SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 09/23/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0001341

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: MINNIE ROSE MCBRIDE vs. DEFENDANT: WILLIAM MONTI, ET AL	

NATURE OF PROCEEDINGS: MOTION – COMPEL -DISCOVERY FACILITATOR PROGRAM

RULING

Based on the Court's Order of September 4, 2025, this matter is off-calendar.

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 September 2025 is as follows:
https://marin-courts-ca-gov.zoomgov.com/j/1605267272?pwd=908CbP6TV2mhCAyai1nzo6lyz2dKaw.1
Meeting ID: 160 526 7272
Passcode: 026935

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: 09/23/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0002609

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: SUSAN DAVIA vs. DEFENDANT: AMAZON.COM INC.	

NATURE OF PROCEEDINGS: MOTION – GOOD FAITH SETTLEMENT

RULING

Plaintiff's unopposed motion to approve the Proposition 65 settlement and enter judgment as to Defendant Amazon.com, Inc. is **GRANTED.**

Discussion

California Health and Safety Code section 25249.7(f)(4) requires judicial approval of the settlement of a Proposition 65 action between private parties. The court may not grant approval unless it finds that all the statutory requirements have been met. (*Consumer Defense Group v. Rental Housing Industry Members* (2006) 137 Cal.App.4th 1185, 1207.) As set forth in the statute:

> If there is a settlement of an action brought by a person in the public interest under subdivision (d), the plaintiff shall submit the settlement other than a voluntary dismissal in which no consideration is received from the defendant, to the court for approval upon noticed motion, and the court may approve the settlement only if the court makes all of the following findings:
>
> (A) The warning that is required by the settlement complies with this chapter.
>
> (B) The award of attorney's fees is reasonable under California law.
>
> (C) The penalty amount is reasonable based on the criteria set forth in paragraph (2) of subdivision (b).

(Health and Saf. Code § 25249.7(f)(4).)

The Court has reviewed the settlement terms and proposed consent judgment. After proper notice, no objections have been filed. As to factor (A), the court has reviewed the moving papers and finds that the proposed warnings are in reasonable compliance with the requirements of Proposition 65. As to (C), the penalty of $12,000 is reasonable under the criteria of the statute. With regards to factor (B), the court finds that there is sufficient information to determine that the requested fees and costs in the amount of $41,000 are reasonable. The amount of fees requested represents a reduction to Plaintiff's documented lodestar calculation.

Accordingly, the settlement is approved and the Court will enter the consent judgment.

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: 09/23/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0004468

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: WENDY NELDER vs. DEFENDANT: TOWN OF FAIRFAX, ET AL	

NATURE OF PROCEEDINGS: MOTION – STRIKE

RULING

Defendants previously submitted a stipulation and proposed order to strike the punitive damages claim from the complaint. The stipulation, however, was unsigned and the Court rejected it. If the parties appear and confirm that they have stipulated to strike the claim, or submit a stipulation signed by counsel, the Court will sign the 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: 09/23/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0004594

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: ALLISON FAUST vs. DEFENDANT: TEOBALDO SCHUJMAN, ET AL	

NATURE OF PROCEEDINGS: MOTION – OTHER: TO EXPUNGE LIS PENDENS

RULING

Defendants' motion to expunge lis pendens is **GRANTED**. Defendants' request for attorney's fees is granted in the amount of $36,500.

Procedural Background

Plaintiff filed her original Complaint in this action on November 22, 2024 and a First Amended Complaint on June 2, 2025. In her First Amended Complaint, Plaintiff alleges that she was effectively "married" and had a partnership with Defendant Teobaldo Schujman ("Teo") in connection with their romantic relationship. Plaintiff seeks to dissolve that partnership, to impose a constructive trust on five parcels of property she alleges are partnership assets and to quiet title to the five parcels, partition of the parcels, and an accounting. Plaintiff alleges that title to the five properties is held in the name of Defendant Carmen Alicia Schujman ("Carmen") or her trust but they are actually partnership assets that Alicia holds to protect them from seizure due to Teo's work in the cannabis industry. Plaintiff also asserts causes of action for breach of the partnership agreement, breach of fiduciary duty, constructive fraud, quantum meruit/failure to pay minimum wage, conversion and theft, destruction of personal property, sexual battery, and domestic violence.

