SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 11/10/26 TIME: 1:30 P.M. DEPT: A CASE NO: CIV2102919

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: SHIYING JIN ET AL. vs. DEFENDANT: BUCK INSTITUTE FOR RESEARCH ON AGING	

NATURE OF PROCEEDINGS: MOTION – AMEND

RULING

In light of the Notice of Settlement this matter is ordered **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 November, 2026 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: 11/10/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0001988

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: MARIA AZUCENA DE LA CRUZ vs. DEFENDANT: ABELINA MAGANA	

NATURE OF PROCEEDINGS: MOTION – SET ASIDE/VACATE

RULING

The motion of Defendant Abelina Magana ("Defendant") to vacate the judgment entered on the Labor Commissioner's wage award in favor of Plaintiff Maria Azucena De La Cruz ("Plaintiff") is **DENIED**. This denial is without prejudice to any application Plaintiff may make to the Labor Commissioner for relief under Labor Code section 98 subdivision (f).

Objections

Plaintiff's objection to Magana Declaration paragraph 8 is overruled as to statements regarding her physical disability and her reliance on caregivers. The objection is sustained as to her statement regarding the interception of her mail as it lacks foundation of personal knowledge.

Commissioner's objection[1] to Magana Declaration paragraph 4 is overruled as to statements about IHSS handling payroll and approval of timesheets; it is sustained as to her opinion as to who is the employer of Plaintiff.

Commissioner's objection to Magana Declaration paragraph 8 is overruled as to her statement that she reported concerns to IHSS; it is sustained as to the assertion that a caregiver intercepted her mail.

[1] Defendant contends the Labor Commissioner's opposition and objections should be disregarded because the Labor Commissioner is a non-party that did not move to intervene. The agency has a direct and substantial statutory interest in the enforceability of the judgment and has therefore the Court has exercised its discretion to consider the submissions as those of an interested non-party. In any event, the arguments advanced by the Labor Commissioner are independently raised in Plaintiff's own opposition.

Discussion

The Court finds that the moving party is not entitled to relief for the following reasons.

First, Code of Civil Procedure section 473.5 provides a remedy to set aside a default judgment and is inapplicable to a judgment not entered as a default. (*Conseco Mktg., LLC v. IFA & Ins. Servs., Inc.* (2013) 221 Cal. App. 4th 831, 844.) Here, the provision is inapplicable because there was no service of a summons and no default judgment. (See Lab. Code, § 98 subd. (f) ["If defendant fails to appear or answer within the time allowed under this chapter, *no default shall be taken against him or her…*"].)

Even if section 473.5 were applicable, Defendant's motion would be untimely. Section 473.5 provides that the motion "shall be served and filed within a reasonable time, but in no event exceeding the *earlier of*: (i) two years after entry of a default judgment . . . ; or (ii) 180 days after service . . . of a written notice that the default or default judgment has been entered. (Emphasis added.)" The two-year period is a hard limit which is not extended by late discovery. (*Trackman v. Kenney* (2010) 187 Cal. App. 4th 175, 180-181.) Judgment was entered February 7, 2024 and Defendant filed her motion on July 9, 2026, beyond the two-year statutory period.

Third, the Court finds that Defendant's failure to seek relief from the Labor Commissioner bars judicial relief. Labor Code section 98(f) provides that a defendant who fails to appear or answer may apply to the Labor Commissioner for relief but "[n]o right to relief, including the claim that the findings or award of the Labor Commissioner or judgment entered thereon are void upon their face, shall accrue to the defendant in any court unless prior application is made to the Labor Commissioner." (See *Gonzalez v. Beck* (2007) 158 Cal. App. 4th 598, 604.)

Finally, the Court finds no "exceptional circumstances" warranting the exercise of its inherent authority to vacate the judgment.

