

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 10/27/26 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 – COMPEL -DISCOVERY FACILITATOR
PROGRAM

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 October, 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: 10/27/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0002695

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK:

PLAINTIFF: JAD I. SALEM

vs.

DEFENDANT: ROBERT J. BELES

NATURE OF PROCEEDINGS: MOTION – COMPEL DISCOVERY FACILITATOR
PROGRAM

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.

The Zoom appearance information for October, 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: 10/27/26 TIME: 1:30 P.M. DEPT: A CASE NO. CV0004707

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK

IN THE MATTER OF:

STATE FARM AUTOMOBILE MUTUAL
INSURANCE COMPANY

NATURE OF PROCEEDINGS: MOTION – OTHER: ORDER PROVIDING ATTORNEY
ARBITRATORS

RULING

Pursuant to Code of Civil Procedure section 1281.6, the Court nominates the following five persons from the list provided by the parties:

1. Matt White, Esq.
2. Debra Bogaards, Esq.
3. Hon. Steven K. Austin, Ret.
4. Hon. Robert B. Freedman, Ret.
5. Tad Shapiro, Esq.

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 October, 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: 10/27/26 TIME: 1:30 P.M. DEPT: A CASE NO. CV0006691

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK:

PLAINTIFF: YOSHIMORI TOME

vs.

DEFENDANT: VICTRON ENERGY, B.V.,
ET AL

NATURE OF PROCEEDINGS: MOTION – AMEND

RULING

Plaintiff's unopposed motion for leave to file a Second Amended Complaint is **GRANTED**.

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 October, 2026 is as follows:

<https://marin-courts-ca-qov.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: 10/27/26 TIME: 1:30 P.M. DEPT: A CASE NO. CV0008053

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK:

PLAINTIFF: BRUCE JULIANUS

vs.

DEFENDANT: MICHAEL MACKINTOSH,
ET AL

NATURE OF PROCEEDINGS: 1) DEMURRER
2) MOTION – STRIKE SECOND AMENDED COMPLAINT

RULING

Defendants Michael Mackintosh and MT&CC, LLC’s (collectively, “Defendants”) Demurrer to the Sixth, Seventh, Tenth, and Twelfth Causes of Action in the Second Amended Complaint (“SAC”) is **SUSTAINED with leave to amend**. The Demurrer to the Eighth and Eleventh Causes of Action is **OVERRULED**.

Defendants’ Motion to Strike is **GRANTED as to Requests Nos. 1-4 with leave to amend**. It is **GRANTED without leave to amend as to Request No. 17**. It is **DENIED as to Requests Nos. 5-11 and 18-20**. It is moot as to Requests Nos. 12-16 based on the ruling on the Demurrer.

Background

This dispute arises out of plaintiff Bruce Julianus’s (“Plaintiff”) tenancy at 60 Pastori Avenue, Unit 20, in Fairfax, California (the “Property”). Plaintiff alleges he complained to Defendants regarding conditions at the Property, including a leaking roof, plumbing and electrical issues, mold, and deteriorating ceiling tiles. (SAC ¶¶ 4, 19–20.) Plaintiff further alleges that the Marin County Health Department inspected the Property in 2024 and issued a violation notice, and that additional complaints to the Town of Fairfax and County of Marin resulted in another inspection and violation notices in June 2025. (SAC ¶¶ 21–22.) He alleges that Defendants retaliated against him for these complaints and terminated his tenancy.

Plaintiff asserts the following causes of action against Defendants: (1) Negligence, (2) Nuisance, (3) Violation of Civil Code section 1942.4 (and other code violations), (4) Breach of Warranty of Habitability, (5) Breach of Warranty of Quiet Enjoyment, (6) Breach of Contract, (7) Breach of Implied Contract, (8) Violation of Civil Code section 1942.5, (9) Violation of Business and Professions code 17200, (10) Intentional Infliction of Emotional Distress (“IIED”), (11) Negligent Infliction of Emotional Distress (“NIED”), and (12) Violation of Civil Code section 3345.

Requests for Judicial Notice

Defendants' Requests for Judicial Notice Nos. 1-3 are GRANTED. (Evid. Code, § 452, subd. (d).)

Plaintiff's Requests for Judicial Notice Nos. 1-4 are GRANTED. (Evid. Code, § 452, subd. (d).)

Legal Standard – Demurrer

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

In a demurrer proceeding, the defects must be apparent on the face of the pleading or via proper judicial notice. (*Childs v. State of California* (1983) 144 Cal.App.3d 155, 159.) 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, 318.) The onus is on the plaintiff to articulate the “specifi[c] ways” to cure the identified defect, and absent such an articulation, a trial or appellate court may grant leave to amend “only if a potentially effective amendment [is] both apparent and consistent with the plaintiff's theory of the case.” (*Shaeffer v. Califia Farms, LLC* (2020) 44 Cal.App.5th 1125, 1145.)

Discussion – Demurrer

Defendants demur to Plaintiff's Sixth, Seventh, Eighth, Tenth, Eleventh, and Twelfth Causes of Action for failure to state facts sufficient to constitute a cause of action against Defendants.

Sixth Cause of Action for Breach of Contract

Defendants contend that the breach of written contract claim fails to identify any contractual provision allegedly breached or plead the substance of the relevant contractual terms. If an action is based on an alleged breach of a written contract, the complaint may set out the terms in the body of the complaint, attach a copy of the written, or plaintiff may plead the legal effect of the contract rather than its precise language. (*Construction Protective Services, Inc. v. TIG Specialty Ins. Co.* (2002) 29 Cal.4th 189, 199.)

To plead a contract by its legal effect, plaintiff must “allege the substance of its relevant terms. This is more difficult, because it requires a careful analysis of the instrument, comprehensiveness in statement, and avoidance of legal conclusions.” (*Heritage Pac. Fin., LLC v. Monroy* (2013) 215 Cal.App.4th 972, 993.) Here, the allegations the SAC are insufficient to plead the contract by its legal effect and Plaintiff failed to attach a copy of the agreement.

For these reasons, the Demurrer to the Sixth Cause of Action for Breach of Contract is SUSTAINED with leave to amend.

Seventh Cause of Action for Breach of Implied Contract

Plaintiff failed to plead the terms of any implied agreement. For this reason, the Demurrer to the Seventh Cause of Action is SUSTAINED with leave to amend.

Eighth Cause of Action for Violation of Civil Code Section § 1942.5

Defendants argue that the retaliation claim under Civil Code section 1942.5 is barred to the extent it seeks to relitigate Plaintiff’s unsuccessful retaliatory eviction defense asserted in the now-resolved unlawful detainer action and otherwise fails to identify any separate actionable retaliation.

California's Code of Civil Procedure section 430.30 limits a demurrer to defects appearing on the face of the complaint or from matters subject to judicial notice. Consistent with this limitation, California courts have established that a demurrer based on collateral estoppel is only proper when the preclusion bar appears clearly from the face of the complaint or from judicially noticed records of the prior proceeding. (*Four Star Elec., Inc. v. F & H Constr.* (1992) 7 Cal.App.4th 1375.) In *Groves v. Peterson* (2002) 100 Cal.App.4th 659, the court cautioned that judicial notice of a prior ruling is limited to what appears on the face of that ruling, and a court exceeds the bounds of proper judicial notice on demurrer by relying on matters not reflected in the prior ruling itself.

