SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0006481

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: DIRK AGUILAR vs. DEFENDANT: JUAN ANON, ET AL	

NATURE OF PROCEEDINGS: MOTION – COMPEL – DISCOVERY FACILITATOR PROGRAM

RULING

This matter is continued to July 8, 2026 at 1:30 pm to allow for the appointment of a discovery facilitator.

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 May, 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: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0006751

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: EDUARDO COLIN-ARRIUGA vs. DEFENDANT: SPEC DRILLING & SHORING, INC., ET AL	

NATURE OF PROCEEDINGS: MOTION - LEAVE

RULING

Intervenor Falls Lake Fire and Casualty Company ("Intervenor") has filed a motion for leave to intervene in the matter. A notice of hearing was served on all parties and no opposition was filed to the motion. 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).) Failure to oppose a motion may also lead to the presumption that [plaintiff] has no meritorious arguments. (See *Laguna Auto Body v. Farmers Ins. Exchange* (1991) 231 Cal. App. 3d 481, 489, disapproved of by *Garcia v. McCutchen* (1997) 16 Cal.4th 469, on other grounds.)

In light of the non-opposition, Intervenor's motion for leave to intervene is granted. Intervenor shall file its complaint in intervention within 20 days of service 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.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0004021

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: ALLISON ARSOVE vs. DEFENDANT: MARK HAMILTON, ET AL	

NATURE OF PROCEEDINGS: MOTION – JUDGMENT ON THE PLEADINGS

RULING

Defendants NCP Multifamily, LLC and Mission Rock Residential California, Inc.'s ("Movants") motion for judgment on the pleadings is GRANTED with leave to amend as to Plaintiff Allison Arsove's ("Plaintiff") First and Second Causes of Action. (Code Civ. Proc., § 438.)

BACKGROUND

Plaintiff, age 72, brings this personal injury action against various defendants who allegedly own and/or manage the apartment complex where she lives. She alleges that Movants (among other defendants) "caused" and "allowed" her "to collapse in her shower and abandoned her." (Complaint, p. 4; see also Doe Amendment filed June 20, 2026 [identifying movant Mission Rock Residential California, Inc. as the complaint's "Doe 1"].) According to the complaint, Movants visited Plaintiff's apartment to investigate a water leak, where they discovered her unconscious in the shower. (*Ibid.*) Movants allegedly knew that Plaintiff was suffering from a medical emergency, but "failed to take reasonable care in rendering aid and/or other care and abandoned her there." (*Ibid.*) Plaintiff alleges that this caused her "to suffer for days until emergency responders were called to the Unit[,]" and that Movants' "abandonment added to the risk of harm." (*Ibid.*) Plaintiff also claims that Movants negligently maintained her apartment. (*Id.* at p. 5.) She asserts causes of action for general negligence, premises liability, and elder abuse.

Movants now move for judgment on the pleadings as to Plaintiff's claims for negligence and premises liability.

LEGAL STANDARD

A defendant may bring a statutory motion for judgment on the pleadings as to the entire complaint or any cause of action stated therein. (Code Civ. Proc., § 438, subd. (c)(2)(A).) The motion may be brought only after the defendant has filed an answer to the complaint and the

time to demur to the complaint has expired. (Code Civ. Proc., § 438, subd. (f)(2).) The grounds for the motion are that the court lacks jurisdiction or that the complaint does not state facts sufficient to constitute a cause of action. (Code. Civ. Proc., § 438, subd. (c)(1)(B); see also *Schabarum v. California Legislature* (1998) 60 Cal.App.4th 1205, 1216 ["The standard for granting a motion for judgment on the pleadings is essentially the same as that applicable to a general demurrer, that is, under the state of the pleadings, together with matters that may be judicially noticed, it appears that a party is entitled to judgment as a matter of law."].)

Grounds for a motion for judgment on the pleadings must appear on the face of the challenged pleading or from matters properly subject to judicial notice. (See Code. Civ. Proc., § 438, subd. (d).) As on a demurrer, the pleading includes matters shown in exhibits attached to it or incorporated by reference. (*Frantz v. Blackwell* (1987) 189 Cal.App.3d 91, 94; *Alameda County Waste Management Authority v. Waste Connections US, Inc.* (2021) 67 Cal.App.5th 1162, 1173-74 ("*ACWMA*") [rules governing demurrers apply to motions for judgment on the pleadings except to the extent provided by statute].) A motion for judgment on the pleadings may be granted with or without leave to amend. (Code Civ. Proc., § 438, subd. (h).)