Defendant's motion is denied without prejudice as to any application she may make to the Labor Commissioner for relief under Labor Code section 98 subdivision (f). Nothing in this order limits the Labor Commissioner's authority to stay execution of the judgment upon good cause should Plaintiff pursue that remedy.

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/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: 11/10/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0004701

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

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

NATURE OF PROCEEDINGS: DEMURRER

RULING

The demurrer of Nissi Electric Corporation ("Nissi") to the second amended cross-complaint of Jamba Construction Inc. ("Jamba") is **sustained without leave to amend**.

Allegations

On December 19, 2022, Plaintiff, an employee of Nissi, was dispatched to install an electrical panel upgrade at a 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 Pacific Gas & Electric Company ("PG&E") is liable for his injuries because it negligently left the power on while Plaintiff was working on the panel and/or 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 a first amended complaint alleging causes of action for general negligence and premises liability.

On October 13, 2025, Jamba filed a cross-complaint against PG&E and Nissi. On March 23, 2026, it filed a first amended cross-complaint against PG&E, Nissi, and Christian B. Sowul for express indemnity, equitable indemnity, and declaratory relief. Nissi demurred on the ground

that Jamba's causes of action are barred by Labor Code section 3864. The Court sustained the demurrer to the first and third causes of action with leave to amend. It sustained the demurrer to the second cause of action without leave to amend.

Presently before the Court is Nissi's demurrer to the second amended cross-complaint.

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.)

First Cause of Action – Express Indemnity

The Court's order sustaining Nissi's demurrer to the first amended complaint stated:

> Additionally, Jamba alleges no facts to show that there was "prior written approval" by Jamba of the work performed at the Property. Nor has it pleaded any reasonable interpretation of that provision which would render such requirement inapplicable.

Jamba still fails to allege facts showing there was "prior written approval" by Jamba of the work performed at 116 Lyford Drive, Belvedere Tiburon. Jamba argues:

> … Paragraph 15 does not expressly state that prior written approval is a condition precedent to the applicability of the subcontract's indemnity provisions. Rather, the provision states that changes are valid and that the subcontractor is entitled to compensation only upon the General Contractor's prior written approval. By its terms, the provision can reasonably be interpreted as addressing compensation for additional work rather than defining whether agreed-upon work constitutes a "new work or proposal" governed by the subcontract's other provisions, including its defense and indemnity obligations.

There is no question that there does not need to be prior written approval that new work is governed by the Sugarloaf Agreement. Paragraph 15 makes this clear in stating that new work "shall be governed by the language of this Agreement unless otherwise agreed in writing."

However, the Court reads the last sentence of paragraph 15 to mean that there must be prior written approval in order for the new work to be valid and thus subject to the terms of the Agreement. Jamba's argument that the last sentence only addresses compensation for additional work is not a reasonable interpretation. In this case this would mean that Nissi performed new work for Jamba at the Lyford Drive property (and subjected itself to an indemnity obligation) but was not entitled to compensation.

Since Jamba has not shown that it approved in writing the new work at the Lyford Drive property, it has not shown that the terms of the Sugarloaf Agreement apply to that work.

Third Cause of Action – Declaratory Relief

Since this cause of action seeks a declaration that Jamba is entitled to express indemnity, it necessarily fails for the same reason as the first 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 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: 11/10/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0004855

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK

PLAINTIFF: NATHAN JAMES CAVENEY vs. DEFENDANT: ALLBIRDS, INC.	

NATURE OF PROCEEDINGS: MOTION – SUMMARY ADJUDICATION

RULING

By stipulation of the parties, this matter is **continued to February 23, 2027 at 1:30 pm in Courtroom A**.

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/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: 11/10/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0005199

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: L3 COMMERCIAL TRAINING SOLUTIONS AIRLINE ACADEMY, A COMMERCIAL FLIGHT SCHOOL vs. DEFENDANT: COLIN J. HENRY, ET AL	

NATURE OF PROCEEDINGS: MOTION – AMEND

RULING

Cross-Complainant James R. Henry's motion for leave to file the Third Amended Cross-Complaint is **GRANTED**.

