LAKES TREATMENT CENTER, et al v RESORT AT LAKE TULLOCH, et al

21CV45585

DIAMOND DIRT'S DEMURRER TO PLAINTIFF'S FOURTH AMENDED COMPLAINT

This case stems from a property dispute between The Lakes Treatment Center, Inc. ("Lakes Treatment") and Bernadette Cattaneo ("Cattaneo") (collectively "Plaintiffs") and The Resort at Lake Tulloch, ("Resort"), Narullah Safdari ("Safdari"), Odell Tristin ("Tristin"), Michael Van ("Van"), Andreas Ambramson ("Ambramson"), and Diamond Dirt LLC ("Diamond") (collectively, "Defendants.")

Now before the Court is Diamond's demurrer to the 11th cause of action (breach of contract) in Plaintiff's Fourth Amended Complaint.

The motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence Is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing wiIl be held and the tentative ruling shall become the ruling of the court [emphasis in original.]

Failure to include this language in the notice may be a basis for the Court to deny the motion.

Accordingly, the motion is **DENIED without** prejudice to refile.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required concerning this Ruling.

ARIZA v LAKESIDE VENTURES, LLC, et al

22CV46059

PLAINTIFF'S MOTION TO VACATE/SET ASIDE DEFAULT; DEFENDANTS' MOTION TO DECLARE PLAINTIFF A VEXATIOUS LITIGANT

This matter involves a lengthy and ongoing dispute over the sale of a mobile home estate located at 1475 Railroad Flat Road, Mokelumne Hill, CA ("Mobile Home Estate.") Before the Court is the motion for terminating sanctions filed by Lakeside Ventures, LLC and Bonnie K. Tuckerman-Aho (Hurley) ("Defendants.")

On April 24, 2026 the Court granted Defendants motion for terminating sanctions, finding that Plaintiff had engaged in numerous discovery violations throughout the history of this matter. Plaintiff did not file an opposition to that motion.

1. PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT

Now before the Court is Plaintiff's motion for relief from judgment pursuant to Code Civil Procedure section 473(b).

Code of Civil Procedure section 473 authorizes the Court to set aside a default and grant leave to defend the action on grounds of "mistake, inadvertence, surprise or excusable neglect." (Code Civ. Proc., § 473(b).) The motion for discretionary relief must be filed within six months after the clerk's entry of default. Here the original motion was filed on May 4, 2026, and as such the motion is timely.

Plaintiff seeks relief on the grounds that she was inadvertently unable to attend the hearing on the motion for terminating sanctions due to being disoriented and unable to find the correct courtroom. (Declaration of Helen Ariza (Ariza Decl.) ISO Motion ¶¶ 4-6.) However, Plaintiff fails to address any of the Court's findings in the Ruling granting the motion for terminating sanctions – specifically the lengthy history of discovery violations

and being sanctioned by the Court. Plaintiff also fails to address the thousands of dollars in outstanding sanctions which she has still not paid to the Defendants.

The Court finds that in the face of Plaintiff's multiple discovery violations, failure to comply with Court orders, and lack of facts or evidence showing mistake or inadvertence affecting the Court's prior ruling, the Plaintiff's motion is not well-taken.

Accordingly, the Plaintiff's motion for relief from judgment is **DENIED**.

2. DEFENDANTS' MOTION TO DESIGNATE PLAINTIFF A VEXATIOUS LITIGANT

Now before the Court is a motion to have Plaintiff deemed a vexatious litigant.

I. Legal Standard

Pursuant to Civil Code section 391, a vexatious litigant is a person who, while acting in propria persona: (1) has commenced, prosecuted, or maintained at least five litigations in the preceding seven years that were finally determined adversely or remained pending without trial for at least two years; (2) repeatedly relitigates or attempts to relitigate claims or issues that were previously determined; (3) repeatedly files unmeritorious motions, pleadings, or other papers, or engages in frivolous tactics intended to cause delay; or (4) has previously been declared a vexatious litigant by a state or federal court based on substantially similar facts. (CCP § 391(b)(1)–(4).)

II. Discussion

Defendants move to have Plaintiff deemed a vexatious litigant pursuant to subsection (3) on the grounds that she has repeatedly filed unmeritorious motions, pleadings, or other papers, or engaged in frivolous tactics intended to cause delay.

Plaintiff filed this action in July of 2022 with the primary purpose of her suit being to allow her to purchase the Lakeside Mobile Home Estate. (FAC ¶ 5.) Plaintiff also filed a Notice of Pendency of Action ("lis pendens"), stopping Defendants from proceeding with a valid sale of the mobile home park for $875,000. (Declaration of Kathleen E. Finnerty ("Finnerty Decl.") ¶ 3.) However, as discovery later demonstrated, Plaintiff never had the cash to make this purchase, never had investors to back her purchase, and based her assertions of an available loan on false evidence. (Id. ¶ 4.)