The California Supreme Court established in *Vella v. Hudgins* (1977) 20 Cal.3d 251 that a judgment in unlawful detainer usually has very limited res judicata effect. Because UD proceedings are summary in character and ordinarily limited to claims bearing directly upon the right of immediate possession, cross-complaints and affirmative defenses are permissible only insofar as they would, if successful, preclude the removal of the tenant from the premises. (*Id.*)

For collateral estoppel to apply, the issue must have been actually litigated and necessarily decided in the prior proceeding. (*Ayala v. Dawson* (2017) 13 Cal.App.5th 1319.) Whether the UD action fully litigated the issue of retaliation is a factual inquiry that requires examination of the entire prior record and extends beyond the scope of this Demurrer.

For these reasons, the Demurrer to the Eighth Cause of Action is OVERRULED.

Tenth Cause of Action for Intentional Infliction of Emotional Distress

A cause of action for Intentional Infliction of Emotional Distress requires proof of: (1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing emotional distress; (2) the plaintiff suffered severe emotional distress; and (3) the defendant's extreme and outrageous conduct was the actual and proximate cause of the severe emotional distress. (*Crouch v. Trinity Christian Ctr. of Santa Ana, Inc.* (2019) 39 Cal. App. 5th 995, 1007.) To avoid a demurrer, the plaintiff must allege with great specificity the acts which he believes are so extreme as to exceed all bounds of that usually tolerated in a civilized community. (*Yau v. Santa Margarita Ford, Inc.* (2014) 229 Cal.App.4th 144, 160–61, *citing Vasquez v. Franklin Management Real Estate Fund, Inc.* (2013) 222 Cal.App.4th 819, 832.)

Plaintiff's Intentional Infliction of Emotional Distress claim incorporates the preceding allegations by reference and contains a conclusion of law that Defendants' conduct was "outrageous, intentional, and carried out with reckless disregard of the probability of causing Plaintiff emotional distress." (SAC ¶¶ 81–82.) Defendants assert that the SAC fails to allege extreme and outrageous conduct. The Court agrees. The Demurrer to the Tenth Cause of Action is SUSTAINED with leave to amend.

Eleventh Cause of Action for Negligent Infliction of Emotional Distress

Negligent infliction of emotional distress is a species of negligence, which under California law has three elements: 1) the defendant owed a legal duty to use due care; 2) a breach of that duty; and 3) the breach was the proximate or legal cause of the resulting injury. (*Spates v. Dameron Hosp. Assn.* (2003) 114 Cal.App.4th 208, 213, *citing Burgess v. Superior Court* (1992) 2 Cal.4th 1064, 1071-1072 ["[T]he negligent cause of emotional distress is not an independent tort, but the tort of negligence. . . . The traditional elements of duty, breach of duty, causation, and damages apply," internal citations omitted].)

Defendants argue that the negligent infliction of emotional distress claim fails because California does not recognize it as an independent tort, and Plaintiff has already pled general Negligence and seeks emotional distress damages in the First Cause of Action. (See FAC, ¶¶ 37-38.) The Eleventh Cause of Action alleges no new facts and is not premised on a different theory of recovery. The Court agrees that it is redundant. However, redundancy is not enumerated as one of the statutory grounds on which a demurrer may be sustained. (*R.L. v. Merced City Sch. Dist.* (2025) 114 Cal.App.5th 89, 119.) For these reasons, the Demurrer to the Eleventh Cause of Action is OVERRULED.

Twelfth Cause of Action for Violation of Civil Code Section 3345

Civil Code section 3345 applies " 'in actions brought by, on behalf of, or for the benefit of senior citizens or disabled persons, as those terms are defined in subdivisions (f) and (g) of Section 1761, to redress unfair or deceptive acts or practices or unfair methods of competition.' [Citation.] Subdivision (b) of Civil Code section 3345 allows for a recovery of up to three times the amount of a monetary award whenever 'a trier of fact is authorized by a statute to impose either a fine, or a civil penalty or other penalty, or any other remedy the purpose or effect of

which is to punish or deter,’ if the trier of fact finds any of the factors identified in the statute to exist.” (*Clark v. Superior Court* (2010) 50 Cal.4th 605, 610.)

Section 3345 is not an independent cause of action; it authorizes a heightened recovery when the trial court has imposed a statutory fine, civil penalty or other remedy the purpose of which is to punish or deter. (*Clark, supra*, 50 Cal.4th at p. 615.) Because it is not a standalone cause of action, the Demurrer to the Twelfth Cause of Action is SUSTAINED with leave to amend.

Legal Standard – Motion to Strike

On noticed motion, the Court also may strike out “any irrelevant, false, or improper matter inserted in any pleading,” and “all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court.” (Code Civ. Proc., § 436.) The basis for granting the motion to strike must appear on the face of the challenged pleading or else be judicially noticeable. (*Id.*, § 437, subd. (a).)

The motion must be served and filed within the time allowed for a responsive pleading (*id.*, § 435, subd. (b)(1)), or as otherwise allowed at the Court's discretion (*id.*, § 436). The notice of motion must quote in full the portions sought to be stricken except where the motion is to strike an entire paragraph, cause of action, count or defense. (Cal. Rules of Court, rule 3.1322.) When the defect that justifies striking a complaint is capable of cure, the court should allow leave to amend. (*Perlman v. Municipal Court* (1979) 99 Cal.App.3d 568, 575.)

Discussion – Motion to Strike

Defendants seek to strike Plaintiff's claims and requests as follows:

1. Third Cause of Action to the extent it alleges a claim under Civil Code § 1942.4.
2. Paragraph No. 44 to the extent it alleges a claim under Civil Code § 1942.4.
3. Paragraph No. 48 in its entirety.
4. Paragraph No. 49 in its entirety.
5. Paragraph 37 to the extent it alleges entitlement to attorney's fees.
6. Paragraph 38 to the extent it alleges entitlement to attorney's fees.
7. Paragraph 42 to the extent it alleges entitlement to attorney's fees.
8. Paragraph 51 to the extent it alleges entitlement to attorney's fees.
9. Paragraph 52 to the extent it alleges entitlement to punitive damages and attorney fees.
10. Paragraph 57 to the extent it alleges entitlement to punitive damages and attorney fees.
11. Paragraph 62 to the extent it alleges entitlement to punitive damages and attorney fees.
12. Paragraph 68 to the extent it alleges entitlement to attorney's fees.
13. Paragraph 74 to the extent it alleges entitlement to punitive damages and attorney fees.
14. Paragraph 83 to the extent it alleges entitlement to attorney's fees.
15. Paragraph 86 to the extent it alleges entitlement to attorney's fees.
16. Paragraph 90 in its entirety.
17. Prayer ¶ B to the extent it seeks “civil penalties under Business and Professions Code §17206 in the amount of \$2500 for each violation of the UCL.”
18. Prayer ¶ C in its entirety: “For punitive damages according to proof.”

19. Prayer ¶ D in its entirety: “For injunctive relief ordering Defendants to cease their efforts to evict Plaintiff.”

20. Prayer ¶ F in its entirety: “For attorneys’ fees according to statute and contract, including under California Civil Code Sections 1942.4(b)(2) and 1942.5(h)(2)(i), and CCP Section 1021.5.”

Based on the Court’s ruling on the demurrer above, Requests Nos. 12-16 are moot as the demurrer to those portions of the SAC has been sustained.

Requests to Strike Nos. 1-4 are GRANTED with leave to amend.

Requests to Strike Nos. 5-11, and 18-20 are DENIED.

Request No. 17 is unopposed and is GRANTED without leave to amend.

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 October, 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: 10/27/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0008584

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK:

PLAINTIFF: RYAN CAMP, ET AL.

VS.

DEFENDANT: ROBERT TAYLOR, ET AL.