The five parcels of property identified in the First Amended Complaint are: (1) 20 Elizabeth Place, Inverness, County of Marin (APN/Parcel ID(s): 114-120-69); (2) 10 Elizabeth Place, Inverness, County of Marin (APN 114-120-88); (3) 83-85 Cazneau Ave., Sausalito, County of Marin (APN/Parcel ID: 065-102-06) (the "Sausalito Property"); (4) 30901 Philo-Greenwood Road, Elk, County of Mendocino CA 20 acres parcel (A.P.N. 130-140-15-00); and (5) 30901 Philo-Greenwood Road, Elk, County of Mendocino, CA 6.9 acres parcel (A.P.N. 130-140-16-00) (collectively, (4) and (5) are referred to as the "Elk Properties").

Plaintiff recorded a Notice of Pendency of Action for each of the properties on November 25, 2024.

Standard

"A party to an action who asserts a real property claim may record a notice of pendency of action in which that real property claim is alleged." (Code Civ. Proc. § 405.20.) "At any time after notice of pendency of action has been recorded, any party . . . may apply to the court in which the action is pending to expunge the notice . . . Evidence or declarations may be filed with the motion to expunge the notice . . . The claimant shall have the burden of proof under Sections 405.31 and 405.32." (Code Civ. Proc. § 405.30.) "[T]he court shall order that the notice be expunged if the court finds that the claimant has not established by a preponderance of the evidence the probable validity of the real property claim. The court shall not order an undertaking to be given as a condition of expunging the notice if the court finds the claimant has not established the probable validity of the real property claim." (Code Civ. Proc. § 405.32.) "Probable validity means that it is more likely than not that the claimant will obtain a judgment against the defendant on the claim." (*Newell v. Superior Court of Los Angeles County* (2024) 107 Cal.App.5th 728, 735 [citation and internal quotations omitted].)

Requests for Judicial Notice

Plaintiff's request for judicial notice of the Petition for Forfeiture (Exhibit A), the Order on Forfeiture Following Stipulated Settlement (Exhibit B), and Teo's guilty plea (Exhibit C) is granted. Defendants' request for judicial notice of Plaintiff's declaration filed on April 21, 2025 (Exhibit A) is granted. (Evid. Code §§ 452, 453.) However, the court does not take judicial notice of the truth of matters stated in these documents. (See *Herrera v. Deutsche Bank National Trust Co.* (2011) 196 Cal.App.4th 1366, 1375.)

Objections to Evidence

The Court does not rule on Defendants' objections made to the declarations of Natasha Khallouf, Tess Elliot, Jessica Meinolf, David White, Dr. Goodwin-Herrik, Aeon Kerris, and Dharma Clement because the statements in those declarations are not material to the Court's ruling.[1] For the same reason, the Court does not rule on the objections to Plaintiff's declaration except for Objection Nos 5, 15-17, 25, 26, 34, 39, 50, 54, 56-59, 69-71, 73 and 78. The statements or exhibits to which the remaining objections are directed do not have to do with the acquisition and/or payment for the Sausalito and Elk Properties. Defendants' objections are also improper as each objection cites multiple sentences from Plaintiff's declaration but does not indicate which sentence is subject to which of the numerous objections they assert.

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[1] Defendants request that the Court rule on all 157 of their evidentiary objections (under *Vineyard Springs Estates v. Superior Court* (2004) 120 Cal.App.4th 633, which addressed objections in the context of a summary judgment motion. *Vineyard Springs* does not require the Court to rule on all objections here. Even if the motion before the Court was a motion for summary judgment, in that context "the court need rule only on those objections to evidence that it deems material to its disposition of the motion." (Code Civ. Proc. § 437c(q).) The majority of the evidence challenged by Defendants is not relevant to the Court's decision.

