SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 11/04/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0001622

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: FELIPE GONZALEZ MARTINEZ, ET AL vs. DEFENDANT: 1125 SIR FRANCIS DRAKE BOULEVARD OPERATING CO., LLC	

NATURE OF PROCEEDINGS: MOTION – SANCTIONS

RULING

Continued to December 30, 2026.

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 November, 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: 11/04/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0001633

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: CENTER FOR ADVANCED PUBLIC AWARENESS CAPA) vs. DEFENDANT: MAESA, LLC	

NATURE OF PROCEEDINGS: MOTION – OTHER: APPROVAL OF PROP 65 SETTLEMENT

RULING

The unopposed motion for approval of the Proposition 65 settlement and consent judgment is granted.

This case concerns Defendant Maesa's glass bottles. Plaintiff contends that the bottles were tested and found to contain lead at a level which requires a clear and reasonable warning. Plaintiff served Maesa, the California Attorney General and the public enforcement agencies with a 60-Day Notice of Violation of Proposition 65, and thereafter filed this lawsuit. On July 14, 2026 the parties finalized and executed a consent judgment and settlement.

After review of the motion and supporting papers, the Court finds that the settlement is fair and appears to be the product of arms-length negotiations. The amount of statutory penalties in the amount of $2,500 is reasonable in light of Health and Safety Code 25249.7(b). The attorneys' fees in the amount of $20,000 is also reasonable when viewed against the lodestar.

Finally, the Court finds that proposed warning and the injunctive relief requiring Maesa to post the warning to be reasonable as set forth in the consent judgement.

Plaintiff shall prepare a proposed order approving the settlement, consent judgment, and awarding the fees and civil penalties.

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: 11/04/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0004018

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: MERCURY INSURANCE COMPANY, A CORPORATION vs. DEFENDANT: MARTIN BORGES BENTEZ	

NATURE OF PROCEEDINGS: MOTION - ENFORCE SETTLEMENT AGREEMENT

RULING

Plaintiff's unopposed motion to enforce settlement and to enter judgment is granted.

The parties entered into a settlement agreement, stipulating for entry of judgment unless Defendant made monthly instalment payments totaling $6,600. Under the terms of the stipulation, a failure to pay would result in judgment along with interest, plus court costs. Defendant made payments totaling $1,950, but no further payments were made after May 15, 2026.

Plaintiff filed a notice of hearing which was served on Defendant 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).) 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.)

The Court will therefore, sign the proposed 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: 11/04/26 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 – AMEND COMPLAINT

RULING

Plaintiff's motion for leave to file a first amended complaint is continued to November 25, 2026 to be heard concurrently with Defendants/Cross-Complainants' motion for leave to file second amended cross-complaint.

In the interim, the Court directs the parties to meet and confer on issues related to the pending motions and discovery, in light of Plaintiff's request to add a cause of action and the recent anticipated appearance of defendant Oscar Ramirez.

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: 11/04/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0006655

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: FRANCES SEETO vs. DEFENDANT: MONICA SICILIA, ET AL	

NATURE OF PROCEEDINGS: MOTION – ENFORCE

RULING

Plaintiff Frances Seeto's motion to enforce settlement agreement and enter judgment is denied. The request for attorney's fees by both parties is denied.

Procedural Background

Plaintiff Frances Seto, Trustee of the Moki Family Trust dated August 18, 2009, initiated this action against Defendants Monica Sicilia and Lynda Goldman in June 2025, asserting claims for trespass, nuisance, quiet title, negligence, and injunctive relief.

The parties executed a Settlement Agreement (the "Agreement") in December 2025. Currently before the Court is Plaintiff's motion to enforce the Agreement. Defendants filed their own motion to enforce on October 20, 2026, scheduled for hearing on December 23, 2026.

Standard

Code of Civil Procedure Section 664.6(a) provides in part that "[i]f parties to pending litigation stipulate, in a writing signed by the parties outside of the presence of the court or orally before the court, for settlement of the case, or part thereof, the court, upon motion, may enter judgment pursuant to the terms of the settlement . . . ."

"Before judgment can be entered, two key prerequisites must be satisfied . . . First, there must be contract formation. The litigants must first agree to the material terms of a settlement contract before a judgment can be entered 'pursuant to the terms of the settlement.' If no meeting of the minds has occurred on the material terms of a contract, basic contract law provides that no contract formation has occurred. If no contract formation has occurred, there is no settlement agreement to enforce pursuant to section 664.6 or otherwise. Second, there must be a 'writing signed by the parties' that contains the material terms." (*Weddington Productions, Inc. v. Flick* (1998) 60 Cal.App.4th 793, 797.)

In ruling on a motion under Section 664.6, the court acts as the trier of fact, determining whether the parties entered into a valid and binding settlement. (*Osumi v. Sutton* (2007) 151 Cal.App.4th 1355, 1360.) The court may consider the parties' declarations and other evidence in deciding what terms the parties agreed to, and if the court determines that the parties entered into an enforceable settlement, it should grant the motion and enter a formal judgment pursuant to the terms of the settlement. (*Hines v. Lukes* (2008) 167 Cal.App.4th 1174, 1182.) While the court may interpret the terms of a settlement agreement, it cannot create material terms. (*Leeman v. Adams Extract & Spice, LLC* (2015) 236 Cal.App.4th 1367, 1374.) "The power of the trial court under Code of Civil Procedure section 664.6 . . . is extremely limited." (*Hernandez v. Board of Education of the Stockton Unified School District* (2004) 126 Cal.App.4th 1161, 1176.) "'Although a judge hearing a section 664.6 motion may receive evidence, determine disputed facts, and enter the terms of a settlement agreement as a judgment [citations], nothing in section 664.6 authorizes a judge to *create* the material terms of a settlement, as opposed to deciding what terms *the parties themselves* have previously agreed upon.'" (*Ibid*. [citation omitted] [emphasis in original].)

"[T]he trial court is under a duty to render a judgment that is in exact conformity with an agreement or stipulation of the parties. 'If interpretation of a stipulation is in order the rules applied are those applied to the interpretation of contracts. [Citations.] It is not the province of the court to add to the provisions thereof [citations]; to insert a term not found therein [citations]; or to make a new stipulation for the parties.'" (*Jones v. World Life Research Inst.* (1976) 60 Cal.App.3d 836, 840 [citation omitted].) If the court concludes that the parties did not enter into an enforceable agreement, it should deny the motion; it cannot create new terms to make the settlement enforceable. (*Weddington*, 60 Cal.App.4th at p. 810.)

Request for Judicial Notice

Defendants' request for judicial notice of the grant deeds is denied as they are not relevant to the Court's ruling. (See *AL Holding Co. v. O'Brien & Hicks, Inc*. (1999) 75 Cal.App.4th 1310 n. 2 ["a court must decline to take judicial notice of material that is not relevant "].)

The Agreement

A copy of the Agreement is attached as Exhibit 1 to the Declaration of Benjamin Graves. As set forth below, the Agreement contemplates three easements to be granted by Plaintiff to Defendants in exchange for a payment of money. The Agreement provides in part:

> 2. Consideration, Grantee obligations.
>
> [a] Grantee shall pay to the Grantor the total sum of ($139,500.00) within fourteen (14) calendar days of the electronic delivery of the fully signed settlement agreement and receipt of a properly endorsed W9.

[b] Grantee shall draft an Easement Agreement for approval, execution, and notarization by the Parties. Once executed and notarized, Grantee shall cause the Easement Agreement to be recorded in the Marin County Recorder's Office . . .