DISCUSSION

First Cause of Action: Negligence

The elements of a cause of action for negligence are "a legal duty of care, breach of that duty, and proximate cause resulting in injury." (*Kesner v. Superior Court* (2016) 1 Cal.5th 1132, 1158.) Any claim for negligence addresses a breach of one of the "two general types of 'legal duty'": "the duty of a person to use ordinary care in activities from which harm might reasonably be anticipated" and the duty "to act affirmatively to prevent harm." (*Ingham v. Luxor Cab. Co.* (2001) 93 Cal.App.4th 1045, 1050; see also *Brown v. USA Taekwondo* (2021) 11 Cal.5th 204, 213-215.) The nature of the duty applicable to a given negligence claim depends on the nature of the defendant's alleged conduct. If the defendant's conduct, as a whole, is alleged to have *created* the risk of harm that befell the plaintiff, the resulting negligence claim is subject to the "default rule" of duty: " 'that each person has a duty to 'to exercise, in his or her activities, reasonable care for the safety of others.' " (*Brown*, *supra*, 11 Cal.5th 204, 214 [quoting *Cabral v. Ralphs Grocery Co.* (2011) 51 Cal.4th 764, 768]; *id.* at p. 215, fn. 6; *Minch v. Department of California Highway Patrol* (2006) 140 Cal.App.4th 895, 908-909; see also Civ. Code, § 1714, subd. (a).) By contrast, a plaintiff may allege that a defendant failed to take affirmative action to protect her against a risk the defendant neither created nor exacerbated. (See *Brown*, *supra*, 11 Cal.5th 204, 214; *Minch*, *supra*, 140 Cal.App.4th 895, 908.) In that case, the default rule is one of *no* duty: A person who did not create or contribute to a peril owes no duty to act affirmatively to protect another person from that peril. (*Brown*, *supra*, 11 Cal.5th 204, 214.)

The conduct at issue for purposes of Plaintiff's negligence claim consists in part of Movants' allegedly "caus[ing]" and "allow[ing]" Plaintiff "to collapse in her shower[.]" (Complaint, p. 4.) These are conclusory allegations that are not accepted as true against a demurrer, and thus against a motion for judgment on the pleadings. (See *Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, 976; *ACWMA*, *supra*, 67 Cal.App.5th 1162, 1173-74.). To mount a tort claim on the basis that Movants were responsible for her fall in the shower, as

opposed to for what happened to her after she fell, Plaintiff will need to plead facts that shed light on her theory of how Movants are responsible for her falling the shower.

Once the improper allegations that Movants brought about the fall are removed, Plaintiff is alleging that Movants were negligent only in that they discovered her clearly needing help and failed to come to her aid. (Complaint, p. 4.) The default rule under such circumstances is that the defendant did not owe a duty to the plaintiff. (*Brown*, *supra*, 11 Cal.5th 204, 214.)

The Court acknowledges allegations that Movants' "abandonment added to the risk of harm" and such "additional risk was a substantial factor in causing harm to Plaintiff[.]" (Complaint, p. 4.) These are a clear attempt to bring Plaintiff's negligence claim within the general rule of duty. (*Brown*, *supra*, 11 Cal.5th 204, 214 [general duty of care applies when defendant " ' "created a risk" ' of harm to the plaintiff, including when ' "the defendant is responsible for making the plaintiff's position worse[]" ' "] [quoting *Lugtu v. California Highway Patrol* (2001) 26 Cal.4th 703, 716].) The Court reads these allegations to mean that Movants' failure to help Plaintiff caused Plaintiff's injuries to be worse than they otherwise would have been.[1]