Discussion

Although the opposition of Cross-defendants was untimely filed, the Court has exercised its discretion to consider it in connection with the motion. The Court finds that proposed amendments rest on the same general set of facts, add no new party or cause of action, respond to recent and identifiable procedural developments, and work no prejudice to any cross-defendant. The motion satisfies rule 3.1324, and the exacting bad-faith standard that governs a compulsory cross-complaint under section 426.50 independently compels the same result. (*Silver Organizations Ltd. v. Frank* (1990) 217 Cal. App. 3d 94, 98–99; Civ. Proc. Code, § 426.50.) Applying the policy of "great liberality" that governs leave to amend (*Atkinson v. Elk Corp.* (2003) 109 Cal. App. 4th 739, 761), the motion is granted. The proposed amended pleading attached as Exhibit A to the Amended Declaration of James A. Michel (filed October 14, 2026) is deemed filed and served as of the date of the Court's order.

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

The Zoom appearance information for November, 2026 is as follows:
https://marin-courts-ca-gov.zoomgov.com/j/1615162449?pwd=e5SqeATq2HOsxxD7Fhrl3Q7qPFqFZa.1

Meeting ID: 161 516 2449
Passcode: 073961

If you are unable to join by video, you may join by telephone by calling* 1-669-254-5252 *and using the above-provided passcode. Zoom appearance information may also be found on the Court's website: marin.courts.ca.gov

SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN

DATE: 11/10/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0005828

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK

PLAINTIFF: JOHN DOE, TRUSTEE OF THE HONEY CRISP LIVING TRUST DATED OCTOBER 3, 2024 vs. DEFENDANT: RICHARD H. BUELL, JR., ET AL	

NATURE OF PROCEEDINGS: MOTION – AMEND

RULING

The motion of Plaintiff and Cross-Defendant John Doe, as Successor Trustee of the Honey Crisp Living Trust dated October 3, 2024 (the "Trust") for leave to file a First Amended and Supplemental Complaint is **GRANTED** on the terms set forth herein**.**

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 unless opposing parties demonstrate unreasonable delay plus prejudice if the motion is granted. (*Higgins v. Del Faro* (1981) 123 Cal.App.3d 558, 564-565.) Generally, arguments attacking the merits of the proposed amendments do not justify denial of the motion. 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.)

A supplemental complaint under section 464 serves a related function. "[C]ourts should exercise liberality in permitting the filing of supplemental pleadings when the alleged 'occurring-after' facts are pertinent to the case." (*Flood v. Simpson* (1975) 45 Cal. App. 3d 644, 647.) A supplemental pleading carries post-filing facts; new and independent causes of action are added by amendment rather than by supplement. (*Id*.)

Discussion

Defendant's principal argument is that John Doe is not a party entitled to seek leave to file the amended pleading. The motion, however, is brought by the plaintiff of record. The Court substituted the *Successor* Trustee as plaintiff on January 9, 2026, and the Successor Trustee has been the party of record since. In an action brought on behalf of a trust, "the trustee is the real party in interest, not the trust itself or its beneficiaries." (*Aulisio v. Bancroft* (2014) 230 Cal. App. 4th 1516, 1521.) The Successor Trustee is therefore a party and may move to amend.

The proposed pleading does not violate the Court's July 21, 2026 Order because the Trust is now represented by counsel. In any event, remaining concerns regarding John Doe can be resolved by the terms the Trust proposes in its reply. The Trust offers to defer naming John Doe, an individual, as a plaintiff until the Court decides the joint renewed motion to join on December 15, 2026, and in the interim to file a pleading omitting him as a named plaintiff. Section 473, subdivision (a)(1), permits the Court to grant leave "on any terms as may be proper" the Court adopts the Trust's proposed terms below.