3. Conditions of the Easement Agreement. The parties anticipate the recordation of an Easement Agreement shall be accompanied both by a plat map exhibit along with a metes-and-bounds legal description of the areas on the Seeto Property to be burdened by the easements described herein. That plat map and legal description shall be created by Ray Carlson (or another surveyor of the Parties' collective choosing) at the expense of Grantee and shall comply with the following provisions as they relate to a map sketch attached herein:

[a] These easements shall be perpetual, nonexclusive and appurtenant to the Goldman/Sicilia Property.

[b] Parking easement. Grantor grants to Grantee a parking easement for two cars in a location between Points 3-7 on the Map Sketch. The parking easement shall have a depth of twenty-four feet, and a width of twenty-three feet and be located between Points 3-7 on the Map Sketch.

[c] Access easement. Grantor grants to Grantee a fourteen (14)-foot wide access (ingress and egress) easement over the Seeto Property in a location generally bounded by white dashed line on the Map Sketch to allow Grantee vehicle access to the two parking spots. This access (ingress and egress) easement shall include the entire hardscape except the SEETO carport, and the area between the SEETO House and Points 7-8. Grantee shall not park or allow guest or invitees to park on the access easement.

[d] Pathway easement. Grantor grants to Grantee a pathway easement for pedestrian ingress and egress from the Parking Easement to a storage area on the Goldman/Sicilia Property. That pathway shall be thirty-six (36) inches wide and located coincident with the historical use and brick pathway. Grantee shall be permitted to remediate and improve the existing pathway (which includes a staircase recently removed). In addition, Grantee shall cause to be installed a solid six (6) foot high redwood fence immediately adjacent to the pathway, in a position between the pathway and the Seeto residence. Grantee will assure that the pathway is compliant with all County and State safety standards . . .

> 11. Attorneys' fees. In any action to enforce, interpret, or rescind the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs. Each party shall bear their own costs and attorneys' fees and court costs except as specified herein.

The Agreement attaches an overhead drone photograph, marked as the Map Sketch, taken by Plaintiff. The Map Sketch shows the general location of the access corridor and parking area in relation to the existing improvements. (Declaration of Benjamin Graves ("Graves Decl."), ¶9.) The parties signed the Agreement on December 12, 2025. (*Id.*, ¶10.)

Discussion

The Agreement sets forth only the dimensions of the access and parking easements, and states that the access easement is "in a location generally bounded by white dashed line on the Map Sketch." The actual location of the easements is left to a plat map and metes-and-bounds legal description to be prepared by Mr. Carlson after the Agreement was signed. The plat map and legal description were then to be incorporated into or be part of an Easement Agreement, which was also to be prepared after the Agreement was signed. The Easement Agreement has not been finalized because the parties disagree on which plat map/legal description should be incorporated into that agreement. Plaintiff asks the Court to use the plat map Mr. Carlson emailed counsel for the parties on May 14th, while Defendants ask the Court to use the plat map attached as Exhibit G to Mr. Carlson's declaration.

The plat map provided by Mr. Carlson to counsel on May 14 depicts an access easement that is 14 feet wide. (Graves Decl., ¶14 and Exh. 4.) Mr. Carlson represents in his declaration that the plat map attached as Exhibit G to his declaration also depicts an access easement that is 14 feet wide. (Declaration of Ray Carlson, ¶17 and Exh. G.) Both proposed plat maps appear to be "in a location generally bounded by white dashed line on the Map Sketch".

The Court concludes that there was no meeting of the minds as to a material term of the Agreement, i.e., the location of the 14 foot wide access easement. This specific term was not addressed in the Agreement but was instead left to be determined later. By asking the Court to find that one of the two competing plat maps and legal descriptions was part of the Agreement, the parties are asking the Court to create a term to which there was no meeting of the minds and that does not exist in the Agreement. Accordingly, Plaintiff's motion to enforce the Agreement is denied. Both parties' request for attorneys' fees 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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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 011/04//26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0006887

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: KATELYN FOSTER, INDIVIDUALLY, AND ON BEHALF OF OTHER SIMILARLY SITUATED EMPLOYEES vs. DEFENDANT: HOPMONK TAVERN-SONOMA LLC, ET AL	

NATURE OF PROCEEDINGS: MOTION - AMEND

RULING

Plaintiffs Katelyn Forster and Jenelle Strand ("Plaintiffs") filed a motion for leave to file a second amended complaint.

Legal Standard

Under Code of Civil Procedure section 473, subdivision (a)(1), the Court may, in furtherance of justice, and on any terms as may be proper, allow a party to amend any pleading or proceeding. As judicial policy favors resolution of all disputed matters in the same lawsuit, courts liberally permit amendments of the pleadings. (*Nestle v. Santa Monica* (1972) 6 Cal.3d 920, 939.) Denial is rarely justified. "If the motion to amend is timely made and the granting of the motion will not prejudice the opposing party, it is error to refuse permission to amend and where the refusal also results in a party being deprived of the right to assert a meritorious cause of action or a meritorious defense, it is not only error but an abuse of discretion. [Citations]." (*Morgan v. Superior Court* (1959) 172 Cal.App.2d 527, 530; see also Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2024) ¶ 6:639.)

Generally, courts allow the amendment and then let the parties test the legal sufficiency in other appropriate proceedings such as a demurrer. (See *Kittredge Sports Co.* v. *Superior Court* (1989) 213 Cal.App.3d 1045, 1048, and *Atkinson* v. *Elk Corp.* (2003) 109 Cal.App.4th 739, 760; see also Weil & Brown, *supra,* at ¶ 6:644.)

While California law holds that this leave is to be granted liberally to accomplish substantial justice for both parties (*Hirsa v. Superior Court* (1981) 118 Cal.App.3d 486, 488-489), a party requesting leave to amend must also comply with California Rules of Court, rule

3.1324. Compliance with the Rules of Court is satisfied by including a copy of the proposed amended pleading, detailing what changes will be made from the previous pleading by stating what allegations are to be deleted or added as compared to the previous pleading including page, paragraph and line number, and attaching a declaration by plaintiff's counsel, as to: (1) the effect of the amendment; (2) why the amendment is necessary and proper; (3) when the facts giving rise to the amended allegations were discovered; and (4) why the request was not made earlier.

As long as no prejudice to the defendant is shown, the liberal policy regarding the amendment prevails. (*Mesler v. Bragg Mgt. Co.* (1985) 39 Cal.3d 290, 296-297.)

Analysis

Plaintiffs have set forth facts which would entitle them to amend the complaint, in particular that the proposed defendants to be added would not prejudice Defendant and would eliminate duplicative lawsuits. Defendant did not file an opposition to the motion and the Court cannot discern any prejudice to Defendant.

The Declaration of Zachary Gershman sets for the modifications to the complaint which is also attached.

The Court grants Plaintiffs' motion for leave to file a second amended complaint.

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: 11/04//26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0008260

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: JOSELITO MAGLALANG vs. DEFENDANT: AMERICAN HONDA MOTOR CO., INC.	

NATURE OF PROCEEDINGS: MOTION – RELIEVE COUNSEL

RULING

Strategic Legal Practices' motion to be relieved as counsel for Plaintiff is continued to November 15, 2026 to allow counsel to provide a declaration indicating they have sent a copy of the complete file to Plaintiff. Upon receipt of a proper declaration, the Court shall grant counsel's motion.