Even if Movants' conduct unquestionably contributed to the severity of Plaintiff's injuries, Movants cannot be held liable for negligence for that additional injury absent a duty owed to Plaintiff. (See *Kesner*, *supra*, 1 Cal.5th 1132, 1158.) In *every* case where a party declines to affirmatively intervene to protect someone else from a risk of harm the party did not create, the party can be said to have worsened the victim's injuries, because the party's failure to intervene left the victim vulnerable to harm. If this were enough to bring a case within the default rule of duty, the practical result would be recognition of a legal duty to affirmatively intervene to protect others from harm. This is plainly not the law. (See *Brown*, *supra*, 11 Cal.5th 204, 214].) To bring Movants within the default rule of duty on the theory that they contributed to the risk of harm that befell Plaintiff, Plaintiff would need to truthfully allege facts to support the idea that Movants' conduct contributed to the risk that she would fall in her shower. Alternatively, she could allege that upon discovering Plaintiff, Movants took some sort of *affirmative* action toward her that placed her at a risk of harm beyond what she was already facing as a result of the fall. The complaint does not allege the former in a non-conclusory fashion, and allegations that Movants' failure to affirmatively intervene on Plaintiff's behalf worsened her injuries cannot substitute for the latter.

There is an exception to the general rule that there is no duty to protect another from a risk of harm one did not create: "Where there is a special relationship between the parties that gives the victim a right to expect protection from the defendant, the law imposes an affirmative duty to protect." (*Hassaine v. Club Demonstration Services, Inc.* (2022) 77 Cal.App.5th 843, 852; accord *Minch*, *supra*, 140 Cal.App.4th 895, 909.) Plaintiff suggests that Movants owed her

[1] It is a pleading's language, not a plaintiff's characterization of her claims in briefing, that determines whether a pleading states a cause of action. (See *Donabedian*, *supra*, 116 Cal.App.4th 968, 994 [when a court assesses whether a pleading states a cause of action, the scope of its review is confined to the pleading itself and any matters subject to judicial notice].) With that said, Plaintiff's brief confirms that the Court's interpretation of these allegations (which it arrived at before reading her brief) is consistent with Plaintiff's intent when drafting the complaint. (See Opposition, p. 9 [allegations that the defendants "added to the risk of harm" and that such "additional risk was a substantial factor in causing harm to Plaintiff" refer to "whether the hours that elapsed between Defendants' discovery of Plaintiff and the eventual arrival of emergency responders caused incremental injury"].)

a duty because there is a legally recognized special relationship between landlords and their tenants. The law has recognized the existence of a special relationship between landlords and tenants sufficient to imbue the landlord with certain affirmative duties to protect, including, for example, the duty "to take reasonable measures to secure areas under the landlord's control against foreseeable criminal acts of third parties." (*Castaneda v. Olsher* (2007) 41 Cal.4th 1205, 1213.)

Plaintiff acknowledges that she is not alleging that she was the victim of a foreseeable criminal act committed by a third party while at her apartment. She does not recognize that this makes *Castaneda* of no use to her. Her theory is apparently that she need only establish that the law has recognized a special relationship between landlords and tenants, without reference to the nature of the duties the law says flow from that relationship. This is not how duty analysis works. When a court determines whether a duty exists in a particular case, it does so by reference to the behavior the plaintiff argues the defendant had the duty to perform. (See *Vasquez v. Residential Investments, Inc.* (2004) 118 Cal.App.4th 269, 280; see also *Castaneda*, *supra*, 41 Cal.4th 1205, 1214 [discussing this portion of *Vasquez* with approval].) Plaintiff's negligence claim does not allege (at least, not in the required non-conclusory fashion) that she fell in the shower due to some feature of her unit, or that any defendant played any role in causing her to fall. The competent allegations associated with this cause of action are that she fell, and Movants thereafter neglected to assist her. Plaintiff has not offered, and the Court has not found, any authority for the idea that the special relationship between a landlord and a tenant confers upon the landlord a duty to protect the tenant against risks of harm having nothing to do with the landlord's ownership of the premises. (See *Rosenbaum v. Security Pacific Corp.* (1996) 43 Cal.App.4th 1084, 1091-1092 [circumstances supporting imposing a duty on a landlord are generally those "where there is a close, or functional, relationship between the landlord's conduct and the harm suffered"].)

The motion for judgment on the pleadings is GRANTED with leave to amend as to this cause of action.