Objection Nos. 5, 17, 26 and 57 to Plaintiff's declaration are overruled. Objection Nos. 15 and 16 are sustained to the extent Plaintiff purports to describe the legal nature of a partnership but are otherwise overruled. Objection No. 25 is sustained as to the last two sentences but is otherwise overruled. Objection Nos. 34, 39 and 54 are sustained as to Teo's cash and use of cash on the ground of lack of foundation. Plaintiff does not state she witnessed or participated in the transactions or had access to accounts that would reflect any such transactions. Objection No. 50 is overruled as to what Teo and Alicia told Plaintiff and Plaintiff's request to have something in writing, but is otherwise sustained. Objection No. 56 is sustained except for the first sentence. Objection No. 58 is sustained as to the language "in her capacity as Trustee of the Carmen Alicia Schujman Living Trust having received five subject partnership real properties listed below for safe keeping" and "She did harm me and she did harm the children" but is otherwise overruled. Objection No. 59 is sustained as to references to "partnership" assets or property and as to the last two sentences but is otherwise overruled. Objection No. 69 is overruled as to the second sentence but is otherwise sustained. Objection No. 70 is sustained as to the term "located" and as to the second sentence. Objection No. 71 is sustained except as to the third sentence. Objection Nos. 73 and 78 are sustained.

Discussion

Teo and Alicia move to expunge the lis pendens on the grounds that they were not filed and served as required under Code of Civil Procedure Sections 405.22, 405.23 and §1013a, and that Plaintiff has not met her burden under Section 405.32 to show probable validity with respect to the Sausalito Property and the Elk Properties.

I. Filing and Service

Code of Civil Procedure Section 405.22 provides that "the claimant shall, prior to recordation of the notice, cause a copy of the notice to be mailed, by registered or certified mail, return receipt requested, to all known addresses of the parties to whom the real property claim is adverse and to all owners of record of the real property affected by the real property claim as shown by the latest county assessment roll . . . Immediately following recordation, a copy of the notice shall also be filed with the court in which the action is pending. Service shall also be made immediately and in the same manner upon each adverse party later joined in the action." Section 405.23 provides that "Any notice of pendency of action shall be void and invalid as to any adverse party or owner of record unless the requirements of Section 405.22 are met for that party or owner and a proof of service in the form and content specified in Section 1013a has been recorded with the notice of pendency of action. Service shall also be made immediately and in the same manner upon each adverse party later joined in the action."

Defendants argue that Plaintiff failed to comply with Section 405.22 because the notices were recorded first and then mailed to Defendants, service was without return receipt requested, and Plaintiff never filed the notices with the court.[2] Defendants' first argument does not support

[2] Defendants also complain that the proofs of service did not specify the specific Notice of Pendency of Action being served (by address or APN) or the case name or number, but this information is not required under the cited statutes. Defendants also state that some lender defendants were not served but these defendants do not join in the motion so there is insufficient evidence as to service upon them. Plaintiff also submits the declaration of Jonathan

expunging the lis pendens, as the documents show that the Notices were recorded and sent to Defendants by mail on the same day and it is not clear from the face of the documents which happened first. Moreover, substantial compliance with the mailing requirement of Section 405.22 is sufficient. (See *J&A Mash & Barrel, LLC v. Superior Court of Fresno County* (2022) 74 Cal.App.5th 1, 28-29.) Thus, the fact that the notices may have been mailed a few hours after they were recorded would not make the notices invalid because the fact remains that they were served by mail at or around the time they were required to be served.

However, Defendants' second argument has merit as the proofs of service do not state that return receipt was requested and the receipts Plaintiff's counsel attaches to his declaration confirm that return receipt was not in fact requested. Plaintiff did not substantially comply with the mailing requirement here as the return receipt requirement is important to ensure receipt by the party being served. Both Alicia and Teo state that they do not recall ever being served with the notices. (Declaration of Carmen Alicia Schujman ("Alicia Decl."), ¶31; Declaration of Teobaldo Schujman ("Teo Decl."), ¶12.)

Defendant's third argument also has merit as there is no indication in the court's docket that the notices were filed with the court. Counsel states in his declaration that he mailed the notices to the clerk for filing, but he does not produce evidence of this or that the notices were ever actually filed with the court.

Defendants' motion to expunge all five notices is granted for noncompliance with Section 405.22.

II. Probable Validity as to the Sausalito and Elk Properties

Defendants' motion is granted as to the Sausalito and Elk Properties on the additional ground that Plaintiff does not meet her burden as to the probable validity of her claims as to these properties.