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: 11/04/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0008414

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: RYAN LUGBAUER vs. DEFENDANT: VOLKSWAGEN GROUP OF AMERICA, INC. ET AL	

NATURE OF PROCEEDINGS: 1) MOTION – COMPEL – DISCOVERY FACILITATOR PROGRAM
2) MOTION – ADMISSIONS – DISCOVERY FACILITATOR PROGRAM
3) MOTION – ADMISSIONS – DISCOVERY FACILITATOR PROGRAM
4) MOTION – COMPEL – DISCOVERY FACILITATOR PROGRAM
5) MOTION – COMPEL ANSWERS TO INTERRROGATORIES - DISCOVERY FACILITATOR PROGRAM
6) MOTION – COMPEL ANSWERS TO INTERRROGATORIES - DISCOVERY FACILITATOR PROGRAM
7) MOTION – COMPEL ANSWERS TO INTERRROGATORIES - DISCOVERY FACILITATOR PROGRAM

RULING

Defendant Audi's motion to deem requests for admission, set one admitted, and Defendant Audi's motion to compel Plaintiff's responses to requests for documents (set one), special interrogatories (set one), form interrogatories (set one), and for sanctions is granted in part. Volkswagen Group's motion to compel Plaintiff's responses to form interrogatories (set one), special interrogatories (set one), requests for production of documents (set one), and motion to deem requests for admission as admitted, and for sanctions is granted in part.

Plaintiff shall provide specific and code compliant verifications as to each discovery request within five court days of service of this order.

The Court shall impose sanctions against Plaintiff. Plaintiff failed to properly respond, necessitating this motion and counsel's time, let alone the time of the Discovery Facilitator and the Court. While Plaintiff did eventually respond, counsel's failure to provide proper verifications even after prompting or to participate in the Discovery Facilitation process warrants sanctions. Defendants' request for sanctions as to each motion is excessive. The court orders

payment of $5,000 to defense counsel for all motions, to be paid within 30 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: 11/04/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0008630

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: MICHAEL NISPURUK vs. DEFENDANT: CF SAN RAFAEL, LLC, INDIVIDUALLY, ET AL	

NATURE OF PROCEEDINGS: MOTION – JUDGMENT ON THE PLEADINGS

RULING

Defendants CF San Rafael, LLC Dba Professional Post Acute Center, Crescent Facilities Operations, LLC, Cambridge Healthcare Services, LLC, Jenmax Enterprises, LLC, Win Win Enterprises, LLC, Ira Smedra, and Jacob Wintner's (collectively "Defendants") Motion for Judgment on the Pleadings is DENIED.

LEGAL STANDARD

A motion for judgment on the pleadings "may only be made on one of the following grounds: If the moving party is a plaintiff, that the complaint states facts sufficient to constitute a cause or causes of action against the defendant and the answer does not state facts sufficient to constitute a defense to the complaint." (Code Civ. Proc., § 438, subd. (c)(1)(A).)

Like a demurrer, a motion for judgment on the pleadings attacks defects disclosed on the face of the pleadings or by matters that may be judicially noticed. (*Alameda County Waste Management Authority v. Waste Connections US, Inc.* (2021) 67 Cal.App.5th 1162, 1173-1174.) A motion for judgment on the pleadings is similar to a demurrer in most respects. (*Ibid*.) Except as provided in the statute governing motions for judgment on the pleadings, the rules governing demurrers apply. (*Ibid*.)

A motion for judgment on the pleadings performs the same function as a general demurrer, and hence attacks only defects disclosed on the face of the pleadings or by matters that can be judicially noticed. (*Burnett v. Chimney Sweep* (2004) 123 Cal.App.4th 1057, 1064.) "[J]udgment on the pleadings must be denied where there are material factual issues that require evidentiary resolution." (*Schabarum v. California Legislature* (1998) 60 Cal.App.4th 1205, 1216.) Presentation of extrinsic evidence is not proper on a motion for judgment on the

pleadings. (*Burnett, supra*, at p. 1063; *Cloud v. Northrop Grumman Corp.* (1998) 67 Cal.App.4th 995, 999.)

However, admissions and concessions which the parties cannot properly controvert may be properly considered on motion for judgment on pleadings, even if the admission negates an express allegation of the pleadings. (*Evans v. California Trailer Court, Inc.* (1994) 28 Cal.App.4th 540, 549, disapproved on other grounds in *Black Sky Capital, LLC v. Cobb* (2019) 7 Cal.5th 156, 165.) Thus, a court may properly grant a motion for judgment on the pleadings based on judicial admissions. (*Bucur v. Ahmad* (2016) 244 Cal.App.4th 175, 186.)

DISCUSSION

This action arises out of the care and treatment rendered to Carol Freeland ("Decedent") at CF San Rafael, LLC dba Professional Post Acute ("the Facility"), a skilled nursing facility. On December 23, 2025, Michael Nispuruk, individually, as Successor-in-Interest of Carol Freeland and as Personal Representative of the Estate of Carol Freeland, filed the Complaint. With this Motion, Defendants argue that the First, Third, and Fourth causes of action against them fail to state facts sufficient to constitute a cause of action.

First Cause of Action - Elder Abuse/Neglect

As outlined in *Carter v. Prime Healthcare Paradise Valley LLC* (2011) 198 Cal.App.4th 396, 404–05, as modified (Aug. 24, 2011):

> The Elder Abuse Act defines abuse as "[p]hysical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering" (Welf. & Inst. Code, § 15610.07, subd. (a), italics added); or "[t]he deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering" (*id*., § 15610.07, subd. (b)). The Act defines neglect as "[t]he negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise." (*Id*., § 15610.57, subd. (a)(1).) "Neglect includes, but is not limited to, all of the following: [¶] (1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter. [¶] (2) Failure to provide medical care for physical and mental health needs.... [¶] (3) Failure to protect from health and safety hazards. [¶] (4) Failure to prevent malnutrition or dehydration." (*Id*., § 15610.57, subd. (b).) In short, neglect as a form of abuse under the Elder Abuse Act refers "to the failure of those responsible for attending to the basic needs and comforts of elderly or dependent adults, regardless of their professional standing, to carry out their custodial obligations." (*Delaney v. Baker* (1999) 20 Cal.4th 23, 34, 82 Cal.Rptr.2d 610, 971 P.2d 986 (*Delaney*).) Thus, when the medical care of an elder is at issue, "the statutory definition of 'neglect' speaks not of the undertaking of medical services, but of the failure to provide medical care." (*Covenant Care, Inc. v. Superior Court* (2004) 32 Cal.4th 771, 783, 11 Cal.Rptr.3d 222, 86 P.3d 290 (*Covenant Care*); see also *id*. at p. 786, 11 Cal.Rptr.3d 222, 86 P.3d 290 ["statutory elder abuse may include the egregious withholding of medical care for physical and mental health needs"].)

Where statutory remedies are invoked, facts "must be pleaded with particularity." (*Carter v. Prime Healthcare Paradise Valley LLC* (2011) 198 Cal.App.4th 396, 410, as modified (Aug. 24, 2011).

Here, the Complaint adequately pleads a cause of action for Elder Abuse/Neglect. (See Compl., ¶¶ 39-44, 48, 51-53, 73, etc., alleging specific facts regarding Decedent's condition, fall risk, the removal of assistive devices, failure to assist in personal hygiene and provide for physical health needs, etc.; See also Compl. ¶¶ 4-6, 10-15.)

The Motion is DENIED as to the First Cause of Action.

Third Cause of Action - Violation of Patients' Rights

Health & Safety Code section 1430, subdivision (b), provides for a civil remedy for patients and residents of a skilled nursing facility or intermediate care facility for violation of Patient Rights in Section 72527 of Title 22 of the Code of Regulations, or any other right provided for by federal or state law or regulation.

Here, the Complaint identifies some rights outlined by section 72527 and some other rights provided by other federal or state law. (See Compl., ¶ 117.) The Court agrees that some of the alleged violations lack factual support. However, a motion for judgment on the pleadings, like a demurrer, cannot be granted as to only a portion of a cause of action. *Santa Clarita Org. etc. v. Cnty. of Los Angeles* (2024) 105 Cal.App.5th 1143, 1165, reh'g denied (Nov. 8, 2024), review denied (Jan. 15, 2025).) Accordingly, if even one of the alleged violations is factually supported, the cause of action survives the Motion.