After commencing the lawsuit in 2022, Plaintiff filed at least fourteen unmeritorious motions or other papers as set forth below:

· On March 26, 2024, Plaintiff recorded three additional lis pendens on unrelated properties owned by co-defendants Bonnie Tuckerman-Aho and Arthur Trillo. (Finnerty Decl. ¶ 5.) On September 5, 2025, the Court granted the motion to expunge noting that "Plaintiff's action does not contain a real property claim against the property subject to this lis pendens". (Id., RJN Ex. A.)

· On January 19, 2024, the Court issued a preliminary injunction against Plaintiff, finding that her opposition failed to show any injury and largely asserted "improper character evidence."

· On March 5, 2024, Plaintiff filed her own motion for preliminary injunction, which in part sought to prevent Defendants from evicting tenants and collecting rents. Much of this motion was simply Plaintiff attempting to undo the Court's January 19, 2024, Order issuing an injunction against Plaintiff.

· Before the hearing on the Plaintiff's motion for preliminary injunction, on March 19, 2024, Plaintiff filed an ex parte application seeking essentially the same relief as that sought in the pending motion for preliminary injunction.

· On April 5, 2024, Plaintiff filed three new motions with the Court: 1) a "motion for complaint" against the Defendants, 2) a "motion for order to show cause for indirect contempt of court" against Defendants, and 3) a "Bill or Particulars." All three of these motions were denied by the Court on May 17, 2024. In so ruling, the Court found the motions were unclear, had "limited factual allegations and vague prayer," failed to identify any "contempt" of the Court by Defendants and used multiple improper means of seeking relief.

· On April 19, 2024, the Court denied Plaintiff's motion for a competing injunction, finding: "The court has already decided that defendants are likely to prevail in this lawsuit and would suffer harm in the absence of an injunction."

· On October 22, 2024, Plaintiff sought an immediate application for hearing which was denied on the grounds that it was essentially an unlawful detainer issue which was not appropriate as part of this matter.

· On March 7, 2025, Plaintiff filed a second motion attempting to undo the Court's January 2024 Ordering issuing a preliminary injunction in favor of Defendants. The Court denied this motion, as well as Plaintiff's pending motion to compel documents because she lacked any legal authority for her motion and had failed comply with the Rules of Court and the Code of Civil Procedure. In that Ruling the Court reminded Plaintiff of her previous failures to comply with the rules of the Court, and stated:

Plaintiff is also instructed to review the requirements for filing motions, and supporting memorandum, as set forth in California Rule of Court 3.1112. Plaintiff is further instructed to review Code of Civil Procedure section 2031.310 which sets forth the requirements for bringing motions to compel production of documents.

· On May 9, 2025, Plaintiff filed a "Request for Order of Disqualification" of Defendants' counsel, Kathleen E. Finnerty. The Court denied this Motion on June 13, 2025, finding that Plaintiff produced "zero evidence" or legal authority to

support her position. At the same time, the Court granted sanctions against Plaintiff for a discovery issue, stating that Plaintiff "has been repeatedly warned of the need to review and comply with the relevant Rules of Court and Code of Civil Procedure." (June 13, 2025 Ruling.)

· On July 10, 2025, Plaintiff filed her third motion aimed at vacating the January 2024 preliminary injunction. She filed an "amended" motion on July 11, 2025.

· On July 11, 2025, the Court imposed sanctions against Plaintiff pursuant to Code Civil Procedure section 128.7(c), stating: "Plaintiff has history of bringing motions before the Court which are procedurally defective or substantively meritless." (July 11, 2025 Ruling.)

· On August 15, 2025, the Court denied Plaintiff's second motion to vacate the preliminary injunction from January 2024, stating again that Plaintiff's motion was legally and factually unsubstantiated. (August 15, 2025 Ruling.)

· On September 11, 2025, the Court granted Defendant Trillo's motion to expunge lis pendens, finding that Plaintiff had failed to carry her burden.

· On September 11, 2025, Plaintiff filed a "Motion for Order Granting Preliminary Injunction Freezing Assets" of various defendants.

· On February 6, 2026, the Court denied Plaintiff's Motion to Quash deposition and simultaneously granted Defendants' motion to compel. The Court also ordered Plaintiff to pay sanctions in the amount of $4,000, stating:

Plaintiff has twice been sanctioned for misusing the discovery process. (See Ruling 6/13/2025; Ruling 7/11/2025.) Plaintiff has also been admonished by this Court of the need to comply with the Code of Civil Procedure and Rules of Court and has been warned against filing unwarranted or unsubstantiated documents. (Feb. 6, 2026 Ruling.)

· On April 24, 2026, the Court granted terminating sanctions against Plaintiff and denied Plaintiff's simultaneous "Motion of Relief from Order for Financial Hardships." The Court's ruling was based, in part, on Plaintiff's repeated failures to comply with Court orders, including payment of sanctions.