Defendant does not claim prejudice, delay, or that any particular amendment is improper. Therefore the Court grants the motion on the following terms:

1. Leave is granted to the Successor Trustee to file a First Amended and Supplemental Complaint in the form attached as Exhibit 1 to the Declaration of John Doe, **except** that John Doe, an individual, as Assignee, shall **not** be named as a plaintiff, and the action shall continue in the name of John Doe, Successor Trustee of the Honey Crisp Living Trust dated October 3, 2024 (the "Interim Pleading").
2. The question whether John Doe, an individual, may be joined as a plaintiff is reserved for the joint renewed motion to join, set for hearing on December 15, 2026. If that motion is granted, the Successor Trustee may file the pleading in the form of Exhibit 1, naming the assignee as a plaintiff, without a further motion for leave. If that motion is denied, the Interim Pleading stands.
3. The Successor Trustee shall file the Interim Pleading as a separate document within five (5) court days of the date of this Order. The Interim Pleading shall be deemed served on Defendant upon filing.

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/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: 11/10/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0005973

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK

PLAINTIFF: MARIN VENTURES CORPORATION vs. DEFENDANT: CAREMAX INTERNATIONAL CORPORATION	

NATURE OF PROCEEDINGS: 1) MOTION – SANCTIONS – DISCOVERY FACILITATOR PROGRAM
2) MOTON – COMPEL – DISCOVERY FACILITATOR PROGRAM

RULING

1. Plaintiff's request for terminating sanctions is **DENIED**.
2. Plaintiff's motion to compel the attendance and testimony of Defendant's Person Most Knowledgeable is **GRANTED**. Defendant Caremax International Corporation shall produce its Person Most Knowledgeable (Willie Yang, or Defendant's then-designated Person Most Knowledgeable on the noticed matters) for deposition, for a single full day commencing at 9:00 a.m., on a date mutually agreed by the parties but no later than **December 5, 2026**. If the parties do not agree on a date within five (5) court days of this Order, the deposition shall proceed on a date set by the Court.
3. Plaintiff's motion to compel production of documents is **GRANTED IN PART**. No later than the deposition date set under Paragraph 2, Defendant shall produce all responsive, non-privileged documents concerning the use of, and claimed rights to control parking within, the access easement; signage and barricades placed in the easement; and the location of the easement. Defendant shall serve a privilege log identifying any document withheld on a claim of privilege or attorney work product. The parties shall meet and confer regarding any category Defendant contends is overbroad or lacks good cause, and regarding reasonable temporal limits; either party may seek a protective order as to any dispute that meet-and-confer does not resolve.
4. Plaintiff's request for monetary sanctions is **GRANTED IN PART** in the total amount of **$6,522.00**, consisting of $5,200.00 in reasonable attorney's fees and $1,322.00 in costs.

This sanction is imposed against Defendant Caremax International Corporation and its counsel of record, jointly and severally, and shall be paid to Plaintiff's counsel no later than thirty (30) days from the date of service of notice of entry of this Order.

5. Except as expressly granted above, all other requests by the parties are **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.

The Zoom appearance information for November, 2026 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: 11/10/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0010177

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER: CLERK:

PLAINTIFF: BRIAN ARELLANES, ET AL vs. DEFENDANT: MARIN MATTERS LLC, ET AL	

NATURE OF PROCEEDINGS: MOTION – ANTI-SLAPP 425.16

RULING

Plaintiffs and Cross-Defendants Brian and Nina Arellanes' ("Cross-Defendants") anti-SLAPP motion to strike is **GRANTED**. (Code Civ. Proc., § 425.16, subd. (b)(1).) Because the pleading at issue has been superseded, the effect of this ruling is that Cross-Defendants are entitled to attorney's fees and costs. (Code Civ. Proc., § 425.16, subd. (c)(1).)