Second Cause of Action: Premises Liability

Premises liability is a form of negligence. (*Brooks v. Eugene Burger Management Corp.* (1989) 215 Cal.App.3d 1611, 1619.) As a result, the elements of the two claims are the same. (*Kesner, supra,* 1 Cal.5th 1132, 1158.) However, the duty at issue in a premises liability claim is context-specific. The cause of action involves an alleged breach of the duty of a party who controls property to manage that property in a manner that avoids exposing other people to an unreasonable risk of harm. (*Ingham*, *supra*, 93 Cal.App.4th 1045, 1050; *Brooks*, *supra*, 215 Cal.App.3d 1611, 1619; see also *Hernandez v. Jensen* (2021) 61 Cal.App.5th 1056, 1070 [distinguishing negligence theory from premises liability theory].)

Plaintiff alleges that the defendants "negligently and carelessly owned, possessed, occupied, operated, managed, controlled, maintained and inspected" her unit and that they "willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity." (Complaint, p. 5.) These conclusory allegations are not accepted as true (*Donabedian*, *supra*, 116 Cal.App.4th 968, 976), and without them, there is no substance to Plaintiff's premises

liability claim. Plaintiff fails to allege, in nonconclusory fashion, that any defendant did anything relating to the condition of her unit that exposed her to an unreasonable risk of harm.

The motion is GRANTED with leave to amend as to this cause of action.

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.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0001370

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PETITIONER: MARK KELTNER vs RESPONDENT: MERCY HOUSING MANAGEMENT GROUP, ET AL	

NATURE OF PROCEEDINGS: MOTION – PROTECTIVE ORDER – DISCOVERY FACILITATOR PROGRAM

RULING

On February 13, 2026, Plaintiff filed a motion for protective order to prevent his March 19, 2026 deposition from proceeding and for a stay until he could obtain new counsel. He also requested sanctions. The subject March 19, 2026 deposition date was rescheduled after Plaintiff opposed sitting for his deposition in February. On March 19, 2026, Plaintiff also filed a substitution of attorney, substituting himself in for counsel.

The parties were referred to a Discovery Facilitator, Eric Meckley. According to the Declaration of Christina Forst, counsel for Defendants, Plaintiff did not participate in the discovery facilitation process and has not responded to recent calls or correspondence. (Forst Decl. ¶ 30-32.)

Legal Analysis

Before a deposition, a party may move for a protective order to prevent the deposition from moving forward on the date listed on the basis of "annoyance, embarrassment or oppression or undue burden and expense." (Code of Civ. Proc. §2025.420(b).)

In this case, Plaintiff initially filed the motion for protective order asserting that he needed time to obtain new counsel and that the March 19, 2026 was insufficient time for him to do so. However, it is now almost two months after the rescheduled deposition date and three months after the filing of Plaintiff's motion. No new counsel has substituted into the case. Plaintiff did not file a reply brief and did not cooperate with the Discovery Facilitator.

At some point, Defendants must be allowed to depose Plaintiff about his claims. The deposition date has come and gone. Any request for stay until Plaintiff obtains new counsel is unreasonable given that three months have passed with no indication of Plaintiff's efforts. For

these reasons, Plaintiff's motion for protective order is denied. Sanctions are also denied.

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.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CIV2301619

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PETITIONER: DEVIN KENNEDY TAYLOR vs RESPONDENT: MERCY HOUSING MANAGEMENT GROUP, ET AL	

NATURE OF PROCEEDINGS: MOTION - COMPEL

RULING

Before the court is Defendant's motion to compel Plaintiff's deposition and for sanctions in the amount of $1,845. Defendant asserts that Plaintiff has "unequivocally refused to appear for her deposition" and that such refusal since August of last year prevents Defendant from conducting basic discovery.

The Code of Civil Procedure section 2025.450(a) allows a party to move to compel a deposition where the responding party fails to appear for their deposition or refuses to appear for it. Under section 2025.450(g), the court shall impose sanctions to the prevailing party which were incurred in bringing the motion absent substantial justification for the refusal to appear.

Plaintiff argues that the court should deny the motion because Defendant has engaged in misconduct including "fabricating procedural events by violating Rule 4.2 through direct communication with Plaintiff regarding an August 22, 2025 deposition" and fabricating meet and confer correspondence and serving evasive discovery. (Pltff's Opp. p. 2.) Plaintiff further argues that the court should order terminating sanctions against Defendant for their abuse.