What constitutes "repeatedly" and "unmeritorious" under subdivision (b)(3) is left to the trial court's discretion. (Morton v. Wagner (2007) 156 Cal. App. 4th 963, 971.) Any "determination that a litigant is vexatious must comport with the intent and spirit of the vexatious litigant statute. The purpose of which is to address the problem created by the persistent and obsessive litigant who constantly has pending a number of groundless actions and whose conduct causes serious financial results to the unfortunate objects of his or her attacks and places an

unreasonable burden on the courts." (Morton v. Wagner (2007) 156 Cal. App. 4th 963, 970–71.)

The Court finds that Plaintiff has consistently filed unmeritorious motions which have been repeatedly unsubstantiated by either the facts or the law. Plaintiff has also consistently failed to comply with the Local Rules of this Court, the Rules of Court for the state of California, and the Code of Civil Procedure. As such, the Court finds that Plaintiff has repeatedly filed "unmeritorious motions, pleadings, or other papers, or engage[d] in frivolous tactics intended to cause delay" (Code Civ. Proc. § 391(b)(3).)

The motion to deem Plaintiff a vexatious litigant is **GRANTED**. Pursuant to CCP Section 391.7 (a) Helen Ariza as a vexatious litigant is prohibited from filing any new litigation of the courts of the state of California in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order by a vexatious litigant may be punished as contempt of court.

The Court exercises its discretion and declines to set an OSC re contempt for past unpaid sanctions or to impose any additional sanctions in conjunction with these rulings finding assessing any further monetary sanctions against plaintiff would be futile and finding the designation as a vexatious litigant is the most appropriate remedy.

The clerk shall provide notice of this ruling to the parties forthwith. Defendant to submit formal Orders in conformity with these Rulings.

WELLS FARGO BANK, N.A. v RIPP

21CV45573

PLAINTIFF'S MOTION TO AMEND JUDGMENT

Now before the Court is a motion to amend judgment brought by Wells Fargo Bank, N.A. ("Plaintiff.")

The motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence Is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

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Failure to include this language in the notice may be a basis for the Court to deny the motion.

Accordingly, the motion is **DENIED without** prejudice to refile.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required with regard to this Ruling.

WEST COAST HOLDINGS GROUP, LLC v SONNACK, et al

25CV47906

DEFENDANT'S MOTION TO EXPUNGE LIS PENDENS

This is an action arising out of the alleged wrongful foreclosure of real property brought by West Coast Holdings Group, LLC ("Plaintiff") against a variety of defendants, including Eileen C. Sonnack, Trustee of the Eileen C. Sonnack Trust ("Moving Defendant.")

Now before the Court is a Moving Defendant's Motion to Expunge Lis Pendens on the grounds that there was no pending complaint against it involving real property.

Plaintiff filed its initial Complaint against Moving Defendant and Non-moving Defendants on February 24, 2025. On August 7, 2026, the Court sustained a demurrer to the entire complaint on the grounds that it failed to comply with Cal. Rule of Court 2.112 and was therefore uncertain (Code Civ. Proc. § 430.10(f).) The Court ordered Plaintiff to file an amended complaint within twenty (20) days of the Order.

Plaintiff did not file its First Amended Complaint ("FAC") until September 28, 2026 – well after the twenty-day deadline. As a result of this tardy amendment, the Moving Defendant filed the instant motion on September 22, 2026, on the grounds that because there was no pending Complaint against it, expungement was warranted.

Thereafter, on September 28, 2026, the Plaintiff filed its FAC, setting forth claims based on real property. While the Court admonishes Plaintiff for its tardy filing, the Court is also cognizant of the very strong policy of deciding matters on their merits. Accordingly, as the FAC was filed and sets forth a claim based on real property, moving Defendant's motion is now moot.

Accordingly, the motion to expunge is **DENIED**.

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required with regard to this Ruling.

OLIVAS v DRIFTERS MARINA AND GRILL, LLC, et al

25CV48007

DEFENDANTS' MOTION FOR PROTECTIVE ORDER

Now before the Court is a motion for protective order brought by Defendants Drifters Marina, LLC, incorrectly sued as Drifters Marina and Grill, LLC and John Martin ("Defendants.")

The motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence Is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

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Failure to include this language in the notice may be a basis for the Court to deny the motion.

Accordingly, the motion is **DENIED without** prejudice to refile.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff to submit a formal Order and Judgment complying with Rule 3.1312 in conformity with this Ruling.

FRAGOZA v TREVINO

25CV48144

PLAINTIFF'S MOTION FOR SANCTIONS

This matter involves a real property dispute between Cruz Fragoza ("Fragoza") and Stevino Real Estate Investment, LLC ("LLC"), Steven C. Trevino ("Trevino"), Angela M. Barry ("Barry") and William Carter ("Carter") (collectively "Defendants.")