NATURE OF PROCEEDINGS: MOTION – OTHER: DISTRIBUTIONS

RULING

The motion of Plaintiffs Ryan Camp (“Camp”) and Numu Camp Inc. (“Numu”; together with Camp, “Plaintiffs”) for compelled distributions and appointment of a receiver is **DENIED**.

Background

This is a dispute over control of a local towing company. Plaintiffs bring this action both personally and derivatively on behalf of ATA Towing Inc. and Downtown Ignacio Tow Inc. (“DIT”). (Complaint, ¶ 1.¹) Plaintiffs allege that Camp and Defendant Robert Taylor (“Taylor”) jointly owned and managed DIT for several years, with Taylor holding a 51% interest and Camp 49%. (*Id.* at ¶ 3.) In May 2025, they reorganized their business into ATA Towing, continuing to hold their same interest percentages, and each took on roles as directors and officers of that entity. (*Id.* at ¶ 4.)

Plaintiffs claim to have discovered that Taylor and Defendant Jamie Dickinson (“Dickinson”), Taylor’s romantic partner, had been embezzling money from both DIT and ATA Towing for years by using company credit cards to pay for personal expenses. (*Id.* at ¶ 6.) The complaint alleges that in September 2025, Taylor cut off Camp’s access to company materials, forced him off the company property, and cut him off from the business entirely. (*Id.* at ¶ 9.) Since then, Camp allegedly has not received any compensation from the company, either in wages or in the distributions he is entitled to given his stake in the company. (*Id.* at ¶¶ 9-10.) Plaintiffs assert claims for, among other things, breach of various fiduciary duties, conversion, fraud, intentional interference with economic relations, theft, breach of contract, and labor-related violations. Before the Court is Plaintiffs’ motion for an order compelling Defendants to make certain payments to Camp. Alternatively, Plaintiffs request that the Court appoint a receiver.

¹ Plaintiffs’ request for judicial notice of the complaint is GRANTED. (Evid. Code, § 452, subd. (d).)

Discussion

Evidentiary Objections

Defendants' Objections to Plaintiffs' Moving and Reply Evidence

Declaration of Ameer Azeem: Instead of ruling on each of Defendants' 20 individual objections to this document, the Court sustains Defendants' omnibus objection and Objection Nos. 1-2, 9-10, and 18-20 [the portions of the declaration stating Azeem's conclusions] based on lack of foundation. Plaintiffs have not offered sufficient evidence to qualify Azeem to provide expert opinions. Independently, Mr. Azeem's opinions are based on facts not in evidence. These conclusions are discussed in detail below.

The Court did not rely on the other moving declarations to which Defendants have objected, which are the Declaration of Ryan Camp and the Supplemental Declaration of Yosef Peretz.

Reply Declaration of Ameer Azeem: The Court did not rely on the material that is the subject of Objection Nos. 1 and 4. As to Objection Nos. 2 and 3, they are overruled because the testimony at issue does not lack foundation, as Defendants argue. That said, the Court agrees with the point expressed in Objection No. 2 (that certain statements in Mr. Azeem's reply declaration seriously undermine his expert opinion) and addresses it below.

Plaintiffs' Objections to Defendants' Opposition Evidence

The Court did not consider the Declarations of Jeffrey Mallan, Jeannine Van Etten, Jamie Dickinson, or Henry E. Johnson when ruling on this motion and so does not rule on Plaintiffs' evidentiary objections to that material. The Court's analysis of the problems with the Declaration of Ameer Azeem comes from the Court's independent assessment of Azeem's testimony, not from consideration of the Mallan Declaration. The Court did rely on Paragraph 27 of the Declaration of Robert Taylor, but Plaintiffs have not objected to that material.

Request for Order Compelling Distributions

Plaintiffs request the Court to enter an order "compelling Defendants . . . to 1) continue providing a monthly \$7,500 to Camp to service his ownership interest loan (the "VanEtten Loan"), 2) [make] a quarterly distribution of \$19,983.30, and 3) [make] a pro rata distribution of \$1,493,280.33 that Taylor has withheld from Camp since September 2025 to date, which includes all amounts attributable to Camp's ownership interest." (Notice of Motion, p. 2.)

The sole legal basis Plaintiffs offer for this extraordinary request is Corporations Code, section 500. This statute sets forth the conditions under which a corporation or its subsidiary is permitted to make a distribution to its shareholders. (Corp. Code, § 500, subd. (a).) No part of the provision, however, authorizes a court to enter an order forcing a corporation to make a distribution if the specifications in the statute are satisfied. Plaintiffs' brief offers no legal authority supporting that request.

Defendants construe Plaintiffs' motion as a request for entry of a mandatory preliminary injunction. The Court declines to do the same. Plaintiffs never characterize the relief they seek as a preliminary injunction until the second-to-last page of their reply brief, and they do not discuss

any law pertaining to preliminary injunctions. They do not discuss the elements of any of their causes of action, as they would necessarily have to do to carry their burden on a motion for a preliminary injunction. (See *Butt v. State of California* (1992) 4 Cal.4th 668, 678 [“A trial court may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail on the merits of the claim.”]; accord *Costa Mesa City Employees’ Assn. v. City of Costa Mesa* (2012) 209 Cal.App.4th 298, 309; *O’Connell v. Superior Court* (2006) 141 Cal.App.4th 1452, 1481 [burden is on the moving party “to show all elements necessary to support issuance of a preliminary injunction”].) The Court will not spend time determining whether Plaintiffs are entitled to relief they have neither requested nor supported with citation to authority. This portion of the motion is denied.

Request for Appointment of a Receiver

Alternatively, Plaintiffs ask the Court to appoint Kevin Singer “as either a receiver with full authority to oversee the company’s financial affairs or as a limited-purpose receiver with authority to administer all past and future shareholder distributions to Camp until this litigation is resolved.” (Notice of Motion, p. 2.)

A receiver is an agent and officer of the court charged with preserving and managing disputed property. (*Southern California Sunbelt Developers, Inc. v. Banyan Limited Partnership* (2017) 8 Cal.App.5th 910, 922.) Receivers may be appointed only where expressly authorized by statute. (*Marsch v. Williams* (1994) 23 Cal.App.4th 238, 246.) Code of Civil Procedure, section 564 authorizes appointment of a receiver “[i]n an action . . . between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds of the property or fund, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured.” (Code Civ. Proc., § 564, subd. (b)(1).) Section 564 also contains a catch-all provision authorizing appointment of a receiver in any case where it is “necessary to preserve the property or rights of any party.” (Code Civ. Proc., § 564, subd. (a)(9).)

“Because the appointment of a receiver transfers property . . . ‘out of the hands of its owners’ and into the hands of a receiver . . . , the appointment of a receiver is a very ‘drastic,’ ‘harsh,’ and costly remedy that is to be ‘exercised sparingly and with caution.’” (*Medipro Medical Staffing LLC v. Certified Nursing Registry, Inc.* (2021) 60 Cal.App.5th 622, 628 [quoting *Morand v. Superior Court* (1974) 38 Cal.App.3d 347, 351].) “Due to the ‘extraordinary’ nature of this remedy and the special costs it imposes, courts are strongly discouraged – although not strictly prohibited – from appointing a receiver unless the more intrusive oversight of a receiver is a ‘necessity’ because other, less intrusive remedies are either ‘inadequate or unavailable.’” (*Ibid.* [quoting *Cohen v. Herbert* (1960) 186 Cal.App.2d 488, 495]; accord *City and County of San Francisco v. Daley* (1993) 16 Cal.App.4th 734, 745 [the availability of other remedies does not prohibit a court from imposing a receivership, but the court “must consider the availability and efficacy of other remedies in determining whether to employ [this] extraordinary remedy”].) A motion to appoint a receiver must be supported by admissible evidence. (See *Medipro, supra*, 60 Cal.App.5th 622, 629 [appellate court “[e]xcis[ed] the evidence the trial court ruled inadmissible” before determining whether the evidence supported a receivership].)