One of the alleged violations cites the rule that "the facility must ensure the resident environment remains as free of accidents hazards as possible and that each resident receives adequate supervision and assistance devices to prevent accidents." (Compl., ¶ 117, (L).) The Complaint contains clear allegations about the lack of assistive devices and supervision. (See Compl., ¶¶ 39-45.)
Accordingly, the Motion is DENIED as to the Third Cause of Action.

Fourth Cause of Action - Wrongful Death

To prevail on a claim of wrongful death, a plaintiff must prove (1) a wrongful act or neglect on the part of one or more persons, that is, negligence, that (2) causes (3) the death of another person. (*Musgrove v. Silver* (2022) 82 Cal.App.5th 694, 705, as modified on denial of reh'g (Sept. 13, 2022).)

Defendants argue the Complaint does not sufficiently plead Defendants' negligence "caused" Decedent's death. The Court disagrees. (See Compl., ¶¶ 45-6, 58, 110, 124, etc.) The Motion is also DENEID as to the Fourth 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.

The Zoom appearance information for November, 2026 is as follows:
https://marin-courts-ca-gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjjEOSHNzEGafG.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: 11/04/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0008805

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: CHRISTOPHER LIEN vs. DEFENDANT: NEAR SPACE LABS, INC.	

NATURE OF PROCEEDINGS: MOTION – COMPEL – DISCOVERY FACILITATOR PROGRAM

RULING

Plaintiff filed this motion to compel further responses to document requests and a discovery facilitator was appointed. On October 21, 2026, Plaintiff submitted a Declaration of Non-Resolution and indicated that the parties were set to meet with Facilitator Adrian Sawyer on October 23, 2026. The Court then continued the October 28, 2026 hearing to November 4, 2026 to allow the parties to meet with Mr. Sawyer. Neither party filed an update. However, the Court notes that Defendant has since filed its own motion to compel further responses to its own document requests. That hearing is now set for January 20, 2027.

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.

The Zoom appearance information for November, 2026 is as follows:
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 11/04/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0009539

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: PAUL SUNAK vs. DEFENDANT: USHA SUNAK, ET AL	

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

RULING

Defendants Usha, Gurbax, Simran, and Komal Sunak's ("Defendants") demurrer to Plaintiff Paul Sunak's ("Plaintiff") First Amended Complaint ("FAC") is SUSTAINED with leave to amend as to the Second, Fourth, Fifth, Seventh, Eighth, and Tenth Causes of Action and otherwise overruled. (Code Civ. Proc., § 430.10, subds. (e), (f).) Plaintiff's leave to amend does not authorize him to add the new claim under Civil Code, section 789.3 discussed in his opposition to the demurrer. Defendants' motion to strike is GRANTED with leave to amend as to Items 8, 13, and 17 and otherwise denied. (Code Civ. Proc., § 436.) All of Defendants' requests for judicial notice are granted. (Evid. Code, § 452, subd. (d).)

BACKGROUND

This is a dispute between family members over possession of real property. Plaintiff alleges that beginning in November 2015, he leased 5 Harbor Drive in Novato (the "Novato Property") from Defendants Usha and Gurbax Sunak for business purposes. (FAC, ¶¶ 17-18 & Ex. B [commercial lease]; hereafter, the Court refers to this lease between Plaintiff and Defendants Usha and Gurbax Sunak as "the Lease.") The parties to the Lease allegedly contemplated that the Novato Property would be developed into a gas station and/or a marijuana dispensary. (FAC, ¶ 21.)

According to the FAC, the parties to the Lease agreed to lease a portion of the Novato Property to a third-party tenant to generate income while plans to develop the property were underway. (FAC, ¶ 22.) In December 2015, Usha and Gurbax leased a portion of the Novato Property to A&C Towing and Transportation, Inc. (*Id.* at ¶ 23 & Ex. D.) A&C Towing has since vacated the Novato Property or transferred its interest in the property to Valley Towing. (*Id.* at ¶ 28.)

The FAC explains that in early 2022, Plaintiff began to have unspecified "personal disagreements" with Defendants. (FAC, ¶ 26.) In September 2022, Defendants allegedly repudiated the Lease and their agreement to develop the Novato into a gas station. (*Ibid.*) Plaintiff claims they broke the locks on his portion of the property to keep him out and have denied him entry since. (*Id.* at ¶¶ 25-26.)

According to the FAC, the Lease was "one of several related and integrated agreements" between Plaintiff and Defendants "regarding sharing and management of multiple real properties." (FAC, ¶ 61.) Plaintiff claims Defendants permitted him to live at a residential property they owned in Vallejo (the "Vallejo Property") in exchange for $75,000 per year. (*Ibid.*) He alleges that Defendants wrongfully ejected him from the Vallejo Property "by throwing [him] out on the street, without a valid writ of possession or legal justification, using armed 'security guards[,]'" adding that they interfered with $300,000 worth of his personal possessions during this ejection. (*Id.* at ¶ 62.)

Before the Court are Defendants' demurrer and motion to strike.

DEMURRER

LEGAL 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.) Generally, 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; *Mead v. Sanwa Bank California* (1998) 61 Cal.App.4th 561, 567-568.) This treatment applies only to facts. A court does not assume the truth of contentions, deductions, or conclusions of fact or law. (*Moore v. Regents of University of California* (1990) 51 Cal.3d 120, 147.) The complaint must be liberally construed and all reasonable inferences must be drawn in favor of its allegations. (*Teva Pharmaceuticals USA, Inc. v. Superior Court* (2013) 217 Cal.App.4th 96, 102; see also Code Civ. Proc., § 452.) The court gives the pleading a reasonable interpretation by reading it as a whole and all of its parts in their context. (*Moore, supra,* 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

Second Cause of Action: Breach of the Implied Covenant of Quiet Enjoyment

The covenant of quiet enjoyment is an implied term of every lease and thus binds only the parties to the lease. (*Andrews v. Mobile Aire Estates* (2005) 125 Cal.App.4th 578, 588.) The parties to the commercial lease that is the subject of this cause of action are, according to the FAC, Plaintiff, Usha, and Gurbax. (FAC, ¶ 35 & Ex. B.) As Defendants Simran and Komal were not parties to the contract, they cannot be held liable for its breach. Plaintiff does not oppose the demurrer to this claim as to Simran and Komal (Opposition, p. 1) and it is SUSTAINED as to those defendants.

As to Usha and Gurbax, Defendants argue that this cause of action is duplicative of the First Cause of Action (breach of contract). Courts have sustained demurrers on the ground that when compared to another cause of action pleaded, the claim subject to demurrer reflects "merely duplicative pleading which adds nothing to the complaint by way of fact or theory." (*Award Metals, Inc. v. Superior Court* (1991) 228 Cal.App.3d 1128, 1135 [as modified]; accord *Palm Spring Villas II Homeowners Assn., Inc. v. Parth* (2016) 248 Cal.App.4th 268, 290, and *Rodrigues v. Campbell Industries* (1978) 87 Cal.App.3d 494, 501; but see *Blickman Turkus, LP v. MF Downtown Sunnyvale, LLC* (2008) 162 Cal.App.4th 858, 890 [duplicativeness "is not a ground on which a demurrer may be sustained"].) Plaintiff's First and Second Causes of Action differ in form only. They are based on the same conduct, allege breach of the same contract, and assert the same damages. As to Usha and Gurbax, the demurrer to this cause of action is sustained with leave to amend.

