud[ed] that [Defendant] lacks legal capacity to make decisions.” (Pltf. RJN, Ex. 10.)

The GAL now moves for an order requiring Plaintiffs and the Trustee<sup>3</sup> to split both the cost of her services as guardian ad litem and her legal costs. Alternatively, she asks the Court to order either Plaintiffs or the Trustee to cover those expenses in full. She further requests an order directing that “all reasonable future fees” be borne by Plaintiffs and/or the Trustee.

### DISCUSSION

The GAL asks the Court to order Plaintiffs and/or the Trustee to pay under Probate Code, section 1003, subdivision (c). Probate Code, section 1003 permits a court to “appoint a guardian ad litem at any stage of a proceeding under this code” under certain circumstances. (Prob. Code, § 1003, subd. (a).) It further provides that “[t]he reasonable expenses of the guardian ad litem, including compensation and attorney’s fees, shall be determined by the court and paid as the court orders, either out of the property of the estate involved or by the petitioner or from any other source as the court orders.” (Prob. Code, § 1003, subd. (c).)

“[A] proceeding under this code” as used in Section 1003(a) is a proceeding under the Probate Code. This is not a proceeding under the Probate Code. This is a civil lawsuit. Probate Code, section 1003, subdivision (c) does not apply here.

The sole other legal basis for the GAL’s demand is a bare appeal to “equity” without any further citation to authority. A party cannot invoke vague considerations of equity or fairness and thereby imbue a court with the power to freestyle with people’s legal rights and obligations. “A decision based on bare ‘equity’ unsupported by established precedent and lacking evidentiary support does not disclose the proper exercise of discretion.” (*Dickson, Carlson & Compillo v. Pole* (2000) 83 Cal.App.4th 436, 447.) The Court is not inclined to order anyone to pay what will amount to many thousands of dollars based on a naked appeal to “equity” without any further citation to legal precedent.

The GAL argues that an arrangement in which she is expected to work for free and bear all of her own attorney’s fees while doing so is not tenable. The Court agrees. However, the court cannot award attorney’s fees where no relevant legal authority has been presented to justify the orders sought.

Accordingly, the GAL’s request is DENIED.

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<sup>2</sup> All of Plaintiffs’ and the Trustee’s requests for judicial notice are granted. (Evid. Code, § 452, subd. (d).)

<sup>3</sup> The GAL’s Notice of Motion and Memorandum describe the trust she wants to invade as the “Mary F. Bundschu Revocable Trust.” Her supporting papers make clear that she understands the proper trust at issue to be the “Philip S. Bundschu and Mary F. Bundschu 1980 Trust.” (Perrault Dec. #1 [filed Nov. 19, 2025], ¶¶ 3-4.)

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 02/18/26      TIME: 1:30 P.M.      DEPT: H      CASE NO: CV0003769

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

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PLAINTIFF:      CREDITORS  
ADJUSTMENT BUREAU, INC.

vs.

DEFENDANT:      SALT RIVER  
CONSTRUCTION CORPORATION

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NATURE OF PROCEEDINGS: 1) MOTION - STRIKE  
2) MOTION – COMPEL – DISCOVERY FACILITATOR PROGRAM  
3) MOTION – COMPEL ANSWERS TO INTERROGATORIES – DISCOVERY  
FACILITATOR PROGRAM  
4) CASE MANAGEMENT CONFERENCE

**RULING**

Before this court are three motions. The first is Plaintiff Creditors Adjustment Bureau Inc.’s (“Plaintiff”) motion to strike the answer of Defendant Salt River Construction Corporation (“Salt River”). Plaintiff’s remaining motions are to compel discovery responses to interrogatories.

***Motion to Strike Answer***

The motion to strike Salt River’s answer is based on Salt River’s failure to procure counsel following this court’s October 29, 2025 order granting Salt River’s counsel, Mark de Langis to be relieved as counsel. On October 30, 2025, Plaintiff’s counsel sent correspondence directly to “Mr. Mosely” who is purportedly president of Salt River, advising him that California requires that corporations be represented, and if there was no substitution in place by November 7, they would move to strike the answer and enter default. Since then, no counsel has appeared for Salt River and there is no indication that Salt River has obtained counsel.