A. Defendants' showing

1. Alicia's declaration

Alicia states in her declaration that each of the five properties are owned by her individually or in her trust and that no one else, including Plaintiff, funded any portion of the down payments for the properties or is a mortgagor on any of the properties. (Alicia Decl., ¶3.) She has accumulated wealth over the years from various businesses including real estate ventures. (*Id.*, ¶¶4, 5, 7-15.) In January 2009, she bought the Sausalito property for $800,000 with $67,419 in cash, $533,850 from Provident Funding secured by the property, and a $200,000 line of credit she had on another property in Seattle. The preliminary title report was issued before she knew or heard of Plaintiff, who she met on December 24, 2008. Plaintiff did not provide any money for the purchase of that property. (*Id.*, ¶¶17-22 and Exhs. 6-8.) Alicia also states that she identified and purchased the Elk Properties in mid-2009. She offered the full asking price with

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Wong, who explains the difficulty he has had trying to serve Defendant Recovco Mortgage Management Company LLC.

an owner financing agreement of $570,000, and she alone funded the downpayment of $355,000 with the proceeds of the sales of her properties in Seattle and Oakland as well as a $69,700 draw from the line of credit on her Seattle property. (*Id.*, ¶23.) Teo assisted her as her property manager because she was traveling extensively in Spain and he signed the deed of trust as her attorney-in-fact. (*Id.*, ¶24.) She obtained a private lender loan to pay off the balance owned to the owners. Neither Teo nor Plaintiff contributed any money to the purchase of these properties. (*Id.*, ¶¶25, 26 and Exh. 11.) In 2020, Alicia refinanced the Sausalito Property for $1,245,000 with a cash out of $711,150, part of which she used, along with a private loan, to purchase the property at 10 Elizabeth for $600,000. (*Id.*, ¶28 and Exhs. 12, 14, 15.)

2. Teo's declaration and Mr. Johnson's declaration

Teo states in his declaration that Plaintiff occasionally volunteered to assist with her rental properties. Plaintiff was primarily a stay at home mother, while Teo acted as property manager for his mother. Neither he nor Plaintiff funded any portion of the down payments for the properties. (Teo Decl., ¶5.) Teo also states that Plaintiff never provided any money to him or his mother. (*Id.*, ¶¶6, 8.) His mother allowed them to live rent-free in her properties but they did not contribute any money to the mortgage. (*Id.*, ¶7.) When he went to the Elk Properties to deliver a $5,000 deposit, he accidentally left the money at home so he had Plaintiff wire that amount to him. (*Id.*, ¶9.)

The declaration of one of the sellers of the Elk Properties, David Mark Johnson, states that the cash provided in connection with the sale was funded by Alicia and that Teo only signed for his mother and was not a purchaser or owner of the property. (Declaration of David Mark Johnson, ¶¶3, 4.) Teo signed as Alicia's attorney-in-fact because Alicia was traveling. Alicia paid both promissory notes in full in 2012. (*Id.*, ¶¶4, 7.)

3. Other evidence

Defendants produce evidence that Plaintiff filed her petition for dissolution from her former husband John Simpson on March 13, 2009 and that judgment was entered on January 5, 2010. Page 2 of the judgment reflects a settlement agreement between Plaintiff and Mr. Simpson and a reference to $100,000 in cash, but it is unclear who is to pay that amount. This settlement agreement is signed and dated over six months after the closing date for the Sausalito Property and no judgment was entered until a year after Alicia closed on the Sausalito Property. (Declaration of Elizabeth Brekhus ("Brekhus Decl."), ¶3.) Defendants asked for evidence in discovery that Plaintiff provided any sum of money to Alicia but Plaintiff did not provide any. (*Id.*, ¶¶5, 6.)

The Court does not consider the declaration of Manny Kagan or the further declarations of Alicia and Teo, all of which are submitted in connection with Defendants' Reply. (See *Jack v. Ring LLC* (2023) 91 Cal.App.5th 1186, 1212 ["A trial court has discretion whether 'to accept arguments or evidence made for the first time in reply'"] [citation omitted].) There is no reason Mr. Kagan's declaration could not have been filed with Defendants' moving papers. Moreover, the further declarations of Alicia and Teo merely affirm statements they made in their earlier declarations, even when made in the context of their "rebuttals" to the third-party declarations offered by Plaintiff.