Third Cause of Action: Wrongful Eviction

Defendants first argue that judicially noticeable materials negate the allegations pertaining to Plaintiff's removal from the Vallejo Property, and that this defeats the Third Cause of Action. This cause of action alleges *two* wrongful evictions. One is a wrongful eviction from the Vallejo Property on an unspecified date with the aid of armed security guards. (FAC, ¶ 77.) The other is an ejection from the Novato Property. (*Id.* at ¶ 80.) The FAC is inconsistent regarding when this allegedly took place, stating that it was both September 23, 2022 and "early 2023[.]" (*Id.* at ¶¶ 25-26, 80.) Defendants implicitly concede that the Third Cause of Action does not rest solely on the eviction from the Vallejo Property. (See Memorandum, p. 6 [arguing that "the Third Cause of Action fails as to the Vallejo allegations"].) This being the case, even if judicially noticeable materials do negate this cause of action to the extent it concerns the Vallejo Property, the Court cannot sustain a demurrer to this cause of action on this ground. A demurrer must dispose of an entire cause of action to be sustained. (*Fremont Indemnity Co. v. Fremont General Corp.* (2007) 148 Cal.App.4th 97, 119.)

Defendants argue that "the FAC does not (and cannot) plead the elements of the summary proceeding it invokes." (Memorandum, p. 8.) They do not provide any description of what those elements are or any argument as to how the FAC's allegations do not track them. "Issues do not have a life of their own: if they are not raised or supported by argument or citation to authority, [the court] consider[s] the issues waived." (*Jones v. Superior Court* (1994) 26 Cal.App.4th 92, 99.)

That the Third Cause of Action "pleads no *Novato* conduct by [Defendants] Simran or Komal Sunak" (Memorandum, p. 8 [emphasis added]) is not grounds for sustaining it as to those defendants, as the claim is not based in its entirety on the Novato conduct. (See *Fremont Indemnity Co., supra*, 148 Cal.App.4th 97, 119.)

Finally, Defendants argue that this cause of action is time-barred. Their argument on this point only addresses one of the two bases for this cause of action (the events pertaining to the Novato Property). (Memorandum, p. 7.) The FAC does not state when the Vallejo events occurred, so this cause of action is not time-barred in its entirety on the face of the pleading. (See *Committee for Green Foothills v. Santa Clara County Bd. of Supervisors* (2010) 48 Cal.4th 32, 42 [demurrer may be sustained based on running of the statute of limitations only when the claim is necessarily barred on the face of the complaint].)

The demurrer is overruled as to this cause of action.

Fourth Cause of Action: Conversion

" ' " 'Conversion is the wrongful exercise of dominion over the property of another. The elements of a conversion claim are (1) the plaintiff's ownership or right to possession of the property; (2) the defendant's conversion by a wrongful act or disposition of property rights; and (3) damages[.]' " ' " (*Lee v. Hanley* (2015) 61 Cal.4th 1225, 1240 [quoting *Welco Electronics, Inc. v. Mora* (2014) 223 Cal.App.4th 202, 208].) This cause of action alleges that Defendants took possession of rental payments from Novato Property commercial tenants A&C Towing and Valley Towing, and that these funds rightfully belong to Plaintiff. (FAC, ¶ 97.)

The allegations specific to the Fourth Cause of Action do not explain Plaintiff's theory of why these payments are rightfully his. The Court struggled greatly to understand the factual basis for this claim and was only able to do so with the aid of Plaintiff's opposition to the demurrer, which is a compelling indication that the claim is uncertain. The Court understands as follows: Plaintiff leased a portion of the Novato Property from his parents, Defendants Usha and Gurbax Sunak, pursuant to the Lease. (FAC, ¶ 17.) The Lease provided that Plaintiff's rent would be $35,000 a year "from income generated by this lease on premises." (*Id.* at Ex. B, § 3(A)(5).) Subsequently, Defendants Usha and Gurbax signed a commercial lease with A&C Towing whereby A&C Towing rented "the exact same area [of the Novato Property] covered by" Plaintiff's and his parents' Lease. Later, Valley Towing replaced A&C Towing as the tenant, although Plaintiff does not know the details of that arrangement (i.e., whether Valley Towing was occupying the property under a sublease or assignment from A&C Towing, or whether Valley Towing had a lease with Usha and Gurbax in its own right). (*Id.* at ¶¶ 28, 104.) Plaintiff's position is that A&C Towing's and Valley Towing's rent payments to Usha and Gurbax served as *Plaintiff's* rent payments for the Novato Property under the Lease between himself and his parents. (See Opposition, p. 7.) His theory is that when Usha and Gurbax breached the Lease by excluding him from the Novato Property, they terminated the Lease and therefore ceased to be "entitled to rent payments under" it. (FAC, ¶ 104.) Because Plaintiff understands the income stream from A&C Towing's and Valley Towing's rent payments to constitute *his own* rent payments for the Novato Property under the Lease, his view is that Defendants' continuing to collect rent money from A&C Towing and Valley Towing and keeping it for themselves after

they terminated Plaintiff's Lease constitutes conversion of Plaintiff's property. (Opposition, p. 7; FAC, ¶ 104.)

This does not make sense given Plaintiff's other allegations. Plaintiff alleges that A&C Towing was leasing its portion of the Novato Property *from Defendants Usha and Gurbax*, not from Plaintiff. (FAC, ¶ 23 & Ex. D.) He alleges that he does now know exactly who Valley Towing was renting from, which means Valley Towing likewise cannot have been leasing the Novato Property from Plaintiff himself. (*Id.* at ¶ 28.) Because, as alleged, neither A&C Towing nor Valley Towing was renting any portion of the Novato Property from Plaintiff, those entities' rental payments would not qualify as "income generated by" the Lease. (See FAC at Ex. B, § 3(A)(5).) The plain meaning of that language is that it refers to income *derived from Plaintiff's tenancy in the Novato Property*. It would thus include, for example, money Plaintiff made by running his own business out of the Novato Property, or money Plaintiff made by subleasing a portion of the space he rented at the Novato Property to other tenants. This language cannot be reasonably understood to cover A&C Towing and Valley Towing's rental payments. Plaintiff's pleaded theory for why these funds belonged to him does not hold water given the plain language of the Lease, which is itself part of the FAC. (See FAC at Ex. B; see also *Klein v. Chevron U.S.A., Inc.* (2012) 202 Cal.App.4th 1342, 1385 [court need not accept a pleading's allegations as to the meaning of a contract as true if the pleading gives the contractual language a clearly erroneous construction].)

That the FAC alleges that the rent money obtained from A&C Towing under that entity's lease with Usha and Gurbax was "to be collected for Plaintiff's account" (FAC, ¶ 132) does not fix the problem. Even assuming these funds were "collected for Plaintiff's account," that does not make them "income generated by" the Lease under which Plaintiff claims he is entitled to these funds, and that nexus is critical to his conversion theory. If Plaintiff is claiming that A&C Towing was subleasing the premises *from him*, generating the income stream he was using to pay rent to Usha and Gurbax under the Lease, that is not clear from the pleading and contradicts the allegation that A&C Towing was renting from Usha and Gurbax.

The demurrer to this cause of action is sustained with leave to amend based on uncertainty and the failure to plead ownership over, or a right to possession of, the property that is the subject of the claim.

Fifth Cause of Action: Interference with Prospective Economic Advantage

"The elements of intentional interference with prospective economic advantage have been stated as follows: '(1) an economic relationship between the plaintiff and some third party, with the probability of future economic benefit to the plaintiff; (2) the defendant's knowledge of the relationship; (3) intentional acts on the part of the defendant designed to disrupt the relationship; (4) actual disruption of the relationship; and (5) economic harm to the plaintiff proximately caused by the acts of the defendant.'" (*Westside Center Associates v. Safeway Stores 23, Inc.* (1996) 42 Cal.App.4th 507, 521-522 [quoting *Youst v. Longo* (1987) 43 Cal.3d 64, 71, fn. 6].)

The FAC pleads interference with prospective economic advantage on three different theories.