Plaintiff’s motion to strike was served on Rick Mosely and no attorney has appeared. Nor has there been an opposition filed by anyone.

A corporation may not appear in propria persona in state court, except in small claims court. (*Thomas Ferruzzo Inc. v. Superior Court* (1980) 104 Cal.App.3d 501, 503.) Failure to obtain new counsel of record shall result in a forfeiture of the corporation’s rights. (*Id.*)

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In light of the above, this court shall grant Plaintiff's motion to strike the answer of Salt River. However, this order shall be stayed for a period of thirty days. Salt River is directed to obtain counsel to represent it in this litigation. If Salt River fails to do so, the order will go into effect and Salt River's rights shall be forfeited.

The parties are directed to return on April 1, 2026 at 1:30 pm. If no substitution of attorney is filed on behalf of Salt River by then, the stay will be lifted and Salt River's answer shall be stricken.

***Motions to Compel Discovery***

In light of this court's ruling on Plaintiff's motion to strike, the motions to compel are continued to April 1, 2026 at 1:30 pm.

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 02/18/26      TIME: 1:30 P.M.      DEPT: H      CASE NO: CV0005529

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

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PLAINTIFF:    MATILDE SILVA, AN  
INDIVIDUAL

vs.

DEFENDANT:   LIFEHOUSE, INC., A  
CALIFORNIA NON-PROFIT CORPORTION,  
ET AL

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NATURE OF PROCEEDINGS: 1) DEMURRER  
2) MOTION - STRIKE

**RULING**

Defendants Malcolm Daniels and Mario Newton’s (“Individual Defendants”) Demurrer to the Fifth Cause of Action in the Second Amended Complaint (“SAC”) is SUSTAINED with leave to amend in part and OVERRULED in part.

Defendants Lifehouse, Inc., Malcolm Daniels, and Mario Newton’s (collectively “Defendants”) Motion to Strike is GRANTED with leave to amend.

**LEGAL STANDARD – DEMURRER**

The function of a demurrer is to test the legal sufficiency of the challenged pleading. (*Hernandez v. City of Pomona* (1996) 49 Cal.App.4th 1492, 1497.) As a general rule, in testing a pleading against a demurrer, the facts alleged in the pleading are deemed to be true, however improbable they may be. (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) The court gives the pleading a reasonable interpretation by reading it as a whole and all of its parts in their context. (*Moore v. Regents of Univ. of Calif.* (1990) 51 Cal.3d 120, 125.)

In a demurrer proceeding, the defects must be apparent on the face of the pleading or via proper judicial notice. (*Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, 994.) The face of the complaint includes matters shown in exhibits attached to the complaint and incorporated by reference. (*Frantz v. Blackwell* (1987) 189 Cal.App.3d 91, 94.) “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 v. Mirda* (2007) 147 Cal.App.4th 740, 747.)

If the complaint fails to state a cause of action, the court must grant the plaintiff leave to amend if there is a reasonable possibility that the defect can be cured by amendment. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 317.)

#### DISCUSSION – DEMURRER

The Individual Defendants demur to the Fifth Cause of Action for harassment in violation of the Fair Employment and Housing Act (“FEHA”) on the grounds that it fails to state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10, subd. (e).)

To establish this claim, Plaintiff must plead the following:

1. That Plaintiff was an employee of Lifehouse;
2. That Individual Defendants were also employees of Lifehouse;
3. That Plaintiff was subjected to harassing conduct based on her protected status;
4. That the harassing conduct was severe or pervasive;
5. That a reasonable disabled person in Plaintiff’s circumstances would have considered the work environment to be hostile, intimidating, offensive, oppressive, or abusive;
6. That Plaintiff considered the work environment to be hostile, intimidating, offensive, oppressive, or abusive;
7. That Individual Defendants participated in/assisted/or encouraged the harassing conduct;
8. That Plaintiff was harmed; and
9. That the conduct was a substantial factor in causing Plaintiff’s harm.  
(CACI 2522A.)