Plaintiff's opposition—while replete with accusations—is light on any facts or evidence. If Plaintiff believes that discovery is "evasive" or improper, her recourse is to file a timely motion to compel. She may not rely on bare accusations to avoid her deposition. Plaintiff has failed to present any justification for her refusal to appear. Accordingly, this court grants Defendant's motion to compel and orders that Plaintiff sit for deposition. Such deposition shall occur after May 27, 2026 and upon ten days' notice.

Plaintiff's refusal to appear is without substantial justification. Sanctions are therefore warranted in the amount of $1,845. The court shall, however, stay these sanctions pending compliance with 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.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0006399

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: RONALD MALLET vs. DEFENDANT: LYDIA J. SARKISSIAN, ET AL	

NATURE OF PROCEEDINGS: 1) MOTION – SET ASIDE/VACATE DEFAULT
2) MOTION - SANCTIONS

RULING

Defendant Cabin LLC's ("Cabin" or "Defendant") Motion for Sanctions is DENIED.

LEGAL STANDARD

128.7

Code of Civil Procedure section 128.7 requires an attorney or an unrepresented party to certify, through his or her signature on documents filed with the court, that every pleading, motion or other similar paper presented to the court has merit and is not being presented for an improper purpose. (Code Civ. Proc., § 128.7, subds. (b)(1)-(4).)

Under Code of Civil Procedure section 128.7, sanctions may be imposed for pleadings that are "presented primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation" (*id.,* subd. (b)(1)), pleadings with legal contentions that are frivolous (*id.*, subd. (b)(2)), or pleadings which lack evidentiary support (*id*., subd. (b)(3)).

128.5

Under Code of Civil Procedure section 128.5, sanctions may be imposed against a party, the party's attorney, or both to pay the reasonable expenses, including attorneys' fees, incurred by another party due to bad faith actions or tactics taken by the offending party and/or attorney. The actions must be frivolous or solely intended to cause unnecessary delay. "Frivolous" for purposes of section 128.5 means actions or tactics that are totally and completely without merit, or for the sole purpose of harassing the opposing party. (Code Civ. Proc., § 128.5, subd. (b)(2).)

DISCUSSION

Notice

The sanctions Motion served on Plaintiff on February 5, 2026 did not include a hearing date. (See Odetto Decl., Ex. A.) Thus, Defendant did not comply with the safe harbor provisions of section 128.5 or 128.7.

Both statues mandate providing notice of the hearing date and time along with the motion at least 21 days before the motion is filed. (See Code Civ. Proc., §§ 128.7, subd. (c)(1), 128.5, subd. (f)(1)(B).) ["Notice of motion shall be served as provided in Section 1010"]; Code Civ. Proc., § 1010 ["notice of a motion . . . must state when . . . it will be made"]; *Galleria Plus*, *Inc. v. Hanmi Bank* (2009) 179 Cal.App.4th 535, 538 (*Galleria Plus*) ["Section 128.7's incorporation of section 1010 is compulsory, not permissive]; see also, Marin Cty Sup. Ct. Local Rule, rule 2.9(A) ["Parties bringing such a motion [under Section 128.7] may obtain a hearing date at the Clerk's Office and will establish the filing deadline with the Law & Motion Clerk at that time"].).

Strict compliance with the required notice provisions serves the remedial purpose and underscores the seriousness of a motion for sanctions. (*CPF Vaseo Assocs., LLC v. Gray* (2018) 29 Cal.App.5th 997, 1007, citing *Galleria Plus*, *Inc., supra,* at p. 538.) As one court aptly put it, close is good enough in horseshoes and hand grenades, but not in the context of the sanctions statute. (*Id.* Internal citations omitted.)

The lack of the hearing date rendered the subsequently-filed motion fatally defective. (*Galleria Plus*, *Inc., supra,* at p. 538.) This defect mandates denial of the Motion. Although the Court also has authority to award fees to any party successful in opposing a motion for sanctions, it declines to do so in this case based on fact that the Opposition relied exclusively on the argument that Plaintiff had not been served with the Motion until March 20, 2026, a statement that appears less than accurate in light of the Odetto Declaration. (See Odetto Decl., ¶ 3.) Should the parties contest this tentative ruling, Attorney Graves should be prepared to explain this apparent representation to the Court.