Background

This is a landlord-tenant dispute. Cross-Defendants' First Amended Complaint ("FAC") alleges that Cross-Defendants rented real property in Mill Valley from Defendant and Cross-Complainant Marin Matters, LLC ("Marin Matters"). (FAC, ¶¶ 1-2, 11.) Defendant and Cross-Complainant Ben Sharma (with Marin Matters, "Cross-Complainants") is Marin Matters' manager. (*Id.* at ¶ 12.) The FAC alleges that the lease was set to expire in May 2026 and that beginning in March 2026, Cross-Complainants started to prepare to sell the property, including by showing it to prospective buyers. (*Id.* at ¶¶ 18, 27.) Cross-Defendant Brian Arellanes was undergoing cancer treatment at this time and requested that Cross-Complainants take certain precautions during showings to accommodate his medical condition. (*Id.* at ¶¶ 24-25.) The lengthy FAC alleges, in brief, that Cross-Complainants unreasonably refused to do this and that the resulting intrusion into Cross-Defendants' home interfered with their use and enjoyment of the premises. (*Id.* at ¶¶ 32, 44.) Cross-Defendants further claim that they had issues with water intrusion, mold, termites, and the like during their tenancy. (*Id.* at ¶ 63.) The FAC asserts 20 causes of action.

Cross-Complainants responded with their Verified Cross-Complaint ("XC"), filed July 21, 2026. The XC alleges that the lease between the parties contained a right-of-entry clause and permitted Cross-Complainants to exhibit the property to prospective purchasers or renters upon reasonable

notice toward the end of the tenancy. (XC, ¶ 8.) In March 2026, Cross-Complainants informed Cross-Defendants that they would conduct showings to prospective buyers during the final 45 days of the tenancy. (*Id.* at ¶ 11.) Cross-Complainants listed the property for sale for $3,769,000 on April 13, 2026. (*Id.* at ¶ 14.)

According to the XC, Cross-Defendants became increasingly uncooperative with Cross-Complainants' efforts to show the property to prospective buyers, with Brian Arellanes eventually telling Cross-Complainants that he would not permit anyone to access the property, that he would involve the police if anybody tried to do so, and that Cross-Complainants' showing the property was negatively impacting his health. (XC, ¶¶ 19-21.) Cross-Complainants allege that Cross-Defendants' obstruction impeded Cross-Complainants' ability to show, and therefore to sell, the property and forced Cross-Complainants to lower the listing price. (*Id.* at ¶¶ 50-51.) The XC asserts causes of action for breach of contract, breach of the implied covenant of good faith and fair dealing, intentional interference with prospective economic advantage, and declaratory relief.

Before the Court is Cross-Defendants' anti-SLAPP motion to strike. Cross-Defendants' motion focuses on Cross-Complainants' Third Cause of Action, which is for intentional interference with prospective economic advantage. The claim alleges that Cross-Defendants interfered with Cross-Complainants' prospective economic relationship with potential purchasers of the property through conduct that impacted the property's listing price and Cross-Complainants' ability to hold showings. (XC, ¶¶ 69, 72.)

Legal Standard

"A cause of action against a person arising from any act of that person in furtherance of the person's right of petition or free speech under the United States Constitution or the California Constitution in connection with a public issue shall be subject to a special motion to strike, unless the court determines that the plaintiff has established that there is a probability that the plaintiff will prevail on the claim." (Code Civ. Proc., § 425.16, subd. (b)(1).) The purpose of this statute is to identify and dispose of lawsuits brought to chill the valid exercise of a litigant's constitutional right of petition or free speech. (Code Civ. Proc., § 425.16, subd. (a); *Sylmar Air Conditioning v. Pueblo Contracting Services, Inc.* (2004) 122 Cal.App.4th 1049, 1055-1056.)