Plaintiffs argue that a receivership is in order because Taylor and Dickinson have been misappropriating funds belonging to the business. They offer evidence that “no less than \$2,170,046.94 . . . has been taken” from the business “for Taylor’s and Dickinson’s sole benefit.” (Azeem Dec., ¶ 7.) This sum consists of \$1,466,831.07 in cash received by the business, but allegedly never deposited into its bank accounts, and \$703,215.87 in charges to the business’ credit cards allegedly for Taylor’s and Dickinson’s personal expenses. (*Id.* at ¶ 8.)

Plaintiffs’ request for a receiver relies for support on the Declaration of Ameer Azeem. By all indications, Plaintiffs appear to offer Azeem as an expert witness in forensic accounting. Azeem must qualify as an expert witness, as he is opining as to a “ ‘matter[] that go[es] beyond common experience’ ” and so is not a proper subject for lay opinion testimony. (*People v. Phillips* (2022) 75 Cal.App.5th 643, 684 [quoting *People v. Chapple* (2006) 138 Cal.App.4th 540, 547].) He is also offering an opinion based on hearsay, which may be permissible for an expert witness, but not for a lay witness. (*People v. Dalton* (2019) 7 Cal.5th 166, 231.)

Assuming for the moment that Azeem qualifies as an expert witness, his expert opinion is fundamentally flawed because it is based on facts not in evidence. In forming his opinion, Azeem relied on “tens of thousands of the company’s financial records[.]” (Azeem Dec., ¶ 6.) The only exhibits to Azeem’s declaration are his resume (Ex. A), the financial analysis summary spreadsheets he prepared to document his calculations and illustrate his reasoning (Ex. 17, Schedules 1-15; Azeem Dec., ¶ 6); and a copy of ATA LLC’s April 2026 bank statement (Ex. 18). The actual financial records Azeem relied upon do not appear anywhere in Plaintiffs’ moving papers.²

The Court is not saying that Plaintiffs should place all the raw material underlying Azeem’s analysis before the Court. Rather, the foundation can be established through the voluminous records rule codified at Evidence Code, section 1523, subdivision (d). However, to admit a summary compilation in lieu of the voluminous underlying material, the underlying material must itself be admissible. In *Exclusive Florists, Inc. v. Kahn* (1971) 17 Cal.App.3d 711, where admissibility of a “compilation or summary, allegedly based upon plaintiff’s business records” was disputed, the court identified the critical question as whether the document was a compilation premised on admissible business records. (17 Cal.App.3d 711, 714.) “A summary of business records consisting of numerous accounts or other writings that cannot be examined in court without great loss of time, is admissible in evidence upon a showing the business records are entitled to admission in evidence[.]” (*Ibid.*; see also *YDM Management Co., Inc. v. Sharp Community Medical Group, Inc.* (2017) 16 Cal.App.5th 613, 631 & fn. 11 [trial court did not err in admitting summary spreadsheet where the voluminous underlying evidence being summarized was “not inadmissible hearsay[,] but . . . admissible statements of a party” under Evidence Code, section 1220 [party admissions].) In the instant case, the financial records underlying Azeem’s analysis are necessarily hearsay and no exception has been offered to render them admissible.

² Plaintiffs submitted some of these with their reply. (See Azeem Reply Dec., ¶¶ 8, 10; Exs. 37-38.) New evidence generally is not permitted in a reply (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537), and the belated submission of this evidence does not address the problem that it is hearsay for which Plaintiffs have offered no exception.

An expert witness is permitted to offer an opinion based on hearsay, but such opinion only has any evidentiary value to the extent it is based on facts in evidence. (*Garibay v. Hemmat* (2008) 161 Cal.App.4th 735, 743; *Bushling v. Fremont Medical Center* (2004) 117 Cal.App.4th 493, 510.) The purported facts underlying Azeem's opinion – those regarding what money was put where, when, and by whom – are before the Court only in the sense that Azeem has described them in his declaration and in the compilation exhibits he drafted. The Court has no basis to consider the compilation admissible, as discussed, and an expert's recitation of the facts underlying his opinion is not competent proof of those underlying facts unless the expert is competent to testify to them, i.e., has personal knowledge of them. “ ‘Although experts may properly rely on hearsay in forming their opinions, they may not relate the out-of-court statements of another as independent proof of the fact.’ ” (*Garibay, supra*, 161 Cal.App.4th 735, 743 [quoting *Korsak v. Atlas Hotels, Inc.* (1992) 2 Cal.App.4th 1516, 1524-1525].) The proponent of the expert's testimony needs to put the underlying facts in evidence and cannot do so merely through the expert's recitation of them in his declaration. All of this is a fundamental barrier to the Court's consideration of Azeem's testimony.

The declaration is also substantively lacking. Azeem draws conclusions without explaining his basis for drawing them and relies on obviously flawed methodology. (See *Jennings v. Palomar Pomerado Health Systems, Inc.* (2003) 114 Cal.App.4th 1108, 1117 [expert opinion is “conclusory” where it is “unaccompanied by a reasoned explanation connecting the factual predicates to the ultimate conclusion”].) For example, Azeem asserts that “from December 2025 through January 2026, based on the records available to Plaintiffs, it appears that Taylor overinflated the special cash totaling over \$88,000 in an attempt to make it look like there was less of a discrepancy between the total cash sales of the South Office and what he personally ‘deposited’ to ultimately cover up for the money he took from the business.” (Azeem Dec., ¶ 18.) This conclusion colors Azeem's calculation of the amount of money allegedly embezzled, but he does not set forth a basis for it, and it is frankly unclear what the phrase “Taylor overinflated the special cash totaling over \$88,000” means.

Azeem made no attempt to distinguish proper, business-related company credit card charges by Taylor or Dickinson from improper, personal company credit card charges by the same. He openly admits that in order to determine how much money Taylor and Dickinson embezzled via use of company credit cards, he simply totaled up all of the company credit charges attributable to Taylor or Dickinson, as opposed to any other card user, and then added back in the total amount Camp and his wife admittedly charged to company credit cards for what Plaintiffs themselves characterize as “personal expenses.” (See Azeem Dec., ¶ 24 & Ex. 17, Schedule 10B [“American Express 7006 Personal Expenses for Ryan Camp and Heather Camp”].) In their reply, Plaintiffs deny that Azeem calculated Defendants' alleged embezzlement via credit card this way and then, in the next sentence, affirmatively state that this is exactly what he did:

“Defendants erroneously claim that Azeem assumed that all credit card charges were for unreimbursed personal expenses. This is not correct. Azeem did not make such an assumption. Rather, he calculated Defendants' charges by removing others' charges from the total amount charged to the credit cards. He gave credit to Defendants for all of the [sic] Camp and his wife's charges and claimed only the excess.”

(Reply, p. 5 [internal citation omitted]; see also Azeem Reply Dec., ¶¶ 43 [same, adding that his credit card embezzlement figure “is the total of Taylor and Dickinson’s charges on the Company’s four cards, minus every charge Camp and Heather [Mrs. Camp] made . . . minus other employees’ charges”], 45 [describing the calculation as “Defendants’ charges net of everyone else’s”].) In other words, the amount of money Azeem claims Taylor and Dickinson embezzled from the business via credit card use is simply the entire amount Taylor and Dickinson charged to company credit cards, with credit given to Taylor and Dickinson in the amount Mr. and Mrs. Camp admittedly charged to the credit cards for personal expenses themselves.