The Individual Defendants argue that Plaintiff fails to plead sufficient specific facts showing that their alleged conduct was outside the scope of their necessary job performance or sufficiently severe or pervasive enough to qualify as disability harassment.

The SAC alleges as follows:

Plaintiff was an employee of Lifehouse, a non-profit that operates group homes for disabled people, beginning on or about March 29, 2017 and through January 17, 2025. (SAC, ¶ 12.) Plaintiff was a caregiver, and took care of patients, shaved, bathed and fed them. (*Ibid.*) She worked between 16 to 24 hours per day and earned \$25.00 per hour. (*Id.*, ¶¶ 4, 12.) Defendant Daniels is an employee of Lifehouse, working in the Human Resources (“HR”) department. (*Id.*, ¶ 5.) Defendant Newton is Plaintiff’s former manager. (*Id.*, ¶ 6.) On or about January 7, 2024, Plaintiff suffered a heart attack while at work. (*Id.*, ¶ 14.)

On or about October 22, 2024, Plaintiff received a note from her physician which allowed her to return to work in January 2025 with restrictions, namely, no lifting or pushing more than 20 pounds. Plaintiff’s restrictions were applicable for the rest of her life due to her condition. Further, Plaintiff was supposed to be on light duty through April 2025. (*Id.*, ¶ 16.) Plaintiff immediately provided her physician’s note to her supervisors, including Daniels, who told her that she should rest and that they would wait for her to return in January 2025. (*Id.*, ¶ 17.) From January 8, 2024 until January 19, 2025, Plaintiff was off from work. (*Id.*, ¶ 18.) During that

entire time, Plaintiff kept in contact with her physician and Lifehouse's management. Plaintiff regularly provided documentation to Lifehouse, showing that she was recovering. (*Id.*, ¶ 19.)

On or about January 24, 2025, Plaintiff's supervisor Diane called Plaintiff and told her that they had a patient for her. Diane asked Plaintiff what days she was able to work, and Plaintiff relayed that information to Diane. Diane asked Plaintiff to come in on January 28, 2025, to discuss the schedule. (*Id.*, ¶ 20.)

During the time that Plaintiff was off from work Newton "frequently harassed her regarding her work restrictions and disability." (*Id.*, ¶ 21.) He questioned Plaintiff regarding her ability to perform her job since she was no longer able to lift over 20 pounds. (*Ibid.*) Newton told Plaintiff: "I don't know you are going to be able to do here anymore if you no longer can lift heavy." (*Id.*, ¶ 21.)

On or about January 27, 2025, Plaintiff received a call from Daniels and Newton. They told Plaintiff that she was terminated because Lifehouse could not accommodate her restrictions. Plaintiff was told that she could re-apply once her restrictions were lifted. (*Id.*, ¶ 22.) Despite those statements, numerous patients do not require lifting and moving and Plaintiff could have been assigned to those patients. (*Id.*, ¶ 23.) Thus, the actions against Plaintiff were wrongfully motivated by discrimination due to her disability. (*Id.*, ¶ 25.)

With respect to Defendant Daniels, the SAC alleges only that he told Plaintiff to rest and they would wait for her return, and that he participated in the phone call where she was terminated. This is insufficient to state a cause of action for harassment. Participation in the termination phone call is activity within the scope of job duties under *Reno v. Baird* (1998) 18 Cal.4th 640, 646–47 ["...[T]he Legislature intended that commonly necessary personnel management actions such as ... firing...do not come within the meaning of harassment. These are actions of a type necessary to carry out the duties of business and personnel management. These actions may retrospectively be found discriminatory if based on improper motives, but in that event the remedies provided by the FEHA are those for discrimination, not harassment. Harassment, by contrast, consists of actions outside the scope of job duties which are not of a type necessary to business and personnel management.].)

With respect to Defendant Newton although Plaintiff generally alleges he "frequently harassed her" she only gives one example where he questioned her regarding her ability to perform her job since she was no longer able to lift over 20 pounds. (SAC, ¶ 21.) Because this cause of action is based exclusively on the FEHA statutory scheme, the general rule that facts in support of each of the requirements of a statute upon which a cause of action is based must be specifically pled applies. (*Fisher v. San Pedro Peninsula Hosp.* (1989) 214 Cal.App.3d 590, 604.) Therefore, the question before this Court is whether this one example is sufficient to meet the pleading standard for pervasive conduct which creates a hostile work environment. Under Government Code section 12923, it is.