The first is that Defendants interfered with Plaintiff's receipt of A&C Towing's rent payments. (FAC, ¶ 104.) As discussed above in the context of Plaintiff's claim for conversion of those rent proceeds, Plaintiff alleges that he became entitled to A&C Towing's rent payments when Defendants Usha and Gurbax, by evicting Plaintiff via self-help, breached the Lease. (*Ibid.*) Plaintiff has alleged that A&C Towing was renting property from Defendants Usha and Gurbax (*id.* at ¶ 104 & Ex. D) and has not alleged any economic relationship between himself and A&C Towing.

The second pleaded basis for this claim is that Defendants interfered with Plaintiff's plans to turn the property into a gas station. (FAC, ¶ 114.) The tort of interference with prospective economic advantage "applies to interference with *existing* noncontractual relations which hold the promise of future economic advantage. In other words, it protects the expectation that the relationship eventually will yield the desired benefit, not necessarily the more speculative expectation that a potentially beneficial relationship will eventually arise." (*Westside Center*, *supra*, 42 Cal.App.4th 507, 524 [emphasis in original].) As pleaded, Plaintiff *had no* gas station-related relationships when Defendants' allegedly tortious conduct occurred. Plaintiff alleges that he got as far as beginning "the permitting process with local government and contacting various gasoline distributors, like Chevron, to secure contracts allowing Plaintiff to sell their gasoline[,]" but that "the gas station project [was] placed on hold" in March 2020, years before the interfering acts are alleged to have taken place. (FAC, ¶ 24.) He is claiming that Defendants interfered with a completely unmaterialized opportunity. This is not the sort of concrete economic expectancy protected by this tort, but "at most a hope for an economic relationship and a desire for future benefit." (*Blank, supra*, 39 Cal.3d 311, 331.)

The third pleaded basis for this claim is that Plaintiff had unspecified "customers and clients" who relied on his presence at the Novato Property, and Defendants interfered with those relationships by evicting him. (FAC, ¶¶ 105-109, 112.) The Court reaches Defendants' statute of limitations argument as to this last surviving theory of intentional interference liability. The statute of limitations for intentional interference with economic advantage is two years, commencing from the time the act of interference occurs. (See *Knoell v. Petrovich* (1999) 76 Cal.App.4th 164, 168.) The alleged interfering event was Defendants' removing Plaintiff from the Novato Property, which the FAC alleges occurred on September 23, 2022. (FAC, ¶ 25.) Plaintiff initiated this action on March 24, 2026, well over two years later.

Plaintiff invokes the doctrine of continuous accrual, whereby "a series of wrongs or injuries may be viewed as each triggering its own limitations period, such that a suit for relief may be partially time-barred as to older events but timely as to those within the applicable limitations period." (*Aryeh v. Canon Business Solutions, Inc.* (2013) 55 Cal.4th 1185, 1192.) But the sole surviving portion of Plaintiff's intentional interference claim does not allege a collection of recurring, discrete, independently actionable wrongs, as necessary for continuous accrual to apply. (See *Aryeh, supra*, 55 Cal.4th 1185, 1199.) Plaintiff alleges a single discrete act of interference (Defendants' removing him from the Novato Property). The continuing violation doctrine, which is distinct from the continuous accrual doctrine, is a poor fit for similar reasons (see *Aryeh, supra*, 55 Cal.4th 1185, 1198 ["a series of small harms" is required for the continuing violation doctrine to apply]) and because it is clear on the face of the FAC that Plaintiff recognized the alleged wrongfulness of the interfering conduct immediately upon his ejection

from the Novato Property (*ibid.* [continuing violation doctrine inapplicable where the plaintiff immediately recognized the wrongful nature of the conduct]).

The demurrer to this cause of action is SUSTAINED with leave to amend.

Sixth Cause of Action: Conversion

This claim alleges that Defendants mistreated Plaintiff's personal belongings while ejecting him from the Vallejo Property. (FAC, ¶ 118.) The claim refers to the conduct at issue as being "[i]n violation of California Civil Code §§ 1980-1991" (*ibid.*), which "provide[] an optional procedure for the disposition of personal property that remains on the premises after a tenancy has terminated and the premises have been vacated by the tenant." (Civ. Code, § 1981.) Defendants appear to argue that Plaintiff has not pleaded any facts that would render their alleged conduct a violation of Civil Code, sections 1980-1991. This misunderstands the claim. Plaintiff's Sixth Cause of Action is not a cause of action for violation of these statutes, nor could it be, as no such cause of action exists. (See Civ. Code, § 1981, subds. (a) [procedure is "optional"], (e) ["If the requirements of this chapter are not satisfied, nothing in this chapter affects the rights and liabilities of the landlord, former tenant, or any other person."].) This is a claim for common law conversion. The FAC asserts that while evicting Plaintiff from his residential tenancy at the Vallejo Property, Defendants took possession of and/or destroyed certain personal possessions of Plaintiff's valued at over $300,000. (FAC, ¶ 118.) This is minimally sufficient to allege conversion. (See *Lee, supra*, 61 Cal.4th 1225, 1240 [elements of conversion].)

Defendants argue that this cause of action is time-barred. The statute of limitations for conversion is three years. (*Unruh-Haxton v. Regents of the University of California* (2008) 162 Cal.App.4th 343, 356; Code Civ. Proc., § 338, subd. (c).) This claim is thus time-barred if it accrued before March 24, 2023. The FAC does not allege when the conduct that is the basis for this cause of action, Defendants' allegedly mistreating Plaintiff's personal property while ejecting him from the Vallejo Property, occurred. Nor do Defendants offer any judicially noticeable material establishing that such conduct occurred before March 24, 2023. They point to a sworn statement from Plaintiff that the Vallejo events occurred in "March 2023" (Bettencourt Dec., Ex. 6, ¶ 14), but that could mean anytime in March 2023, including March 24-31.

As they did with the Third Cause of Action, Defendants argue that certain judicially noticeable materials negate certain allegations pertaining to Plaintiff's removal from the Vallejo Property, and that this defeats the Sixth Cause of Action. Defendants offer court records they contend prove that Plaintiff was lawfully evicted from the Vallejo Property on the authority of a lawful writ of possession following a successful unlawful detainer case brought by Defendant Gurbax Sunak in the Superior Court for Solano County. Unlawful detainers concern possession, as between a landlord and a tenant, of *real* property, not possession of the tenant's *personal* property. This cause of action is for conversion of Plaintiff's personal property, so even if it were established by judicial notice that Plaintiff had no right to possession of the Vallejo Property due to the Solano County unlawful detainer action, that would not dispose of this cause of action.

The demurrer to this claim is overruled.

Seventh Cause of Action: Intentional Misrepresentation

This is a claim for promissory fraud, a cause of action arising out of the defendant's promising to do something in the future without intending to perform. (*Lazar v. Superior Court* (1996) 12 Cal.4th 631, 638.) This cause of action alleges that Defendants made false representations to induce Plaintiff to enter into the parties' agreements regarding the Novato Property (the Lease) and the Vallejo Property (the other, undated agreement whereby Plaintiff would pay Defendants $75,000 per year "in rental income from the [Novato] Property" in exchange for their permitting him to live at the Vallejo Property). (FAC, ¶¶ 122-124.) The statute of limitations for fraud is three years running from the time of the discovery of the facts constituting the fraud. (Code Civ. Proc., § 338, subd. (d).) Plaintiff alleges that he discovered the factual basis for this fraud claim "when Defendants repudiated the contract and carried out the evictions in 2023." (*Id.* at ¶ 127.)