As discussed, Plaintiffs’ showing admits that both Camp and his wife were using company credit cards to pay for personal expenses. (Azeem Dec., ¶ 24 & Ex. 17, Schedule 10B [showing expenditures by Mr. and Mrs. Camp at gas stations, grocery stores, convenience stores, restaurants, and the like].) Taylor attests that he and Camp mutually agreed that they and their significant others could use company credit cards for personal expenses as long they did not abuse the privilege and reimbursed the expenses (Taylor Dec., ¶ 27), and Plaintiffs’ treatment of Mr. and Mrs. Camp’s admittedly personal use of these cards as a nonissue supports this. No one explains the logic behind the idea that Taylor’s and Dickinson’s personal charges to company credit cards constitute embezzlement, but Mr. and Mrs. Camp’s do not. To the extent the explanation is that Mr. and Mrs. Camp, but not Taylor and Dickinson, were reimbursing the charges, there is no mention of this huge missing puzzle piece, critical to understanding Azeem’s opinion, until the reply. Azeem’s opinion that Taylor and Dickinson embezzled \$703,215.87 through the company credit cards, as stated in the moving papers, is based solely on the idea that they were charging the credit card for personal, non-business expenses. There is no discussion of anyone reimbursing, or failing to reimburse, the business for personal use of the company credit cards in the moving papers. (Memorandum, pp. 9-10; Azeem Dec., ¶¶ 8, 24-33.) This omission is a significant mark against the credibility of Plaintiffs’ evidence.

Finally, Azeem attests that the underlying data on which his analysis is based is unreliable, attributing this to alleged discovery misconduct by Defendants. (See Azeem Reply Dec., ¶ 19 [“Only the Defendants’ complete bank account records would show what was actually deposited into and withdrawn from a bank account. However, I am informed that Defendants have failed to provide these full bank records, including all the deposit slips, despite Plaintiffs’ discovery requests[.]”].) If Defendants are refusing to comply with discovery, Plaintiffs should file a motion to compel. Plaintiffs cannot, however, offer sworn testimony that material their expert cannot access is necessary to understand the financial misconduct they allege while simultaneously claiming that the same expert has offered a reliable financial analysis of that misconduct.

All of this is to say that even if Azeem’s expert opinion could circumvent the barriers to its admissibility, it is not credible.

Finally, the Court is not persuaded that Azeem is qualified to offer this testimony as an expert. Azeem does not describe his experience in forensic accounting or any similar experience or expertise (for example, uncovering financial malfeasance and/or tracing unlawful expenditures), as opposed to accounting and financial reporting more generally, in a way that would permit the Court to conclude that he is qualified to offer this testimony. (See Azeem Dec., ¶ 3.) The Court

does not believe that having experience as an accountant or bookkeeper qualifies as an expert in forensic accounting, which the Court doubts, it would not seem that Azeem so qualifies.

Plaintiffs are requesting an extraordinary remedy and a stronger evidentiary showing is required. The request that the Court appoint a receiver 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.

The Zoom appearance information for October, 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: 10/27/26 TIME: 1:30 P.M. DEPT: A CASE NO: CV0009951

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK:

PLAINTIFF: WENDY VALENZUELA
ESCOBEDO, ET AL

vs.

DEFENDANT: AS CONVENIENCE &
ENERGY, INC., A CALIFORNIA
CORPORATION, ET AL

NATURE OF PROCEEDINGS: MOTION – COMPEL

RULING

Defendants’ motion to compel arbitration is **DENIED**.

Allegations in Plaintiffs’ First Amended Complaint

There are three plaintiffs in the First Amended Complaint: Plaintiff Wendy Valenzuela Escobedo (“Valenzuela Escobedo”), Obdulio Orantes (“Orantes”), and Telma Orantes (“T. Orantes”). The Court focuses on the allegations made by Valenzuela Escobedo and Orantes as these are the allegations that are relevant to the motion to compel arbitration.

Valenzuela Escobedo was employed by Defendant AS Convenience & Energy, Inc. (“ASCE”) as a cashier at 2066 Redwood Highway from October 20, 2022 until February 2024. Thereafter, she was employed by Defendant Salkhi Petroleum, Inc. (“SP”) at 105 Tiburon Boulevard until she was terminated on October 23, 2024. Orantes was employed by ASCE as a customer service and sales representative at 2066 Redwood Highway beginning July 2022, when ASCE assumed ownership and control of the car wash where he had been employed since 2012. Defendant Luis Mazariegos (“Mazariegos”) was Valenzuela Escobedo’s supervisor.

Valenzuela Escobedo

In June 2023, Valenzuela Escobedo told Mazariegos that she did not want any romantic or personal relationship with him but Mazariegos continued to pursue her. He called and texted her frequently, referred to her as “love”, and commented on her appearance including remarks about

her buttocks and how her clothing looked on her. Valenzuela Escobedo told Mazariegos that his conduct was unwelcome and demanded that he stop contacting her, but he dismissed her comments saying nothing would happen to him because he was a manager. On one occasion Mazariegos grabbed her buttocks while passing behind her. When Valenzuela Escobedo asked Mazariegos' direct supervisor, Jose Son ("Son") if he saw that happen, Son responded "anyone would want to do that". After Valenzuela Escobedo complained to Son about Mazariegos' harassment, Son spoke with Mazariegos, but Mazariegos continued the harassment. In February 2024, Valenzuela Escobedo's partner at the time, Orantes, reported the ongoing harassment to Son. Son then told Valenzuela Escobedo not to report to work for three days, purportedly because it was raining, even though she had always been required to work during rainy weather. When Valenzuela Escobedo returned to work, Son and the general manager Britney de la Garza ("de la Garza") informed her she was being transferred to another location because of her boyfriend's complaint, and that nothing would have happened if Orantes had not complained. Valenzuela Escobedo was also told that Orantes was not allowed to communicate with Mazariegos and that she and Orantes were not to discuss the harassment any further.

The position to which Valenzuela Escobedo was transferred was less convenient and offered fewer hours and lower pay. Her employment was terminated with ASCE and she was placed on SP's payroll. She was told she could only use certain employee benefits at locations other than where Mazariegos worked. Despite the transfer, Mazariegos continued to harass Valenzuela Escobedo. While she was working at the new location, he sent her a text message asking "who is that man next to you" and stating that he could see her through the store's security cameras. Valenzuela Escobedo complained to her new manager, Danny Flores. She then met with Son and de la Garza, and Son accused her of "provoking" Mazariegos. She was issued a written warning instructing her not to contact Mazariegos or she could be fired. Valenzuela Escobedo continued to experience retaliation. Her requests to cover shifts for unavailable coworkers were denied without explanation, she was not paid the normal higher rate when she worked an overnight shift, and she received no response to her request about why she was being paid less than other employees performing the same work. Son refused to provide her a positive reference when she attempted to apply for work at another gas station. On October 23, 2024, the same day Defendants received a demand letter from Valenzuela Escobedo's counsel regarding harassment and termination, Valenzuela Escobedo was terminated purportedly based on an incident where a customer drove away with a gas pump still attached to their vehicle.

Orantes

After Orantes reported to Son in November 2023 that Valenzuela Escobedo was being harassed by Mazariegos, Orantes received a written warning. Orantes again complained to Son about the ongoing harassment in February 2024, and also communicated directly with Mazariegos to object to the harassment. Shortly thereafter, Orantes received a second written warning, accusing him of disrespecting a manager. Orantes was forced to transfer to another location and was told the reason was because he could not work at the same location as Mazariegos. In April 2024, Son and de la Garza told Orantes that he was being suspended until further notice. Son told Orantes that management had learned that Orantes was involved in a relationship with another employee and expressed concern that he might date additional employees and cause problems. This accusation was false and Orantes was not given any opportunity to respond

before his suspension. Two days later, Orantes was told he was being terminated but was not provided any reason.