The Demurrer to the Fifth Cause of Action is therefore SUSTAINED with leave to amend as to Defendant Daniels and OVERRULED as to Defendant Newton.

LEGAL STANDARD – MOTION TO STRIKE

The court may, upon a motion, or at any time in its discretion, and upon terms it deems proper, strike (1) strike out any irrelevant, false, or improper matter inserted in any pleading; or (2) strike out all or any part of any pleading not drawn or filed in conformity with the laws of California, a court rule, or an order of the court. (Code Civ. Proc., § 436, subs. (a)-(b).) The grounds for a motion to strike are that the pleading has irrelevant, false or improper matter, or has not been drawn or filed in conformity with laws. (Code Civ. Proc., § 436.) The grounds for moving to strike must appear on the face of the pleading or by way of judicial notice. (Code Civ. Proc., § 437.) “When the defect which justifies striking a complaint is capable of cure, the court should allow leave to amend.” (*Vaccaro v. Kaiman* (1998) 63 Cal.App.4th 761, 768.)

#### DISCUSSION – MOTION TO STRIKE

Defendants move to strike Plaintiff’s allegations for punitive damages. Punitive damages may be imposed where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice. (Civ. Code, § 3294, subd. (a).) “Malice” is conduct intended by the defendant to cause injury to the plaintiff or despicable conduct which is carried on with a willful and conscious disregard of the rights or safety of others. (Civ. Code, § 3294, subd. (c)(1).) An award of punitive damages requires “despicable conduct,” meaning behavior that is “vile,” “base,” or contemptible” and that would be “looked down upon and despised by ordinary decent people,” in addition to willful and conscious disregard for the rights and safety of others. (*College Hospital, Inc. v. Superior Court* (1994) 8 Cal.4th 704, 725.) “Punitive damages are proper only when the tortious conduct rises to levels of extreme indifference to the plaintiff’s rights, a level which decent citizens should not have to tolerate.” [Citation.]” (*Lackner v. North* (2006) 135 Cal.App.4th 1188, 1210.)

A motion to strike punitive damages is properly granted where a plaintiff does not state a prima facie claim for punitive damages, including facts showing that defendant is guilty of oppression, fraud or malice. (*Turman v. Turning Point of Cent. California, Inc.* (2010) 191 Cal.App.4th 53, 63.) The allegations supporting a request for punitive damages must be alleged with specificity; conclusory allegations without sufficient facts are not enough. (*Smith v. Superior Court* (1992) 10 Cal.App.4th 1033, 1041-42.)

Civil Code section 3294(b) sets forth the circumstances under which an employer may be held liable for punitive damages based upon acts of an employee. They include the employer's (1) advance knowledge of the employees unfitness; (2) authorization or ratification of the wrongful conduct; and (3) personal culpability. (See *Grieves v. Superior Court* (1984) 157 Cal.App.3d 159, 167.) Moreover, a corporate employer may be liable only if the knowledge, authorization, ratification or act itself was on the part of an officer, director or managing agent of the corporation. (Civ. Code, § 3294(b); *Grieves, supra*, 157 Cal.App.3d at 167-68.)

The law does not simply impute every employee's malice to a corporation; rather, the punitive damages statute requires proof of malice among corporate leaders: that the corporation's officers, directors or managing agents had knowledge of the employee's unfitness, authorized or ratified the wrongful conduct, or had personal culpability. (Civ. Code, § 3294(b); *Cruz v. HomeBase* (2000) 83 Cal.App.4th 160, 167.)

Here, Plaintiff has not adequately pled facts sufficient to state a claim for punitive damages against Defendants. Plaintiff alleges that Defendant Newton was Plaintiff's "former manager" and that Defendant Daniels was "an employee of Lifehouse who works in the Human Resources Department. . . ." (SAC, ¶¶ 5, 6). Plaintiff fails to allege that either individual was an officer or director at Lifehouse. She also fails to allege that either of the Individual Defendants were managing agents of Lifehouse.