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.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0002972

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: AHMAD ALI MOHYEE vs. DEFENDANT: DOUGLAS C. QUAN, ET AL	

NATURE OF PROCEEDINGS: MOTION – DISCOVERY – DISCOVERY FACILITATOR PROGRAM

RULING

Plaintiff's motion for pretrial discovery of financial information is denied.

Allegations in Plaintiff's Complaint

Plaintiff Ahmad Moyhee's ("Plaintiff") Third Amended Complaint alleges a claim for Fraud in the Inducement and Intentional Infliction of Emotional Distress as well as a claim for punitive damages. Plaintiff now moves for discovery of Defendants' financial information.

Standard

Civil Code Section 3294, which governs awards of punitive damages, provides in part:

> (a) In an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.
>
> ***
>
> (c) As used in this section, the following definitions shall apply:
>
> (1) "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 the rights or safety of others.

> (2) "Oppression" means despicable conduct that subjects a person to cruel and unjust hardship in conscious disregard of that person's rights.
> (3) "Fraud" means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury . . . .

"Civil Code section 3294 authorizes an award of punitive damages only where it is shown by clear and convincing evidence that the defendant is guilty of oppression, fraud, or malice." (*Kerr v. Rose* (1990) 216 Cal.App.3d 1551, 1565, superseded by statute on other grounds in *Union Bank v. Superior Court* (1995) 31 Cal.App.4th 573, 583.) The clear and convincing standard requires "a finding of high probability," and evidence "so clear as to leave no substantial doubt," and "sufficiently strong to command the unhesitating assent of every reasonable mind." (*Mock v. Michigan Millers Mut. Ins. Co*. (1992) 4 Cal.App.4th 306, 332 [citations and internal quotations omitted].)

Pursuant to Civil Code Section 3295(c), a plaintiff may not conduct pretrial discovery on the profits and financial condition of a defendant unless permitted by the court upon a showing that there is a substantial probability the plaintiff will prevail on his claim pursuant to Section 3294. The phrase "substantial probability" has been interpreted as meaning "very likely" or a "strong likelihood"." (*Jabro v. Superior Court* (2002) 95 Cal.App.4th 754, 758.)

Evidentiary Record

Plaintiff's Showing

Plaintiff's moving papers sets forth a statement of facts which are based on the complaint and Plaintiff's own declaration. Defendants' objections to Plaintiff's declaration are sustained to the extent that Plaintiff has testified as to Defendants' intent, knowledge or motivations. They are sustained as to claims that seek to characterize Defendant's conduct, reach legal conclusions or offer lay opinions as to whether Defendants acted with "conscious disregard" or engaged in actions which were "pretextual."

As to the remainder of the showing, Plaintiff states that the lease in question contained a preprinted clause providing that the tenancy would convert to month-to-month if Defendants continued to accept rent after the fixed term expired, but that Defendants assured Plaintiff that they would honor the conversion so long as he paid rent on time, maintained the property and observed the HOA rules. Plaintiff further asserted that after the lease converted, Defendants demanded that Plaintiff sign a new fixed-term lease with restrictive terms which would have cost more than $30,000 if Plaintiff needed to relocate to care for his mother.

Plaintiff provided an additional declaration in conjunction with his Reply brief along with additional evidence. Defendants lodge several objections, including that the court should not consider new evidence in reply papers. "The general rule of motion practice […] is that new

evidence is not permitted with reply papers." (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537.)

But even if the court were to consider the additional evidence attached to Plaintiff's reply declaration, it is insufficient demonstrate the heightened showing of very likely to prevail on a showing of malice or fraud. Nothing in the attached deposition transcript of discovery responses show that it is very likely that Defendants intended to defraud Plaintiff or that their actions were malicious.

Plaintiff has argued that this Court's prior order overruling Defendants' demurrer shows a high likelihood of prevailing on a punitive damages claim because the Court found that Plaintiff had adequately pled causes of action and "reasonable minds could differ" as to whether Defendants' conduct was vile, base, or contemptible." Allowing claims to proceed in a complaint cannot be a substitute for proof of evidence such that a court can determine a high likelihood of success of prevailing on these claims.