As discussed, the FAC is inconsistent regarding when the eviction from the Novato Property occurred, placing it both on September 23, 2022 and sometime in early 2023. Specific allegations in a complaint control over inconsistent and more general allegations (*Perez v. Golden Empire Transit Dist.* (2012) 209 Cal.App.4th 1228, 1235-1236), so the Court defers to the allegation that the Novato Property eviction occurred on September 23, 2022. This was more than three years before Plaintiff filed his original complaint, so this cause of action is time-barred. This cause of action is also subject to demurrer on the ground that it is not pleaded with the required particularity. (See *Lazar*, *supra*, 12 Cal.4th 631, 645 [to plead fraud, plaintiff must " 'plead[] facts which show how, when, where, to whom, and by what means the representations were tendered' "] [quoting *Stansfield v. Starkey* (1990) 220 Cal.App.3d 59, 74].) Plaintiff concedes as much. (Opposition, p. 9.)

The demurrer to this cause of action is sustained with leave to amend. The Court notes that Plaintiff has not opposed Simran's and Komal's demurrer to this claim. (Opposition, p. 1.)

Eighth Cause of Action: Declaratory Relief

The declaratory relief statute provides that where there is an "actual controversy relating to the legal rights and duties of the respective parties[,]" a plaintiff may bring a claim for declaratory relief seeking a binding judicial declaration of the parties' respective rights and duties. (Code Civ. Proc., § 1060.) The plaintiff "must demonstrate: (1) a proper subject of declaratory relief, and (2) an actual controversy involving justiciable questions relating to the rights or obligations of a party." (*Brownfield v. Daniel Freeman Marina Hospital* (1989) 208 Cal.App.3d 405, 410.)

"[T]he court may refuse to exercise the power to grant declaratory relief where such relief is not necessary or proper at the time under all of the circumstances." (*General of America Ins. Co. v. Lilly* (1968) 258 Cal.App.2d 465, 471; Code Civ. Proc., 1061.) "The object of the [declaratory relief] statute is to afford a new form of relief where needed and not to furnish a litigant with a second cause of action for the determination of identical issues." (*General of America*, *supra*, 258 Cal.App.2d 465, 470.) Thus, "[t]he availability of another form of relief that is adequate will usually justify refusal to grant declaratory relief. The refusal to exercise the power is within the court's legal discretion[.]" (*Id.* at p. 471.) Similarly, courts have sustained

demurrers on the ground that when compared to another cause of action pleaded, the claim subject to demurrer reflects "merely duplicative pleading which adds nothing to the complaint by way of fact or theory." (*Award Metals, supra*, 228 Cal.App.3d 1128, 1135; accord *Palm Spring Villas II, supra,* 248 Cal.App.4th 268, 290; *Rodrigues, supra,* 87 Cal.App.3d 494, 501.)

Plaintiff's declaratory relief claim alleges that there is an actual controversy regarding the parties' rights and obligations as to the Novato Property. The issues Plaintiff identifies will necessarily be resolved via his other claims. The Court does not see how the declaratory relief claim adds anything new, by way of theory or strategy, to the pleading.

Accordingly, the demurrer is SUSTAINED as to this cause of action with leave to amend.

Tenth Cause of Action: Accounting

"The nature of a cause of action in accounting is unique in that it is a means of discovery." (*Teselle v. McLoughlin* (2009) 173 Cal.App.4th 156, 180.) "An action for an accounting has two elements: (1) 'that a relationship exists between the plaintiff and defendant that requires an accounting' and (2) 'that some balance is due the plaintiff that can only be ascertained by an accounting.' " (*Sass v. Cohen* (2020) 10 Cal.5th 861, 869 [quoting *Teselle, supra*, 173 Cal.App.4th 156, 179].)

This cause of action seeks an accounting of the rents paid to Usha and Gurbax by A&C Towing and Valley Towing. (FAC, ¶¶ 143-146.) As discussed, Plaintiff's explanation for why these funds are supposedly due to him is very unclear on the face of the complaint and, once made clear with the aid of his opposition, contradicts other allegations of the pleading. The demurrer to this cause of action is sustained with leave to amend based on uncertainty and failure to allege that the funds at issue are due to Plaintiff.

Claim Preclusion and "The Lease-Based Claims"

Defendants argue that "[t]he lease-based claims" are barred by the doctrine of claim preclusion. The doctrine "prohibits a second suit between the same parties on the same cause of action." (*Boeken v. Philip Morris USA, Inc.* (2010) 48 Cal.4th 788, 792].) It applies where "a second suit involves (1) the same cause of action (2) between the same parties (3) after a final judgment on the merits in the first suit." (*DKN Holdings LLC v. Faerber* (2015) 61 Cal.4th 813, 824].)

In

December 2024, Plaintiff initiated *In the Matter of Paul Sunak* against Usha and Gurbax by filing a petition to compel arbitration (the "Petition"). The Petition explained that Plaintiff intended to bring a claim against his parents for breach of the Lease and declaratory relief as to the parties' respective rights and obligations under that contract. (Pet. To Compel Arbitration, filed Dec. 19, 2024 in CV0004868, p. 4.) Plaintiff requested a court order compelling his parents to submit to his efforts to have those claims heard in arbitration based on an arbitration provision in the Lease. (*Ibid.*) The Petition was subsequently dismissed with prejudice.

Defendants argue that this dismissal with prejudice of Plaintiff's petition to compel arbitration based on the Lease has a preclusive effect on all the claims Plaintiff brings based on

the Lease in this litigation. They present no authority for the idea that the dismissal with prejudice of a *petition to arbitrate* a cause of action precludes subsequent litigation of that cause of action *itself*. Defendants offer *Lounge-A-Round v. GCM Mills, Inc.* (1980) 109 Cal.App.3d 190 as an instance of "preclusive effect given to [a] determination in [a] prior arbitration-related proceeding[.]" (Memorandum, p. 12.) But in *Lounge-A-Round*, both claims – the claim deemed to have preclusive effect and the claim deemed to be precluded – consisted of *demands to arbitrate* the same dispute between the same parties. The case does not support the theory that the disposition of Plaintiff's petition to compel arbitration of certain claims bars him from litigating those claims on their merits.

Separately, Defendants argue that the Solano County unlawful detainer judgment had a claim-preclusive effect on subsequent claims requesting adjudication of Defendants' right to possession of the Vallejo Property. The Court has no occasion to address this because there is no cause of action in the FAC predicated solely on Defendants' allegedly wrongful repossession of the Vallejo Property, and the Court cannot sustain a demurrer as to a portion of a cause of action. (*Fremont Indemnity Co.*, *supra*, 148 Cal.App.4th 97, 119.)

Uncertainty

Defendants argue that the FAC is uncertain in its entirety. The majority of the uncertainties Defendants cite can be clarified through discovery and so cannot support a demurrer. (See *Khoury v. Maly's of California, Inc.* (1993) 14 Cal.App.4th 612, 616.) To the extent portions of the FAC are uncertain, the Court has addressed that above and has sustained the demurrer as to certain causes of action on that basis.

Allegations as to Simran and Komal

Defendants argue that the Second through Seventh Causes of Action do not state a claim against either Simran or Komal because neither one is accused of any wrongdoing in connection with the Novato Property and the events surrounding the Vallejo Property are not actionable. The latter point rests on the premise that judicially noticeable material establishes that the alleged Vallejo eviction was carried out pursuant to a writ of possession following a successful unlawful detainer action. Assuming for purposes of argument that this is true, it does not follow from this that any cause of action in any way related to Plaintiff's ejection from the Vallejo Property is necessarily barred. On the arguments presented, the Court rejects this basis for demurrer.

MOTION TO STRIKE

LEGAL STANDARD

The court may, upon a motion, or at any time in its discretion, and upon terms it deems proper, (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, subds. (a)-(b).) 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

The Court's ruling on the demurrer moots the motion to strike as to items 14-15, 18-19, 22, 28-29, and 31. Plaintiff does not oppose the motion as to Items 8 and 13 and the motion is GRANTED as to those items.