Courts use a two-step process to evaluate anti-SLAPP motions. (*Equilon Enterprises v. Consumer Cause, Inc.* (2002) 29 Cal.4th 53, 67.) First, the moving defendant must show that the challenged lawsuit arises from protected activity. (*Ibid.*) If the defendant makes this "threshold showing[,]" the court proceeds to the second step, where the plaintiff must demonstrate a probability of prevailing on the merits of the claims at issue. (*Ibid.*; Code Civ. Proc., § 425.16, subd. (b)(1).) "Only a cause of action that satisfies *both* prongs of the anti-SLAPP statute – i.e., that arises from protected speech or petitioning *and* lacks even minimal merit – is a SLAPP, subject to being stricken under the statute." (*Navellier v. Sletten* (2002) 29 Cal.4th 82, 89 [emphasis in original].)

Discussion

Two days after Cross-Defendants filed their anti-SLAPP motion, Cross-Complainants filed a First Amended Cross-Complaint. When a plaintiff amends a complaint while an anti-SLAPP motion is pending against it, the court is nevertheless required to rule on the motion even though it is directed at a superseded pleading, because the defendant's entitlement to attorney's fees if its motion is meritorious (see Code Civ. Proc., § 425.16, subd. (c)(1)) survives the amendment. (*Dickinson v. Cosby* (2017) 17 Cal.App.5th 655, 679; *Sylmar, supra,* 122 Cal.App.4th 1049, 1056.)

Prong One: Protected Activity

To establish protected activity, the defendant must demonstrate that "the act or acts underlying the plaintiff's claim falls within one of the four categories [of protected activity] identified in section 425.16, subdivision (e)." (*Lee v. Silveira* (2016) 6 Cal.App.5th 527, 538; *accord Howard Jarvis Taxpayers Assoc. v. Powell* (2024) 105 Cal.App.5th 955, 968.) In determining whether a complaint or a subset of it "arises from" protected activity, "[t]he critical consideration is whether the cause of action is *based on* the defendant's free speech or petitioning activity." (*Navellier, supra,* 29 Cal.4th 82, 89 [emphasis added]; see also *Baral v. Schnitt* (2016) 1 Cal.5th 376, 396.) "[T]he defendant's act underlying the plaintiff's cause of action must *itself* have been an act in furtherance of the right of petition or free speech." (*City of Cotati v. Cashman* (2002) 29 Cal.4th 69, 78 [emphasis in original].) "Courts deciding an anti-SLAPP motion . . . must consider the claim's elements, the actions alleged to establish those elements, and whether those actions are protected." (*Bonni v. St. Joseph Health System* (2021) 11 Cal.5th 995, 1015; accord *Park v. Board of Trustees of California State University* (2017) 2 Cal.5th 1057, 1062.)

> Item 1: Allegation that "on Saturday, May 16, 2026 at 10:18 p.m., [Cross-Defendants] transmitted a settlement demand seeking $175,000 with a next day, Sunday, deadline of 5:00 p.m., affording no meaningful opportunity for review and timed to coincide with that noticed showing" (XC, ¶ 69(g))

The anti-SLAPP statute "protects litigation-related activity, i.e., 'any written or oral statement or writing made before a . . . judicial proceeding' or 'in connection with an issue under consideration or review by a . . . judicial body.'" (*Cocoa AJ Holdings, LLC v. Schneider* (2025) 115 Cal.App.5th 980, 991 [quoting Code Civ. Proc., § 425.16, subd. (e)(2)].) Courts have interpreted protected "litigation-related activity" to include not merely the filing of a lawsuit, but " 'conduct that relates to such litigation, including statements made in connection with or in preparation of litigation.' " (*Alfaro v. Warehouse Management Corp.* (2022) 82 Cal.App.5th 26, 33 [quoting *Kolar v. Donahue, McIntosh & Hammerton* (2006) 145 Cal.App.4th 1532, 1537.) This includes statements made as part of settlement negotiations. (*Seltzer v. Barnes* (2010) 182 Cal.App.4th 953, 963.)