At this juncture, Plaintiff's motion fails to meet the heightened standard for pre-trial financial discovery, and it is denied.

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.

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Meeting ID: 161 548 7764
Passcode: 502070

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0006200

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: MARTHA MALDONADO MOLINA vs. DEFENDANT: LOTUS HOTELS - MILL VALLEY, LLC A DELAWARE LIMITED LIABIITY COMPANY	

NATURE OF PROCEEDINGS: MOTION – COMPEL ANSWERS TO INTERROGATORIES – DISCOVERY FACILITATOR PROGRAM

RULING

Plaintiff's motion to compel further responses to Special Interrogatory Nos. 1 and 2, and Request for Production Nos. 9-12, is granted. Defendant is compelled to provide further responses which include the requested information within 20 days of the date of the scheduled hearing on this matter. Plaintiff's motion is denied as to Request for Production Nos. 13-15. Plaintiff's request for sanctions is denied.

Procedural Background

On May 6, 2025, Plaintiff Martha Maldonado filed her Complaint against Defendant Lotus Hotels-Mill Valley, LLC, alleging that she was sexually harassed when she worked as a housekeeper at one of Defendant's hotels, the Holiday Inn Express-Mill Valley (the "Hotel"). Specifically, Plaintiff alleges that on April 26, 2025, Doe 1 was an extended stay guest at the Hotel and engaged in unlawful sexual misconduct after luring Plaintiff into his room under the pretext of needing soap. Plaintiff alleges that while Defendant asked the guest to leave, it then retaliated against Plaintiff for reporting the incident because expelling Doe 1 resulted in a loss of revenue to the Hotel. Plaintiff asserts claims for, among other things, sexual harassment, constructive termination, and wage and hour violations.

On October 28, 2025, Plaintiff served written discovery on Defendant which included Special Interrogatories, Set One and Requests for Production of Documents, Set One. After the parties agreed to an extension of Defendant's deadline to respond, Defendant served responses on January 6, 2026.

Plaintiff moves to compel further responses to Special Interrogatory Nos. 1 and 2 and Request for Production of Documents ("RFP") Nos. 9-15, and requests an award of sanctions against Defendant.

Defendant's Discovery Responses

Special Interrogatories

Plaintiff's Special Interrogatory No. 1 seeks the identity of Doe 1 and No. 2 asks for the dates that Doe 1 was booked to stay at the Hotel from April 1-May 30, 2025. In response to these interrogatories, Defendant objected on the grounds that the interrogatories implicate a hotel guest's privacy rights as well as the privacy and confidentiality interests inherent in hotel guest records. Defendant objected to No. 2 on the additional ground that it sought information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence.

RFPs

Plaintiff's RFP Nos. 9-15 seek all documents related to Doe 1 (No. 9), all complaints related to Doe 1 (No. 10), all communications between Doe 1 and Defendant (No. 11), all documents related to the ejection of Doe 1 from the Hotel on April 26, 2025 (No. 12), all documents related to any investigation conducted by Defendant into Plaintiff's allegation about Doe 1 (No. 13), any report to a law enforcement agency relating to Plaintiff's allegation (No. 14), and all documents relating to complaints by any employee or contractor about Doe 1 (No. 15). In response to Request Nos. 9-12, Defendant objected on the grounds that the requests implicate a hotel guest's privacy rights as well as the privacy and confidentiality interests inherent in hotel guest records. Defendant also objected to these requests on the grounds that the requests are overbroad and unduly burdensome, and that they seek information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Defendant further objected to the word "you" in Request No. 11 and the word "ejection" in Request No. 12 on the ground that the words were vague and ambiguous.

In response to Request No. 13, Defendant objected that the term "lewd act" is vague and ambiguous but then responded that it had made a diligent search and reasonable inquiry and will produce all documents in its possession, custody or control responsive to the request. In response to Request No. 14, Defendant objected to the terms "lewd act" and "report", and also on the grounds that the request is overbroad and requests information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Defendant responded that it had made a reasonable search and reasonable inquiry and has no documents in its possession, custody or control responsive to this request. In response to Request No. 15, Defendant objects that the request is duplicative of Request No. 10, the request implicates a hotel guest's and Defendant's employees' and contractors' privacy rights, and the request is overbroad. Defendant further responds that it has made a diligent search and reasonable inquiry and has no documents in its possession, custody or control responsive to this request, as no such documents are believed to have existed except Plaintiff's report from April 26, 2025 which has been produced.