For these reasons, the Motion to Strike is GRANTED, with leave to amend.

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 02/18/26      TIME: 1:30 P.M.      DEPT: H      CASE NO: CV0005629

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

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PLAINTIFF:      SOFI BANK, N.A.

vs.

DEFENDANT: JOHN ZOECKLER

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NATURE OF PROCEEDINGS: MOTION – SUMMARY JUDGMENT

RULING

Appearances required.

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 02/18/26      TIME: 1:30 P.M.      DEPT: H      CASE NO: CV0006310

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

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PLAINTIFF:      PLAYA DE PERROS LLC,  
ET AL

vs.

DEFENDANT: RICHARD WODEHOUSE,  
ET AL

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NATURE OF PROCEEDINGS: MOTION – OTHER: DEPOSIT AND EXONERATE BOND

**RULING**

Defendant The North River Insurance Company’s (“North River”) motion to deposit bond funds in the amount of \$7,500 is granted. North River’s motion to exonerate the bond and to dismiss North River as a defendant is also granted.

***Request for Judicial Notice***

Plaintiffs’ request for judicial notice of the Complaint (Exhibit 1), North River’s Answer (Exhibit 2), and North River’s First Amended Answer (Exhibit 3), is granted. (Evid. Code §§ 452, 453.)

***Evidentiary Objections***

Plaintiffs’ objection to Paragraph No. 6 (“Plaintiffs . . . having the information readily available to them”) is sustained on the grounds of lack of foundation and speculation. The objections to Paragraphs 7 and 8 are overruled. The objection to Paragraph 11 is sustained to the extent it misstates any denial in West Coast’s Answer. The objection to Paragraph 12 is sustained on the ground that it asserts an improper legal conclusion.

***Discussion***

In May 2025, Plaintiffs Playa de Perros LLC (“Playa”), Todd Curtiss and Nancy Curtiss filed this action against multiple defendants involved in the renovation of residential property at 396 Greenwood Beach Drive in Tiburon (the “Property”). Plaintiffs allege causes of action for breach of contract, negligence, strict liability, unlawful home improvement contract under Business & Professions Code Sections 7159 and 7160 against the general contractor West Coast

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Project Management, Inc. (“West Coast”), and recovery on a contractor’s licensing bond against North River.

North River, which issued a bond (the “Bond”) to West Coast Project Management, Inc. (“West Coast”) in connection with the renovation, has filed a motion to deposit bond funds in the amount of \$7,500 with the Court, or alternatively \$25,000 if Plaintiffs are found to be beneficiaries under Business & Professions Code Section 7071.5. North River further asks that the Bond be exonerated, and North Coast be discharged from any liability arising from the Bond, and that it be dismissed from this case.

Section 7071.5/Amount of Bond Funds to be Deposited

The penal sum of a bond is \$25,000 for claimants who are beneficiaries under Business & Professions Code Section 7071.5(a) and is \$7,500 for claimants who fall under subsections (b) or (c). Section 7071.5 provides in part:

The contractor’s bond required by this article shall be executed by an admitted surety in favor of the State of California, in a form acceptable to the registrar and filed with the registrar by the licensee or applicant. The contractor’s bond shall be for the benefit of the following:

- (a) A homeowner contracting for home improvement upon the homeowner’s personal family residence damaged as a result of a violation of this chapter by the licensee.
- (b) A property owner contracting for the construction of a single-family dwelling who is damaged as a result of a violation of this chapter by the licensee. That property owner shall only recover under this subdivision if the single-family dwelling is not intended for sale or offered for sale at the time the damages were incurred.
- (c) A person damaged as a result of a willful and deliberate violation of this chapter by the licensee, or by the fraud of the licensee in the execution or performance of a construction contract.

Section 7071.6 provides in part: “(a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file a contractor’s bond in the sum of twenty-five thousand dollars (\$25,000). (b) Excluding the claims brought by the beneficiaries specified in subdivision (a) of Section 7071.5, the aggregate liability of a surety on claims brought against a bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in subdivision (a) of Section 7071.5. However, nothing in this section shall be construed so as to prevent any beneficiary specified in subdivision (a) of Section 7071.5 from claiming or recovering the full measure of the bond required by this section.”