B. Plaintiff's Showing

1. Plaintiff's declaration

Plaintiff states in her declaration that in December 2008 she and Teo verbally agreed that they would be equal partners and "married" outside of the court. They agreed to pool their resources and labor as part of a partnership and to use partnership income for their joint livelihood. Teo told her that what was his was hers, and what was hers was his. Teo referred to her as his wife and occasionally as her partner, she referred to him as her husband, and Alicia referred to Plaintiff as her daughter-in-law or Teo's spouse. Plaintiff further states that Teo and Alicia told her repeatedly that all of their property would be held by Alicia, for her and Teo and their children, in Alicia's revocable trust. She states vaguely in paragraphs 7, 18 and 25 that she input $157,000 from her divorce, but provides no details such as when this occurred or how this money was contributed in any way to the parties' relationship. Plaintiff does state that "[f]or the start of the partnership, [Teo] assured [her that her] contribution was not needing to be financial and that he was the provider", which raises the question as to whether any of the $157,000 was ever contributed particularly given the lack of specificity offered by Plaintiff with respect to this sum. Plaintiff states that she worked for the partnership on various legal enterprises including searching for income producing properties, property renovation, and the operation of rental properties, and she raised their family. Teo worked in cannabis for the benefit of the partnership and told Plaintiff his work was legal in California. Teo used Plaintiff's car as if was his. After Teo was arrested, Plaintiff worked greater hours to produce income on the rentals because Teo was not bringing in income.

Plaintiff states that early in the partnership, Teo indicated they needed to have a third party hold title to the property in case he was arrested and the properties subject to seizure. Teo appointed Alicia as trustee of the five properties to hold them in her trust name to protect the properties for Teo and Plaintiff. Alicia told Plaintiff she was only taking title to protect the assets for Plaintiff and Teo and that they would be returned upon demand. Teo and Alicia were acting in unison, and Teo signed deeds of trust on the Elk Properties as Alicia's attorney-in-fact.

2. Other declarations

Plaintiff submits declarations from Natasha Khallouf, Tess Elliot, Jessica Meinolf, David White, Dr. Goodwin-Herrik, Aeon Kerris, and Dharma Clement. Some of these declarations are provided to show that Teo and Plaintiff referred to each other as a spouse or partner (Khallouf, Elliot, Meinolf, White, Goodwin-Herrick, Karris), or that Plaintiff worked on the upkeep and renting of 20 Elizabeth, where she lived with Teo (Khallouf, Meinolf, Karris). Ms. Meinolf also states in her declaration that Plaintiff and Teo spoke of their partnership properties, including the Sausalito and Elk Properties, as jointly owned and maintained by them, and Mr. White states that Plaintiff and Teo referred to all of the properties as "our properties". Dr. Goodwin-Herrick states in her declaration that she reached a verbal agreement for the sale of 20 Elizabeth, which she previously owned, with Teo and Plaintiff and that she transferred her bed and breakfast business to Plaintiff. She also states that Teo told her that title was going to be held for him and Plaintiff in a family trust in Alicia's name. Aeon Karris states that Plaintiff and Teo referred to all five properties as "ours". Dharma Clement states in his declaration that he discussed the need to put

his property and houses in someone else's name due to Teo's work on cannabis, and that Teo stated he was going to put properties in a trust in his mother's name.

C. Discussion

Plaintiff has not satisfied her burden of showing the probable validity of her claims as to the Sausalito and Elk Properties.[3] The evidentiary record shows that the Sausalito Property was identified by Alicia before she even met Plaintiff, and Alicia has submitted evidence showing that her own funds were used to purchase the property. The evidence also shows that the Sausalito and Elk Properties were acquired by Alicia before Plaintiff's divorce and thus before Plaintiff even received any money from her divorce settlement. Plaintiff does not present any evidence that any of her money, or even any money Teo made at the time, was used in any way to acquire these properties or to pay off any loans on these properties. Plaintiff's conclusory statements that these properties were purchased or paid in any way with partnership assets are insufficient and not supported by any actual evidence.

Defendants' Request for Attorneys' Fees

Code of Civil Procedure Section 405.38 provides that "[t]he court shall direct that the party prevailing on any motion under this chapter [Expungement and Other Relief] be awarded the reasonable attorney's fees and costs of making or opposing the motion unless the court finds that the other party acted with substantial justification or that other circumstances make the imposition of attorney's fees and costs unjust."

Defendants request that they be awarded $57,850 in attorney's fees and $60 in costs incurred in bringing this motion. Defendants' counsel states in her declaration that her office spent 75 hours preparing the motion at a rate of $600 per hour and a $60 filing fee. (Brekhus Decl., ¶15.) Counsel states in her reply declaration that she personally spent 14 hours preparing the reply brief and reply declarations at a rate of $650 per hour. (Reply Declaration of Elizabeth Brekhus, ¶3.)