The First Cause of Action is by Valenzuela Escobedo and T. Orantes against ASCE, SP, Mazariegos and Reyes for harassment/hostile work environment based on sex. The Second Cause of Action is by T. Orantes against ASCE and Reyes for harassment/hostile work environment based on age. The Third Cause of Action is by Valenzuela Escobedo and T. Orantes against ASCE and SP for discrimination based on sex. The Fourth Cause of Action is by T. Orantes against ASCE for discrimination based on age. The Fifth Cause of Action is by Valenzuela Escobedo and T. Orantes against ASCE and SP for failure to prevent harassment and discrimination. The Sixth Cause of Action is by Valenzuela Escobedo, Orantes, and T. Orantes against ASCE and SP for unlawful retaliation for opposing discrimination and harassment. The Seventh Cause of Action is by Valenzuela Escobedo and T. Orantes against ASCE and SP for negligent hiring, supervision, and/or retaliation. The Eighth Cause of Action is by Valenzuela Escobedo, Orantes, and T. Orantes against ASCE and SP for wrongful termination in violation of public policy.

Procedural Background

After Defendants filed their motion on September 22, 2026, the clerk calendared the hearing date for October 13, 2026, which did not provide sufficient notice under Code of Civil Procedure Section 1005(b). Orantes filed an Opposition on September 30, 2026 which raised this issue but also made substantive arguments opposing Defendants' motion. On October 2, 2026, the clerk served the parties with a Notice of Continuance, continuing the hearing to October 27, 2026. The Notice also stated: "Opposition and reply are due pursuant to the statute."

Orantes did not file a supplemental Opposition following the Notice of Continuance, so the Court addresses arguments made by Orantes in his September 30th Opposition. Defendants filed a Reply on October 20, 2026.

Discussion

Defendants AS and SP move to compel Orantes to arbitrate his claims (the Sixth and Eighth Causes of Action) and to stay these proceedings against him pending arbitration. Defendants submit the declaration of Nathalie Harper, the Director of Human Resources of ASCE, who attaches an Agreement to Arbitrate (the "Agreement") and states that the Agreement was signed by Orantes on July 24, 2022.

Orantes does not contend that he did not sign the Agreement or that his claims do not fall within the scope of the Agreement. Instead, Orantes opposes the motion on the grounds that arbitration cannot be compelled under the Ending Forced Arbitration Act ("EFAA"), Defendants waived any right to compel arbitration by engaging in litigation, and the Agreement is unconscionable.

Orantes argues that because he alleges that Defendants retaliated against him for reporting and opposing sexual harassment in the workplace, his claims "relate to" a sexual harassment dispute and therefore fall within the

EFAA. Section 402 of the Federal Arbitration Act, known as the EFAA, provides:

(a) In general.--Notwithstanding any other provision of this title, at the election of the person alleging conduct constituting a sexual harassment dispute or sexual assault dispute . . . no predispute arbitration agreement or predispute joint-action waiver shall be valid or enforceable with respect to a case which is filed under Federal, Tribal, or State law and relates to the sexual assault dispute or the sexual harassment dispute.

(b) Determination of applicability.--An issue as to whether this chapter applies with respect to a dispute shall be determined under Federal law. The applicability of this chapter to an agreement to arbitrate and the validity and enforceability of an agreement to which this chapter applies shall be determined by a court, rather than an arbitrator, irrespective of whether the party resisting arbitration challenges the arbitration agreement specifically or in conjunction with other terms of the contract containing such agreement, and irrespective of whether the agreement purports to delegate such determinations to an arbitrator.

(9 U.S.C. § 402.) The EFAA exempts a plaintiff's entire case from arbitration where the plaintiff asserts at least one sexual harassment claim subject to the EFAA. (See *Decloedt v. RadNet Management, Inc.* (2026) 121 Cal.App.5th 732, 739.)

As subsection (b) reflects, the applicability of the EFAA is determined by the court, rather than the arbitrator.

Defendants argue that the EFAA does not apply because the statute operates "at the election of the person alleging conduct constituting a sexual harassment dispute." (9 U.S.C. § 402(a).) They state that Orantes does not allege that he personally was sexually harassed and is not a plaintiff for the First Cause of Action for sex-based harassment. He alleges only that he reported the alleged harassment of a co-worker and was disciplined and terminated for it. Defendants also argue that allowing Orantes to take advantage of the EFAA to get around his Agreement by simply joining with other plaintiffs would invite abuse of the statute.

The parties do not cite, and the Court could not find, any published California cases addressing whether a plaintiff's claims alleging retaliation or wrongful termination based on his or her reporting of sexual harassment of a coworker fall within the scope of the EFAA. Some federal courts have addressed this issue, and the weight of this authority supports Plaintiff's argument.

In *Lambert v. New Start Capital LLC*, 799 F.Supp.3d 258 (S.D.N.Y. 2025), the court found that the plaintiff's retaliation claim was subject to the EFAA where the plaintiff alleged she was fired for reporting another plaintiff's sexual harassment in the workplace. The court held that the plaintiff alleged a "dispute relating to conduct that is alleged to constitute sexual harassment." (*Id.* at p. 281.) In *Ramirez v. Domino's Pizza Supply Chain*, No. 24-CV-01731-SKC-STV, 2024 WL 5452684 (D. Colo. Nov. 8, 2024), report and recommendation adopted, No. 24-CV-01731-SKC-STV, 2025 WL 414381 (D. Colo. Feb. 6, 2025), the plaintiff was terminated after reporting

sexual harassment of some of his coworkers. The plaintiff sued the employer for, among other things, retaliation for reporting sexual harassment. The court found that the plaintiff's claim was related to sexual harassment and thus subject to the EFAA: "Plaintiff's seventh claim is related to sexual harassment in that it is associated with, or has a relationship with, unlawful sexual harassment—Plaintiff alleges that he was retaliated against because he reported unlawful sexual harassment, retaliation explicitly prohibited by Title VII. Thus, the Court concludes that Plaintiff's seventh claim falls within the EFAA and Plaintiff is not compelled to arbitrate that claim." (*Ramirez*, 2024 WL 5452684 at *4.)¹ In *Usai v. Club Management Miami II, LLC*, 801 F.Supp.3d 1295 (S.D. Fla. 2025), appeal dismissed by stipulation, 2026 WL 3072264 (11th Cir. April 22, 2026), the court held that the plaintiffs' (Usai and Giua) claims were subject to the EFAA where the plaintiffs did not allege they were personally subjected to sexual harassment, but rather that they reported it and were retaliated for it as a result. The court found that the plaintiffs' claims were based on reporting conduct that was alleged to constitute sexual harassment, and that its conclusion was consistent with the broadly stated purpose of the EFAA. (*Id.* at p. 1309.)

In *O'Donnell v. Magazzino Italian Art Foundation*, No. 25-CV-2918 (JGLC), 2026 WL 880646 (S.D.N.Y. Mar. 31, 2026), appeal filed April 30, 2026, the plaintiff alleged that he was fired for complaining about women employees being treated poorly. The court found that the EFAA covered the plaintiff's claim, stating: "Plaintiff's claim that he was retaliated against for reporting sexual harassment is therefore related to the underlying allegations of sexual harassment. Plaintiff is also a 'person alleging conduct constituting a sexual harassment dispute.' 9 U.S.C. § 402(a). The fact that there is no underlying claim for sexual harassment in this action is immaterial. Instead of requiring a plaintiff to assert a 'claim' constituting a sexual harassment dispute, Congress only required a plaintiff to allege 'conduct.' . . . Congress could have included language to limit applicability to persons who have brought claims of sexual harassment, but it did not. Thus, the Court finds no basis to draw that distinction. Accordingly, the Court finds that a standalone retaliation claim like O'Donnell's fits within the plain meaning of the statute." (*Id.* at *5-6.)