The parties dispute whether Plaintiffs are beneficiaries under Section 7071.5(a). Plaintiffs argue that they are and that the amount of the bond funds to be deposited is \$25,000, while North River argues that they are not and that the amount of the bond funds to be deposited is \$7,500.

North River argues that Plaintiffs do not meet the statutory criteria for claims under Section 7071.5(a) because Playa (the LLC) owned the Property, not any individual, and the statute was enacted to provide consumer protections for natural persons who own property. The language of the statute requires the property at issue to be the “homeowner’s personal family residence”, and LLCs cannot have a “personal family residence”. Plaintiffs, on the other hand, argue that Todd and Nancy Curtiss purchased the Property for themselves through Playa to live there once renovated and that they signed the contract with West Coast in their individual capacities. They state that Playa is a property-specific LLC created for the purpose of purchasing and holding the Property. Todd and Nancy further state that the funds to purchase the Property came from their trust and that they rented a place while work was ongoing at the Property and they did not own another home. Thus, Plaintiffs argue, they are “homeowners” as that term is used under subsection (a). They also argue that Todd and Nancy are identified as “owners” on other documents, such as the improvement contract, construction documents, and project invoices.

The Court finds North River’s interpretation to be more reasonable. The statute specifically references the “personal family residence” of the homeowner, which contemplates that a homeowner in this context is a natural person, not a corporate entity. An LLC is a “separate and distinct legal entity from its owners or members.” (See *In re Schaefers*, 623 B.R. 777, 783 (9<sup>th</sup> Cir. BAP 2020) [discussing member’s inability to claim homestead exemption where property was owned by LLC, despite member and his wife living at the property].) Further, even if an LLC could be a homeowner under subsection (a), in this instance no “homeowner . . . contract[ed] for home improvement upon the homeowner’s personal family residence.” North River did not contract with West Coast, Todd Curtiss did, in his individual capacity. (See Declaration of Mark R. Kirkland, Exh. 4.)

The Court rejects Plaintiff’s additional argument that even if subsection (c) applies, the amount to be deposited should be \$22,500, which represents \$7,500 for each of the three plaintiffs. Section 7071.6 provides that “the **aggregate** liability of a surety on claims brought against a bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500).” (Bus. & Prof. Code § 7071.6(b) [emphasis added].)

The amount of bond funds to be deposited is therefore \$7,500.

#### Section 386.5/Conflicting Demands

Code of Civil Procedure Section 386.5 provides: “Where the only relief sought against one of the defendants is the payment of a stated amount of money alleged to be wrongfully withheld, such defendant may, upon affidavit that he is a mere stakeholder with no interest in the amount or any portion thereof and that conflicting demands have been made upon him for the amount by parties to the action, upon notice to such parties, apply to the court for an order

discharging him from liability and dismissing him from the action on his depositing with the clerk of the court the amount in dispute and the court may, in its discretion, make such order.”

Plaintiffs contend that North River cannot obtain relief under Section 386.5 because conflicting demands have not been made on the Bond. First, Plaintiffs argue, West Coast has not denied violating any provision of the contractor’s license law which would allow Plaintiffs to recover against the bond, as unlicensed contracting violations are not yet at issue in the Complaint and West Coast has not yet formally denied them. Second, there are no conflicting demands on the Bond. West Coast does not have any right to those funds and thus cannot possibly have a conflicting demand, and North River is a disinterested stakeholder.

The Court rejects Plaintiffs’ first argument because Plaintiffs’ current operative Complaint does not allege violations of the contractor’s license law. The Court’s analysis is limited to this Complaint, and the denials in West Coast’s Answer to this Complaint, and not pleadings that may at some point be filed in the future. The Court rejects Plaintiffs’ second argument because Plaintiffs claim they are entitled to the bond funds due to West Coast’s alleged violations of the contractor’s license law, and West Coast denies violating any provision of that law. The word “competing” can reasonably be interpreted to mean a dispute as to whom the bond funds are paid, if they are to be paid, and in what amount. (See *Karton*, 61 Cal.App.5<sup>th</sup> at p. 753 [in action where homeowners sued contractor and its surety Westco, “Westco could have . . . used interpleader procedures to deposit the amount of its bond in court”].)