Defendants are entitled to an award of fees and costs as they are the prevailing party on the motion, Plaintiff did not act with substantial justification, and there are no circumstances that make the imposition of attorney's fees and costs unjust. However, the number hours spent are unreasonable and excessive given that the substantive arguments made by Defendants pertained to only three of the five properties and some of the papers filed with the reply were unnecessary and/or excessive. The Court will award fees for 50 hours of time spent on the moving papers and 10 hours on the reply, for a total of $36,500 ($30,000 for the moving papers + $6,500 for the reply).

[3] The Court does not address whether Plaintiff has made a showing of probable validity as to the Inverness properties (10 and 20 Elizabeth) because Defendants do not make this argument in their moving papers. (See MPA, pp. 10-11.)

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: 09/23/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0004701

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: ERICK ARENAL-LOPEZ vs. DEFENDANT: PACIFIC GAS & ELECTRIC COMPANY, ET AL	

NATURE OF PROCEEDINGS: 1) DEMURRER
2) DEMURRER

RULING

The demurrer to the First Amended Complaint ("FAC") by Defendant and Cross-Defendant Jamba Construction, Inc. ("Jamba") is **OVERRULED**. (Code Civ. Proc., § 430.10(e).) The demurrer by Jamba to the Cross-Complaint filed by Defendant and Cross-Complainant Pacific Gas & Electric Company ("PG&E") is **OVERRULED.** (Code Civ. Proc., § 430.10(e).) Jamba is ordered to file its answers to the FAC and Cross-Complaint within 20 days.

Allegations

On December 19, 2022, Plaintiff, an employee of non-party Nissi Electric ("Nissi"), was dispatched to install an electrical panel upgrade at job site where Jamba was the general contractor. Plaintiff was tasked to work on an electrical panel located on a stair landing at the site. While Plaintiff working on the panel, there was a large electric arc flash that made contact to his face and caused him to back off the landing, which had no railing, a drop of approximately 5-10 feet. Plaintiff suffered various injuries including severe burns to his face, traumatic brain injuries and orthopedic injuries.

Plaintiff alleges PG&E is liable for his injuries because it negligently left the power on while Plaintiff was working on the panel and/or PG&E failed to adequately rubberize the lines. Plaintiff's allegations against Jamba are based on its control of the safety of the job site. Specifically, Plaintiff alleges Jamba exercised control by Nissi to work on the landing area despite the fact that there was a 5-10 foot drop at the edge of the landing, lacked a railing, and constituted a hidden hazardous condition that was not disclosed by Jamba. Plaintiff alleges Jamba failed to add guardrails, cones, scaffolding and/or harnesses to warn workers and protect them from a fall off the unguarded landing.

On December 6, 2024, Plaintiff filed this action. On June 17, 2024, Plaintiff filed the operative FAC alleging the following causes of action: 1) general negligence; and 2) premises liability.

On February 21, 2024, PG&E filed a cross-complaint against Jamba alleging the following causes of action: 1) equitable indemnity; 2) implied indemnity; 3) comparative indemnity; 4) contribution; and 5) declaratory relief.

Currently before the Court are Jamba's demurrers to the FAC and Cross-Complaint. (Code Civ. Proc., § 430.10, subds. (e).) In its demurrer to the FAC, Jamba argues Plaintiff is barred from recovering on a theory of negligence or premises liability based on the *Privette* doctrine expressed in *Privette v. Superior Court* (1993) 5 Cal.4th 689. Jamba challenges the Cross-Complaint on the ground that, because the *Privette* doctrine bars the underlying complaint, PG&E cannot state any of its causes of action.

Demurrers

Standard

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.)

Demurrer to FAC

Jamba contends the causes of action for negligence and premises liability in the FAC are barred by the California Supreme Court decision in *Privette v. Superior Court* (1993) 5 Cal.4th 689 and its progeny. Jamba argues it hired Plaintiff's employer – Nissi – to upgrade the electrical panel, and to do so safely. Nissi is an independent contractor specializing in electrical work and Plaintiff, an electrician, is its employee. Therefore, Jamba concludes that *Privette* applies and Plaintiff cannot state any cause of action against it.