Discussion

Special Interrogatories

Defendant states it has not provided responsive information because it needs a court order to do so under Civil Code Section 53.5(a), which provides: "Notwithstanding any other law, except as specified in this section, an innkeeper, hotelkeeper, motelkeeper, lodginghouse keeper, or owner or operator of an inn, hotel, motel, lodginghouse, or other similar accommodations, or any employee or agent thereof . . . shall not disclose, produce, provide, release, transfer, disseminate, or otherwise communicate, except to a California peace officer, all or any part of a guest record orally, in writing, or by electronic or any other means to a third party without a court-issued subpoena, warrant, or order." "Guest record" is defined as including "any record that identifies an individual guest, boarder, occupant, lodger, customer, or invitee, including, but not limited to, their name, social security number or other unique identifying number, date of birth, location of birth, address, telephone number, driver's license number, other official form of identification, credit card number, or automobile license plate number." (Civ. Code § 53.5(c).)
Plaintiff's motion to compel further responses to Nos. 1 and 2 is granted. The identity of the guest and the length of his stay is clearly relevant to Plaintiff's claims and outweighs any purported privacy right of the guest in this information. Defendant has not met its burden in justifying its objections, including both privacy and relevancy. (See Fairmont Ins. Co. v. Superior Court (2000) 22 Cal.4th 245, 255; Coy v. Superior Court (1962) 58 Cal.2d 210, 220–221.) By granting Plaintiff's motion, the Court gives the parties the court order needed for Defendants to provide the requested information.

RFPs

Plaintiff's motion as to RFP Nos. 9-12 is granted. Plaintiff has established good cause for these requests, which seek documents related to Doe 1, complaints related to Doe 1, communications between Doe 1 and Defendant, and documents related to the ejection of Doe 1 from the Hotel on April 26, 2025. (See Code Civ. Proc. § 2031.310(b)(1); Kirkland v. Superior Court (2002) 95 Cal.App.4th 92, 98.) Defendant has not met its burden in justifying its objections. Indeed, Defendant is completely silent about its objections except for the objection it states it is obligated to assert under Section 53.5.

Plaintiff's motion is denied as to RFP Nos. 13-15 as Defendant has already provided substantive responses to those requests and Plaintiff does not challenge the adequacy of those responses in her motion.

Sanctions

Plaintiff's request for sanctions is denied. Defendants were substantially justified in requiring a court order before producing information, as contemplated in Civil Code Section 53.5.

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.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0003280

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: CHRISTOPHER PARRA vs. DEFENDANT: SAFEWAY, INC., ET AL	

NATURE OF PROCEEDINGS: 1) MOTION – SANCTIONS
2) ORDER TO SHOW CAUSE – DISMISS

RULING

Defendant Safeway ("Defendant") filed a motion for terminating sanctions related to Plaintiff Christopher Parra's ("Plaintiff") repeated failure to obey this court's prior order on January 21, 2026 to sit for his deposition. The court's order followed repeated attempts and last minute cancellations related to the taking of his deposition. A hearing on the motion was served on Mr. Parra but no opposition was filed to the motion. 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).) Failure to oppose a motion may also lead to the presumption that [plaintiff] has no meritorious arguments. (See *Laguna Auto Body v. Farmers Ins. Exchange* (1991) 231 Cal. App. 3d 481, 489, disapproved of by *Garcia v. McCutchen* (1997) 16 Cal.4th 469, on other grounds.)

Separately, Plaintiff has failed to appear at the last two case management conferences and the matter is on calendar for an order to show cause as to why this matter should not be dismissed for failure to prosecute.

Appearances required.

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.

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 05/13/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0004681

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: UPHOLD HQ INC. vs. DEFENDANT: JASON LEE, ET AL	

NATURE OF PROCEEDINGS: MOTION – PRO HAC VICE

RULING

Plaintiff Uphold HQ, Inc. filed an application by out of state attorney Jack Ryan for admission *pro hac vice* in this case. Good cause having been shown to the satisfaction of the court, the court grants the application.

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.

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