#### Attorneys’ Fees

Plaintiffs argue that exoneration of the Bond at this stage is premature because they seek to recover attorney’s fees against West Coast, and North River’s liability is commensurate with that of West Coast, its principal. North River can therefore be liable for these fees, Plaintiffs argue, in addition to the \$7,500 deposited with the Court.

“The liability of the surety is commensurate with the liability of its principal.” (*Karton v. Ari Design & Construction, Inc.* (2021) 61 Cal.App.5<sup>th</sup> 734, 738.) Thus, if a plaintiff prevails against the contractor and is awarded attorney’s fees as an item of costs by statute (Code of Civil Procedure Section 1029.8 in *Karton*), the surety may in certain circumstances be liable for those fees. (*Id.* at p. 752; *Harris v. Northwestern National Ins. Co.* (1992) 6 Cal.App.4<sup>th</sup> 1061, 1065-1066.) In both *Karton* and *Harris*, the surety opted not to interplead or deposit bond funds with the court and instead litigated liability. Based on this fact, the court in both cases found the surety to be liable for the costs and/or attorneys’ fees awarded against the principal. Both courts applied the same rationale, i.e., that the surety could have negotiated settlement with the plaintiffs or deposited the bond funds but instead elected to gamble that it and its principal could avoid liability altogether on the merits. Having lost that gamble, the surety was not in a position to complain about liability for court costs. (See *Karton*, 61 Cal.App.5<sup>th</sup> at p. 753; *Harris*, 6 Cal.App.4<sup>th</sup> at pp. 1065-1066.)

Recognizing the importance of this issue in *Karton* and *Harris*, the parties dispute whether North River litigated liability, thus exposing itself to a potential award of costs which could include attorneys’ fees. Plaintiffs submit the Answer and First Amended Answer filed by

North River<sup>1</sup> and the declaration of their counsel, Mark Kirkland, who states that “North River contested the claim from the beginning and made no effort to resolve the bond claim until after Plaintiffs took two (2) depositions and significant hours on propounding to, and responding to, written discovery against the general contractor, WCPM. Tens of thousands of pages of documents were exchanged and reviewed.” (Declaration of Mark R. Kirkland, ¶¶5, 6.) Mr. Kirkland also states that after taking depositions of West Coast personnel, he gave a copy to North River. (*Id.*, ¶9.)

North River submits the declaration of its counsel, Bora Song, who states that she sent an email on June 27, 2025 to Plaintiffs’ counsel to meet and confer regarding the claim made on the Bond and to inquire about dates West Coast performed on the project. She did so to confirm whether the work fell within the Bond term given the ambiguity in the Complaint. (Declaration of Bora Song, ¶3.) On July 18, 2025, Ms. Song again emailed Plaintiff’s counsel asking for documents and information for early resolution of the Bond claim. After not hearing back from Plaintiffs’ counsel, Ms. Song reached out again on August 18, 2025, stating: “I am following up with you to obtain further information to settle out the case with North River. We want to know if any work was completed by the principal from 2/17/25 through 3/21/2025 or if any payments were made to the principal during this time frame from the plaintiffs to the principal. I would really like to narrow down when the breakdown occurred between the parties, since the complaint is not specific in dates and when the alleged violations were committed by the principal to determine if anything occurred during the bond period.” (*Id.*, ¶5.) Plaintiffs’ counsel did not provide any additional information and instead indicated that North River may have to wait a month or so to request resolution of the bond. (*Id.*, ¶6.) On October 1, 2025, having not heard back from Plaintiffs’ counsel, Ms. Song reached out again, offering to deposit the bond funds with the Court. (*Id.*, ¶7.) In response, Plaintiffs’ counsel stated that Plaintiffs were now asserting a claim based on the work of an unlicensed plumber. This was the first time North River was advised of such a claim, as Plaintiffs’ claims in their existing Complaint allege poor workmanship and not licensing issues. (*Id.*, ¶8.)