That litigation has not yet commenced at the time the conduct occurs does not preclude the conduct from constituting protected activity. (*Neville v. Chudacoff* (2008) 160 Cal.App.4th 1255, 1268.) "[A]lthough litigation may not have commenced, if a statement 'concern[s] the subject of the dispute' and is made 'in anticipation of litigation "contemplated in good faith and under serious consideration",' then the statement may be petitioning activity protected by section

425.16." (*Id.* at p. 1268 [quoting *Rohde v. Wolf* (2007) 154 Cal.App.4th 28, 36] [internal citations omitted]; *Cocoa AJ Holdings*, *supra*, 115 Cal.App.5th 980, 991.) Where a statement concerning the subject of an anticipated litigation is made at a time at which "the spectre of litigation loom[s] over all communications between the parties[,]" making the statement is probably protected activity. (See *Rohde, supra,* 154 Cal.App.4th 28, 36.)

The verified XC characterizes the May 16, 2026 communication as a "settlement demand[.]" (XC, ¶¶ 44, 69(g).) According to Cross-Complainants' own allegations, by the time this "settlement demand" issued, the following had occurred: (1) Cross-Defendant Brian Arellanes had informed Cross-Complainants, in writing, that he intended to sue them (*id.* at ¶ 21); (2) Cross-Defendants had engaged counsel and were communicating with Cross-Complainants through that counsel (*id.* at ¶ 23); (3) Cross-Complainant Ben Sharma and Cross-Defendants' counsel had become actively engaged in a negotiation of terms to resolve the dispute, discussing waiving certain claims and retaining the right to bring others (*id.* at ¶¶ 25-28); (4) Cross-Defendant Brian Arellanes had sent Cross-Complainants a written communication invoking the lease's default and dispute resolution provisions (*id.* at ¶ 29); (5) Cross-Complainants had served Cross-Defendants with multiple formal notices to pay rent or perform a covenant or else quit the lease (*id.* at ¶¶ 31, 39); and (6) Cross-Defendants had, through counsel, served Cross-Complainants with numerous letters describing what their legal theories and demands would be should they sue, and Cross-Complainants had responded in writing (*id.* at ¶¶ 34, 36, 41-43). Cross-Defendants initiated this action by filing their original complaint a week after they allegedly sent the May 16, 2026 "settlement demand." (*Id.* at ¶ 46.) Against this background, it can hardly be contested that "the spectre of litigation loomed" (*Rohde, supra*, 154 Cal.App.4th 28, 36) over the parties at the time of the "settlement demand." The transmission of that communication constituted protected activity under Code of Civil Procedure, section 425.16, subdivision (e)(2).

Cross-Complainants' cause of action for intentional interference with prospective economic advantage arises out of this protected activity. "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].) Cross-Complainants offer Cross-Defendants' transmission of the May 16, 2026 settlement demand as one of the "intentional acts" that allegedly disrupted Cross-Complainants' economic relationship with prospective purchasers of the property. (XC, ¶ 69(g).) Cross-Defendants have met their first-prong burden as to this material.

> Item 2: "On May 22, 2026, Cross-Defendants filed the original Complaint in this action. On June 26, 2026, Cross-Defendants filed the First Amended Complaint, expanding the action to twenty causes of action including claims under the Fair Employment and Housing Act, the Federal Fair Housing Act, and the Unruh Civil Rights Act. Cross-Complainants deny each and every allegation in the First Amended Complaint and assert

> that all such claims are meritless and were filed for the improper purpose of extracting a settlement." (XC, ¶ 46.)
>
> Item 3: The italicized portions of the following: "As a direct and proximate result of the conduct described above, *and the filing and prosecution of the Lawsuit*, Cross-Complainants were compelled to reduce the listing price of the Property from $3,769,000 to $3,599,000 on June 7, 2026, representing a price reduction of $170,000, in order to account for restricted buyer access during the critical listing period *and the litigation cloud created by Cross-Defendants' conduct and meritless claims*." (XC, ¶ 50.)
> Item 4: "Under California Civil Code section 1102 *et seq.*, Cross-Complainants are required to disclose the pending Lawsuit to prospective buyers as a material fact affecting the value of the Property. This mandatory disclosure obligation has materially impaired Cross-Complainants' ability to sell the Property at fair market value and on a timely basis." (XC, ¶ 51.)