The Court has also located some federal district court decisions in which the court found the EFAA to be inapplicable, but those cases involve facts distinguishing them from the present case. For example, in *Mosley v. Compass Group USA, Inc.*, No. 4:24-cv-00807-KGB, 2026 WL 1786809 (E.D. Ark. June 22, 2026), the plaintiff alleged she was retaliated against for engaging in protected activity, i.e., submitting a statement from a co-worker about sexual harassment experienced by that coworker. The defendant argued that the plaintiff's claims did not fall under the EFAA because they did not relate to sexual harassment that she personally experienced, but rather to sexual harassment allegedly experienced by a third party. The court noted that "other district courts have held that the EFAA does not apply to retaliation claims where the underlying sexual harassment was directed at a third party and was not personally experienced by the plaintiff" and that "based on the holdings in *Mitchell* and *Newman*, the EFAA does not apply to [the plaintiff's] claims." (*Id.* at *4.)

¹ The court ultimately ruled in favor of the defendants, however, because the plaintiff initially pursued his claim in arbitration. (*Id.* at *6.)

In the *Mitchell* case cited in *Mosely*, the court rejected the plaintiff's argument that the EFAA applied to her retaliation claim based on harassment of another employee because there was no cognizable sexual harassment dispute at issue in that case. The other employee had not brought a sexual harassment claim. The court stated that "applying the EFAA to a stand-alone retaliation claim does 'not advance the interest embodied in the EFAA of vindicating the rights of sexual harassment claimants to litigate in court,' because in that circumstance the issue of sexual harassment is not even being litigated. Thus, retaliation is a distinct claim with different elements." (*Mitchell v. Raymond James & Assocs., Inc.*, Case No. 8:23-cv-02341-VMC-TGW, 2024 WL 4486565, at *11 (M.D. Fla. Aug. 23, 2024), *R. & R. adopted*, Case No. 8:23-cv-02341-VMC-TGW, 2024 WL 4263151 (M.D. Fla. Sept. 23, 2024).) In the *Newman* case cited in *Mosely*, the plaintiff alleged that he was terminated after he cooperated in an internal investigation where a coworker reported sexual harassment and he corroborated his co-worker's report. The magistrate judge recommended the court grant the defendant's motion to compel arbitration, finding that the plaintiff could not allege a sexual harassment claim based on the facts alleged because his claims were premised on whether he engaged in protected activity, and neither the court nor the arbitrator would have to decide whether sexual harassment occurred as the alleged victim did not file a sexual harassment lawsuit. The district court judge agreed with the magistrate's decision. (See *Newman v. Ambry Genetics Corp.*, No. 2:24-CV-00887-BHH-MGB, 2024 WL 4164738 (D.S.C. Apr. 26, 2024), *report and recommendation adopted in part, rejected in part sub nom. Newman v. Ambry Genetics Corp.*, No. 2:24-CV-00887-BHH-MGB, 2024 WL 3811606 (D.S.C. Aug. 14, 2024), *reconsideration denied*, No. 2:24-CV-00887-BHH, 2024 WL 4553224 (D.S.C. Oct. 23, 2024).)

These cases are distinguishable because there was no pending sexual harassment claim against the defendant by the harassed third party, and thus the alleged sexual harassment was not even being litigated. In contrast, here, the sexual harassment claims of Valenzuela Escobedo (and T. Orantes) are being litigated in the same case.

The *Mera* case cited by Defendants is inapposite as it did not involve a plaintiff alleging retaliation based on his or her reporting of sexual harassment of another. (See *Mera v. SA Hospitality Group, LLC*, 675 F.Supp.3d 442 (S.D.N.Y. 2023), affirmed in part and reversed in part, *Mera v. SA Hospitality Group, LLC*, 2025 WL 3202080 (S.D.N.Y. Nov. 17, 2025).) In *Mera*, the court held that all of the plaintiff's claims, which included a hostile work environment claim as well as wage and hour claims, fell under the EFAA because the statute applied to the entire case of a plaintiff who brings a sexual harassment claim. This case does not support Defendants' broad argument that the *Mera* decision "confirms that the reach of section 402(a) has never been understood to extend beyond the electing party." (MPA, p. 17:15-16.) In any event, contrary to the court's statement in *Mera*, there are cases (discussed above) that have interpreted to statute to extend to claims brought by a party who did not personally experience the harassment.

The Court finds the *Lambert*, *Ramirez*, *Usai* and *O'Donnell* cases to be persuasive and the *Mosley*, *Mitchell*, *Newman* and *Mera* cases to be factually distinguishable from this case. Orantes' claims fall within the scope of the EFAA. Accordingly, Defendants' motion to compel arbitration as to Orantes is denied.

Because the Court denies the motion based on the EFAA, it need not address Orantes' arguments regarding waiver and unconscionability.

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 October, 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: 10/27/26 TIME: 1:30 P.M. DEPT: A CASE NO. CV0006293

PRESIDING: HON. STEPHEN P. FRECCERO

REPORTER:

CLERK:

PLAINTIFF: JOSE CARRILLO, ET AL

vs.

DEFENDANT: SKYSKOPES, INC., ET AL

NATURE OF PROCEEDINGS: MOTION – QUASH

RULING

Defendant Jeffrey Farstad’s (“Defendant”) Motion to Quash pursuant to Code of Civil Procedure section 418.10, subdivision (a)(1) is DENIED.

REQUESTS FOR JUDICIAL NOTICE

Defendant’s Requests for Judicial Notice Nos. 1-8 are GRANTED. (Evid. Code, § 452, subds. (d), (e).)

Defendant’s Requests for Judicial Notice in Support of Reply Nos. 1-3 are GRANTED. (Evid. Code, § 452, subd. (d); *City of Atascadero v. Merrill Lynch, Pierce, Fenner & Smith, Inc.* (1998) 68 Cal.App.4th 445, 479, fn. 37.)

OBJECTIONS TO EVIDENCE

Plaintiffs Jose Carrillo, Garrett Dunlap, Ron Graddy, Dillon Hawkins, Fisher Lawhon, Logan Miller, Landin Miyake, Reed Miyake, Chase Moon, Jacob Stambaugh, Austin Varvais, And Morris Wentworth’s (“Plaintiffs”) Objections to Evidence Nos. 1-8 are OVERRULED.

LEGAL STANDARD

California courts “may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.” (Code Civ. Proc., § 410.10.) The federal Constitution permits a state to exercise jurisdiction over a nonresident defendant if the defendant has sufficient “minimum contacts” with the forum such that ‘maintenance of the suit does not offend “the traditional notions of fair play and substantial justice.”’ (*DVI, Inc. v. Super. Ct.* (2002) 104 Cal.App.4th 1080, 1089-1090, quoting *International Shoe Co. v. Washington* (1945) 326 U.S. 310, 316.)

The “minimum contacts” doctrine embraces two types of personal jurisdiction: general jurisdiction and specific jurisdiction. (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 445.) General jurisdiction exists where the defendant's contacts in the forum are so “substantial, continuous, and systematic” that there need not be any relationship between the alleged causes of action and the defendant's relationship to the forum. (*Sonora Diamond Corp. v. Super. Ct.* (2000) 83 Cal.App.4th 523, 535.) Specific jurisdiction “results when the defendant's contacts with the forum state, though not enough to subject the defendant to the general jurisdiction of the forum, are sufficient to subject the defendant to suit in the forum on a cause of action related to or arising out of those contacts.” (*Id.*, at p. 536.)