Based on this record, there is no evidence that North River “litigated” the merits of Plaintiffs’ claims. North River did not file any pleadings other than its Answer/Amended Answer and did not propound any discovery. Rather, it sought out basic information regarding Plaintiffs’ claims and whether the Bond would even apply to those claims in terms of timing. North River also sought to negotiate a settlement through early resolution of the Bond claim. There is nothing in the record before the Court that North River litigated liability in the six months from the time Plaintiffs filed their Complaint until the time North River filed its motion.

Plaintiffs make the additional argument that they are prevailing parties on the Fifth Cause of Action against North River for recovery on the Bond because North River has agreed to deposit bond funds. As a result, they argue, they are prevailing parties on that cause of action and North River is directly liable for Plaintiffs’ fees on that cause of action. This argument is also without merit. Utilizing statutory interpleader procedures is not an admission of liability, and there has been no determination that any party is the prevailing party.

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<sup>1</sup> The First Amended Answer dropped a request for attorneys’ fees. (RJN Exh. 3.)

Accordingly, the Court grants North River's motion to exonerate the bond and dismiss North River as a defendant upon deposit of the Bond funds.

***All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.***

***The Zoom appearance information for February, 2026 is as follows:***

***<https://marin-courts-ca.gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjEOSHNzEGafG.1>***

***Meeting ID: 161 548 7764***

***Passcode: 502070***

***If you are unable to join by video, you may join by telephone by calling (669) 254-5252 and using the above-provided passcode. Zoom appearance information may also be found on the Court's website: <https://www.marin.courts.ca.gov>***

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 02/18/26      TIME: 1:30 P.M.      DEPT: H      CASE NO: CV0006399

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

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PLAINTIFF:      RONALD MALLET

vs.

DEFENDANT: LYDIA J. SARKISSIAN, ET  
AL

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NATURE OF PROCEEDINGS: 1) MOTION - LEAVE  
2) MOTION – STRIKE

**RULING**

Scottsdale Insurance Company's ("Scottsdale") motion for leave to file an answer in intervention is GRANTED. In light of this court's ruling, the parties shall appear to address Plaintiff's motion to strike answer of La Cresta Unit II Property Homeowners' Association ("La Cresta").

Scottsdale has a right to intervene CCP 387(b) as they have an immediate interest as the insurance carrier for defendant La Cresta, and La Cresta is a suspended entity and assertedly unable to defend itself. Scottsdale's motion and notice of hearing were served on all parties and no opposition was filed. A failure to oppose a motion may be deemed a consent to the granting of the motion. (Cal. Rules of Court, rule 8.54, subd. (c).)

In light of the above, the request is granted and Scottsdale shall file its answer within ten days of entry of this order.

***All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.***

***The Zoom appearance information for February, 2026 is as follows:***

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Meeting ID: 161 548 7764

Passcode: 502070

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**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 02/18/26      TIME: 1:30 P.M.      DEPT: H      CASE NO: CV0008014

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER:

CLERK: ALINA ANDRES

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PLAINTIFF:      MIRANDA MEI, ET AL

vs.

DEFENDANT: MARK EARL RUFER

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NATURE OF PROCEEDINGS: MOTION – PRELIMINARY INJUNCTION

**RULING**

This matter is continued to March 4, 2026 at 1:30 pm.

***All parties must comply with Marin County Superior Court Local Rules, Rule 2.10(B) to contest the tentative decision. Parties who request oral argument are required to appear in person or remotely by ZOOM. Regardless of whether a party requests oral argument in accordance with Rule 2.10(B), the prevailing party shall prepare an order consistent with the announced ruling as required by Marin County Superior Court Local Rules, Rule 2.11.***

***The Zoom appearance information for February, 2026 is as follows:***

***<https://marin-courts-ca-gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjEOSHnzEGafG.1>***

Meeting ID: 161 548 7764

Passcode: 502070

***If you are unable to join by video, you may join by telephone by calling (669) 254-5252 and using the above-provided passcode. Zoom appearance information may also be found on the Court's website: <https://www.marin.courts.ca.gov>***