Vallejo "Writ" Allegations (Items 1-4)

Defendants argue that Plaintiff pleads both that Defendants ejected him from the Vallejo Property "without a valid writ of possession or legal justification" (FAC, ¶¶ 62, 77, 81) and "with an expired writ of possession" (*id.* at ¶ 118), and that these allegations are inconsistent with each other. The Court does not see any inconsistency. Defendants seem to be suggesting that an expired writ is nevertheless valid, but offer no authority for this.

Defendants further argue that these allegations are false as established by judicially noticeable material. They point to the declaration Plaintiff filed in support of his opposition to Defendants' anti-SLAPP motion to strike. There, Plaintiff said, "In March 2023, the Solano County Sheriff carried out a writ of possession against me." (Bettencourt Dec., Ex. 6, ¶ 14.) Defendants argue that this defeats any allegation that their alleged conduct with respect to the Vallejo Property was undertaken without a valid writ.

The Court has judicially noticed the declaration, as it must, because the document is a court record. (See Evid. Code, § 452, subd. (d).) This does not necessarily mean the Court can accept as true the statements in the declaration. Generally, "a court . . . may not judicially notice the truth of assertions in declarations or affidavits filed in court proceedings." (*Bach v. McNelis* (1989) 207 Cal.App.3d 852, 864-865 ["The trial court . . . erred in judicially noticing the contents of the affidavit for the truth of matters asserted and then sustaining the demurrer on that ground."]; accord *Arce v. Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal.App.4th 471, 482 [truth of matters asserted in court records is not subject to judicial notice].) Defendants rely on an exception described in *Del E. Webb Corp., supra*, 128 Cal.App.3d 593: Where, in "records such as admissions, answers to interrogatories, affidavits, [or] the like," "the plaintiff or his agent" has made "statements . . . which are inconsistent with the allegations of the pleading before the court[,]" a trial court may judicially notice that material for its truth and sustain a demurrer on the basis that critical allegations of the pleading are inconsistent with the prior statements. (123 Cal.App.3d 593, 605; accord *Arce, supra,* 181 Cal.App.4th 471, 485.)

This exception does not serve Defendants because Plaintiff's statements in the declaration are not inconsistent with the allegations that Defendants ejected him from the Vallejo Property without a valid writ. In the declaration, Plaintiff attests as follows: He was living in the Vallejo Property with his wife and three children. In March 2023, the Solano County Sheriff carried out a writ of possession against him, but not his family members. Subsequently, his parents, Defendants Usha and Gurbax, permitted him to move back into the Vallejo Property. Months thereafter, on September 17, 2023, Defendants "carried out a self-help eviction without any valid writ of possession. The writ from March 2023 had already expired." (Bettencourt Dec.,

Ex. 6, ¶ 14.) The declaration's description of the events of September 17, 2023 track the FAC's description of the events of the Vallejo Property eviction. (*Ibid.*; see also FAC, ¶ 62.) The two accounts are consistent.

Remedies Pleaded as Causes of Action (Items 5-12, Excluding Item 8)

Defendants argue that this material consists of remedies, which are not causes of action and so "cannot be pleaded as freestanding claims." (Memorandum, p. 3.) None of the material in this category is pleaded as a freestanding claim. Items 5-7 are remedies sought in connection with Plaintiff's First Cause of Action and pleaded as part of that cause of action. Items 8-13 are portions of the Prayer.

Defendants explain that the temporary restraining order described at Item 6/FAC ¶¶ 52-59 has been denied. If that is the case, the allegations relating to the TRO are moot and need not be stricken from the FAC.

Defendants argue that claim and delivery is not a remedy for the recovery of commercial real estate. Plaintiff's demand for claim and delivery is not demanding that any real property be restored to him. This is a demand for the return of money or of personal property traceable to a specific stream of money. (FAC, ¶¶ 60-65.)

Finally, Defendants ask the Court to strike Plaintiff's claim for attachment from the pleading on the basis that Plaintiff has not yet demonstrated his right to attachment. (Memorandum, p. 3.) They present no authority for the idea that a plaintiff must demonstrate his right to a remedy at the pleading stage.

"Speculative and Internally Contradictory Damages Allegations" (Items 16-24)

At Paragraph 42 of the FAC (Item 17), Plaintiff alleges that Defendants' conduct injured him in the amount of $38,250,000 in connection with "lost profits from [the] gas station development opportunity[.]" (FAC, ¶ 42.) Plaintiff alleges that the gas station business would have been worth $16 million, would have made him $3 million a year, and would have earned him a "$1.25 million initial branding bonus[.]" (*Ibid.*)

Lost profits may be recoverable as damages, but their occurrence and extent must be proven with a reasonable level of certainty. (*Asahi v. Kasei Pharma Corp. v. Actelion Ltd.* (2013) 222 Cal.App.4th 945, 968-969 [also noting that lost profits are generally not recoverable for unestablished businesses].) According to the FAC, the gas station project got at least as far as Plaintiff's "[beginning] the permitting process with local government and contacting various gasoline distributors, like Chevron, to secure contracts allowing Plaintiff to sell their gasoline." (FAC, ¶ 24.) This began "[s]tarting in early 2019," but "the gas station project [was] placed on hold" in "March of 2020" because Plaintiff and/or Defendants pivoted to placing a cannabis dispensary at the site instead. (*Ibid.*)

Defendants argue that on the FAC's allegations, the gas station development opportunity was too speculative to support a recovery of lost profits. Plaintiff's allegations do give a strong impression that the gas station opportunity never got off the ground, but the pleading does not

disclose how far the project proceeded. The allegations are not inconsistent with the idea that it proceeded beyond the early stages of permitting applications and inquiries to suppliers.

The bigger problem with the demand for lost profits is that the FAC is inconsistent with the idea that if Plaintiff missed out on profits from the gas station opportunity, that loss was due to Defendants' conduct. Plaintiff alleges that the gas station endeavor was voluntarily abandoned years before the events of this case because it was determined that a cannabis dispensary would be a better use of the space. (FAC, ¶ 24.) The Court does not see how Plaintiff can proceed with a demand for lost profits from Defendants in connection with the gas station opportunity given this allegation. The motion to strike is GRANTED with leave to amend as to Item 17.

As to the other material in this category, Defendants argue that Plaintiff's asserted damages figures are contradictory, confusing, or unsubstantiated. Messiness is not a ground for sustaining a motion to strike. (See Code Civ. Proc., § 436.)

Agency/Aiding and Abetting/Conspiracy Allegations (Items 25-31)

Defendants do not mount a sound legal argument for why this material should be stricken. That language is boilerplate is not, in and of itself, a basis for striking it from a pleading. Defendants also ask the Court to strike this material on the basis that "[c]onspiracy is not an independent tort[.]" (Memorandum, p. 5.) Plaintiff has not pleaded it as such.

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 November, 2026 is as follows:
https://marin-courts-ca-gov.zoomgov.com/j/1615487764?pwd=Ob4B5J7LLKcpnkxzJjjEOSHNzEGafG.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: 11/04/26 TIME: 1:30 P.M. DEPT: H CASE NO: CV0010877

PRESIDING: HON. SHEILA S. LICHTBLAU

REPORTER: CLERK: ALINA ANDRES

PLAINTIFF: STARR INDEMNITY & LIABILITY COMPANY, A TEXAS CORPORATION vs. DEFENDANT: MARIN COUNTY EXCHANGE CORPORATION, A CALIFORNIA CORPORATION ET AL	

NATURE OF PROCEEDINGS: MOTION – OTHER: ORDER PERMITTING & CONFIRMING OF DEPOSIT OF FUNDS TO COURT

RULING

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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