The *Privette* doctrine bars employees of independent contractors from recovering damages from the hirer of the contractor for workplace injuries. (*SeaBright Ins. Co. v. US Airways, Inc.* (2011) 52 Cal.4th 590, 594.) However, there is a multitude of exceptions to the general rule. (*Secci v. United Independent Taxi Drivers, Inc.* (2017) 8 Cal.App.5th 846, 859.) One exception is where a landowner fails to disclose a concealed hazard to the contractor. (*Kinsman v. Unocal Corp.* (2005) 37 Cal.4th 659, 674.) Another exception to the *Privette* doctrine was set forth in *Hooker*

v. Dept. of Transportation (2002) 27 Cal.4th 198 and is based on the concept of negligent exercise of retained control. "[A] hirer of an independent contractor is not liable to an employee of the contractor merely because the hirer retained control over safety conditions at a worksite, but ... a hirer is liable to an employee of a contractor insofar as a hirer's exercise of retained control affirmatively contributed to the employee's injuries." (*Hooker*, *supra*, 27 Cal.4th at 202.)

Jamba's application of *Privette* is premature at the pleadings stage, where the Court is obligated to accept Plaintiff's allegations as true. Plaintiff alleges that Jamba was the general contractor of the project at the time of the incident, but Plaintiff does not allege that Jamba "hired" Nissi.

Furthermore, even if Jamba hired Nissi, Plaintiff alleges acts of affirmative negligence on the part of Jamba, and knowledge of concealed hazards that it failed to disclose which would preclude the application of the *Privette* doctrine for pleading purposes. The application of which will turn on the facts and evidence to be developed in this action. Accordingly, as alleged, Plaintiff's claims in the FAC are not barred by the *Privette* doctrine for pleading purposes.

To the extent Jamba also argues the allegations in the FAC are conclusory, this is also not sufficient grounds for demurrer. As negligence may be pleaded generally, and because premises liability is a form of negligence, Jamba's demand for factual specificity within the FAC is not a basis for sustaining its demurrer. (See *Berkley v. Dowds* (2007) 152 Cal.App.4th 518, 527; *Hahn v. Mirda* (2007) 147 Cal.App.4th 740, 747 [no requirement that plaintiff identify and allege the precise moment of the injury or the exact nature of the wrongful act]; *Brooks v. Eugene Burger Management Corp.* (1989) 215 Cal.App.3d 1611, 1619.)

The demurrer to the FAC is overruled.

Demurrer to Cross-Complaint

For the same reasons stated above, Jamba's demurrer to the cross-complaint also lacks merit. Jamba demurs to the Cross-Complaint solely on the grounds that PG&E does not have any claim for indemnity against it without liability and Plaintiff has failed to allege any cause of action in his FAC giving rise to liability. In light of the sufficient allegations of the FAC, the demurrer to the Cross-Complaint is overruled.

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 September 2025 is as follows:
https://marin-courts-ca-gov.zoomgov.com/j/1605267272?pwd=908CbP6TV2mhCAyai1nzo6lyz2dKaw.1

Meeting ID: 160 526 7272
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 09/23/25 TIME: 1:30 P.M. DEPT: A CASE NO: CV0006263

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: ERIC RUIZ VS. DEFENDANT: AMRIT KAUR, ET AL	

NATURE OF PROCEEDINGS: MOTION - OTHER

RULING

This is an action for fraud brought by a self-represented Plaintiff against individuals and a realty company. Despite having only commenced this action a few months ago, Plaintiff has managed to file abundant pleadings. His original complaint was filed in May of 2025, he filed a First Amended Complaint in July of 2020 and in August of 2020 filed a motion for leave to file a Second Amended Complaint. In the interim he has filed two motions described as "Motion to Set Hearing on Verified Petition for Damages," various statement of damages and supplemental statement of damages, and a number of notices and clarifications.

Although Plaintiff has chosen to represent himself, he is held to the same standard as an attorney. (*Rappleyea v. Campbell* (1994) 8 Cal.4th 975, 984-985.) Self-representation is not a ground for lenient treatment and, as is the case with attorneys, a person who represents herself must follow all rules of procedure. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1247.) Plaintiff's motion to set a hearing is not procedurally or substantively proper and is therefore **DENIED**.

The parties are to appear before the Court on October 7, 2025 at 9am in Courtroom A for a case management conference.

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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