A defendant may move to quash service of the summons on the ground the court lacks personal jurisdiction. (Code Civ. Proc., § 418.10, subd. (a)(1).) When a defendant challenges personal jurisdiction by filing a motion to quash, the plaintiff opposing the motion has the initial burden of proving, by a preponderance of the evidence, the factual bases justifying the exercise of jurisdiction. (*ViaView, Inc. v. Retzlaff* (2016) 1 Cal.App.5th 198, 209-210; *BBA Aviation PLC v. Super. Ct.* (2010) 190 Cal.App.4th 421, 428-429 (*BBA*).) “The plaintiff must do more than merely allege jurisdictional facts; plaintiff must provide affidavits and other authenticated documents demonstrating competent evidence of jurisdictional facts. [Citation.]” (*BBA, supra*, 190 Cal.App.4th at pp. 428-429; *Strasner v. Touchstone Wireless Repair & Logistics, LP* (2016) 5 Cal.App.5th 215, 221-222 [“The plaintiff must provide specific evidentiary facts, through affidavits and other authenticated documents, sufficient to allow the court to independently conclude whether jurisdiction is appropriate. [Citation.] The plaintiff cannot rely on allegations in an unverified complaint or vague and conclusory assertions of ultimate facts. [Citation.]”].) “If the plaintiff does so, the burden shifts to the defendant to present a compelling case that the exercise of jurisdiction would be unreasonable. [Citation.]” (*BBA, supra*, 190 Cal.App.4th at p. 429; *Snowney v. Harrah's Entertainment, Inc.* (2005) 35 Cal. 4th 1054, 1062.)

A motion to quash must be made as Defendant's initial appearance in the action, on or before the last day to plead “or within any further time that the court may for good cause allow.” (Code Civ. Proc., § 418.10(a).)

DISCUSSION

Plaintiffs filed this wage-and-hour action on May 13, 2025, and filed a First Amended Complaint on May 22, 2025. Plaintiffs allege that they were employed by SkySkopes, Inc. (“SkySkopes”) as unmanned aerial drone operators inspecting powerlines for PG&E in Northern California, and seek unpaid wages, unreimbursed expenses, penalties, interest, and related relief.

On July 7, 2025, before any response to the First Amended Complaint, SkySkopes removed the action to the United States Bankruptcy Court for the District of Arizona after SkySkopes entered Chapter 11 proceedings. (RFJN No. 3.) The individual officer defendants did not file for bankruptcy protection. On April 21, 2026, the Bankruptcy Court granted Plaintiffs’ request for remand, conditioned on Plaintiffs dismissing debtor SkySkopes from this action within 21 days. (RFJN No. 4.)

Following remand, Plaintiffs sought leave to file a Second Amended Complaint to dismiss SkySkopes and proceed against non-debtor individuals, including Defendant Farstad. (RFJN No.

5.) The Court granted leave on May 8, 2026. (RFJN No. 6.) The Second Amended Complaint filed in this action on May 11, 2026, alleges that SkySkopes is a Delaware corporation with its principal place of business in Phoenix, Arizona, and that Farstad is the founder, owner, and Chief Executive Officer of SkySkopes. (RFJN No. 7.) Plaintiffs served Farstad through counsel by Notice and Acknowledgment of Receipt, signed and returned on June 9, 2026. (Poole White Decl., ¶ 10.)

Farstad brought this timely Motion to Quash service of summons on the ground that he has never lived, worked, traveled to, or owned property in California (Farstad Decl., ¶¶ 2-4) and that there is no evidence of Defendant making “making California specific compensation decisions.” (Mot. P and A, p. 7:18-19). In Opposition, two SkySkopes executives describe Farstad as the actual operator and final funding decisionmaker; identify his California assignments and directives; and recount California-specific payroll, reimbursement, per diem, office-rent, staffing, and continuation decisions. (Hatfield Decl., ¶¶ 3-18; Daffinrud Decl., ¶¶ 3-36.)

The parties seem to agree that general jurisdiction does not apply in this case. Both have focused their arguments on specific jurisdiction. Specific jurisdiction involves a 3-part test in California: “(1) The nonresident defendant must do some act or consummate some transaction with the forum or perform some act by which he purposefully avails himself of the privilege of conducting activities in the forum, thereby invoking the benefits and protections of its laws; (2) the claim must be one which arises out of or results from the defendant's forum-related activities; and (3) exercise of jurisdiction must be reasonable.” (*Jewish Defense Organization, Inc. v. Sup. Ct. of Los Angeles County (Rambam)* (1999) 72 Cal.App.4th 1045, 1054 citing *Panavision International, L.P. v. Toeppen* (9th Cir. 1998) 141 F.3d 1316, 1320 [applying California law; see also *Burger King Corp. v. Rudzewicz* (1985) 471 U.S. 462, 477-478 [discussing reasonableness].)

Here, Plaintiffs’ claims arise from alleged unpaid wages, unreimbursed expenses, overtime, wage statements, waiting time penalties, and Labor Code section 558.1 liability. (RFJN No. 7.) While the Motion and Reply seek to limit Farstad’s activities to funding and routine investor functions (such as receiving financial and operational reports, deciding whether to inject personal capital into the corporation, setting corporate-level priorities, approving organizational structure and executive roles, communicating with executives about corporate performance, and responding to escalations about employee complaints), the Daffinrud and Hatfield affidavits set forth specific facts showing Farstad made California specific payroll, staffing, and office related decisions. Farstad’s actions as described are those beyond mere funding and overview of payment decisions left to others – “Please pay Ira today,” “get Nate paid,” “Yes” [pay Randy in today’s wire], etc. (Daffinrud Decl., Ex. D, pp. 25-6; see also Hatfield Decl., ¶¶ 3-18; Daffinrud Decl., ¶¶ 3-36.)

Accordingly, Plaintiffs have established the first and second elements of the three part specific jurisdiction test.

However, even if a nexus exists between a defendant's forum-related conduct and the plaintiff's causes of action, jurisdiction is proper only if it would not be unreasonable. (*Seagate Tech. v. A. J. Kogyo Co.* (1990) 219 Cal.App.3d 696, 706–07.) Whether jurisdiction is reasonable turns on the balancing of the convenience of the parties and the interests of the state in assuming

jurisdiction. (*Ibid.*) Here, California has a strong interest in applying California wage statutes to work performed in California. North Dakota (Farstad's state of residence) and Arizona (SkySkopes principal place of business) have no superior interest in deciding whether California employees received wages and reimbursements required for California work. A State generally has a "manifest interest" in providing its residents with a convenient forum for redressing injuries inflicted by out-of-state actors who purposely direct their activities at forum residents. (*Burger King Corp. v. Rudzewicz, supra*, 471 U.S. at p. 473.) Where individuals "purposefully derive benefit" from their interstate activities, it may well be unfair to allow them to escape having to account in other States for consequences that arise proximately from such activities. (*Id.*, at pp. 473-4.) And because "modern transportation and communications have made it much less burdensome for a party sued to defend himself in a State where he engages in economic activity," it usually will not be unfair to subject him to the burdens of litigating in another forum for disputes relating to such activities. (*Ibid.*)

Based on the foregoing, Plaintiff has demonstrated that Defendant has purposefully availed himself to the benefits of the State of California, that the Court has specific jurisdiction over Defendant, and that the exercise of such jurisdiction would not be unreasonable.

The Motion 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.

The Zoom appearance information for October, 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>