The Court addresses Items 2-4 together because these allegations work together in the pleading. Filing and prosecuting a lawsuit constitute protected activity under the anti-SLAPP statute. (*ValueRock TN Properties, LLC v. PK II Larwin Square SC LP* (2019) 36 Cal.App.5th 1037, 1046.) As pleaded, the allegation that Cross-Defendants filed and prosecuted a lawsuit against Cross-Complainants supplies the damages and causation elements of Cross-Complainants' intentional interference claim. The XC alleges that Cross-Defendants initiated this lawsuit and subsequently filed their First Amended Complaint (XC, ¶ 46); that this created a "litigation cloud" over the property (*id.* at ¶ 50); and that Cross-Complainants were forced to reduce the listing price of the property by $170,000 "[a]s a direct and proximate result of . . . the filing and prosecution and the Lawsuit . . . to account for . . . the litigation cloud" (*ibid.*). The XC then expressly identifies this $170,000 price reduction as an item of damages in connection with the intentional interference claim. (*Id.* at ¶ 72.)

The Third Cause of Action is likewise based on the allegations in Item 4. Through that pleaded material, Cross-Complainants causally link Cross-Defendants' filing and prosecuting a lawsuit to the "disruption of the [economic] relationship" required to support intentional interference liability. (*Westside Center, supra*, 42 Cal.App.4th 507, 521-522.) In Item 4, Cross-Complainants allege that they have been required by California law to "disclose the pending Lawsuit to prospective buyers" and that "[t]his mandatory disclosure obligation has materially impaired Cross-Complainants' ability to sell the Property at fair market value and on a timely basis." (XC, ¶ 51.) In other words, the lawsuit has scared away buyers. Cross-Complainants then plead this reduction in market value and, separately, the cost of the delay in selling the property as items of damages in connection with their intentional interference claim. (*Id.* at ¶ 72.)

Cross-Defendants have carried their burden as to this material.

> Item 5: The italicized portion of the following: "The pattern demonstrates a deliberate strategy of demands and obstructions to limit marketing events, *or to follow them with escalating legal pressure*, spanning April 21 through May 17, 2026, demonstrating a sustained effort to suppress buyer access during the peak spring selling season *and extract a settlement from Cross-Complainants.*" (XC, ¶ 71(b), page 16.)

This content again references Cross-Defendants' protected litigation-related conduct. Item 5 is a portion of Cross-Complainants' request for punitive damages in connection with the intentional interference claim. Civil Code, section 3294 permits punitive damages in certain cases upon a showing of malice, fraud, or oppression. (Civ. Code, § 3294, subd. (a).) Item 5 alleges that Cross-Defendants' protected activity (among other conduct) amounts to "oppression." (XC, ¶ 71(b).) Cross-Defendants have carried their burden as to this material.

Likelihood of Success on the Merits

Cross-Complainants do not attempt to demonstrate a probability of prevailing on the merits of the XC's intentional interference claim to the extent it arises out of the challenged allegations, offering no evidence in support of any element of that cause of action. Accordingly, the Court GRANTS the motion.

Because the XC has been superseded by the FAXC, the effect of this ruling is that Cross-Defendants are entitled to attorney's fees and costs. (Code Civ. Proc., § 425.16, subd. (c)(1).) They have elected not to present evidence in support of a fee award with their motion itself and intend to do so through a future motion for attorney's fees, which is procedurally permissible. (See *American Humane Ass'n v. Los Angeles Times Communications* (2001) 92 Cal.App.4th 1095, 1103.)

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/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