Now before the Court is a motion for sanctions pursuant to Code Civil Procedure section 128.5 brought by Plaintiff against the Defendants.

I. Procedural History

On January 14, 2026, Sasha Collins ("Collins"), counsel for Defendants initiated settlement discussions with Plaintiff. (Declaration of Zoe I. Savoie ("Savoie Decl.") ¶ 3.)

Plaintiff provided a comprehensive settlement demand on January 20, 2026. (Id. ¶ 4.) Between February and June of 2026, Plaintiff's counsel attempted to get a response to the settlement demand, but Defendants' counsel failed to provide substantive responses. (Id. ¶ 5.)

On June 17, 2026, Plaintiff's counsel emailed Ms. Collins asking whether Defendants would agree to mediate before the parties incurred significant time and expense associated with anticipated discovery, expert work, and dispositive motions. (Savoie Decl. ¶ 5, Ex. 1.) After more than a month of email correspondence regarding mediator selection and availability, Ms. Collins confirmed that Defendants would be available for mediation on September 11, 2026, with mediator Donald Person, Esq. (Id. ¶ 7.) Relying on this representation, Plaintiff's counsel scheduled mediation with Mr. Person. (Id. ¶ 8.) Further relying on Defendants' counsel's representation, Plaintiff's counsel signed the mediator's engagement agreement on July 23, 2026, which bound Plaintiff to payment of one-half of a full-day of mediation. (Id. ¶ 9, Ex. 2.) Mr. Person's office confirmed that Ms. Collins also signed the engagement agreement, binding defendants to the same terms. (Id. ¶ 10.)

On July 29, 2026, plaintiff paid one-half of the mediation fee—$4,275.00, including a non-refundable $400 case management fee—in reliance on Ms. Collins' representation that her clients would attend. Under the engagement agreement, August 28, 2026, was the final day to cancel or reschedule mediation without penalty. (Savoie Decl. ¶ 11.) On September 4, 2026, Plaintiff submitted a mediation brief and exhibits to the mediator and shared them with Ms. Collins in good faith. (Id. ¶ 12, Ex. 3.)

On September 6, 2026, Ms. Collins confirmed receipt of plaintiff's mediation brief and represented that she would provide defendants' brief. At no time did Collins indicate any possibility that her clients would be unavailable for mediation. (Savoie Decl. ¶ 13.) On September 8, 2026, the mediator's office emailed the parties advising that Defendants' mediation invoice was outstanding. (Id. ¶ 14, Ex. 4.) Later that same day—after the refundable cancellation period had expired—the mediator's office informed Plaintiff's counsel that Ms. Collins had emailed them directly stating that Defendants would be unavailable for the September 11, 2026, mediation. (Id. ¶ 15, Ex. 5.) Plaintiff immediately attempted to reach Ms. Collins via telephone and email with no response. (Id. ¶ 16, 17, Ex. 6.) The mediator's office was also unable to reach Ms. Collins. (Id. ¶ 18, Ex. 7.) Unable to reach Ms. Collins, the mediator's office cancelled the scheduled mediation on September 9, 2026. (Id. ¶ 19, Ex. 8.)

As of the date of the filing of Plaintiff's motion for sanctions, Plaintiff's counsel has not received any further information or explanation from Collins or Defendants. (Savoie Decl. ¶ 20.)

Plaintiff seeks a fee award of no less than $12,375 in both reimbursement for the expended mediator fees and also attorney's fees.

II. Legal Standard and Discussion

Pursuant to Code Civil Procedure section 128.5 (a), a trial court "may order a party, the party's attorney, or both, to pay the reasonable expenses, including attorney's fees, incurred by another party as a result of actions or tactics, made in bad faith, that are frivolous or solely intended to cause unnecessary delay." This provision applies broadly to "actions or tactics." (Levy v. Blum (2001) 92 Cal.App.4th 625, 635). To recover under section 128.5, a moving party must satisfy a dual evidentiary showing: objective frivolity (establishing that any reasonable attorney would agree the action is totally devoid of merit) and subjective bad faith (establishing an improper motive, evil intent, or purpose to harass or delay) (Orange County Dept. of Child Support Services v. Superior Court (2005) 129 Cal.App.4th 798, 804.) Sanctions imposed pursuant to Section 128.5 should be sufficient to deter repetition of the conduct or comparable conduct by similarly situated litigants. (Code Civ. Proc., § 128.5 subd. (f)(2).)

"An attorney has an obligation to respect the legitimate interests of fellow members of the bar, the judiciary, and the administration of justice." (Mungo v. Uta French Airlines (1985) 166 Cal. App. 3d 327, 333.) Here, Defendants' counsel ignored this obligation – not only to opposing counsel – but also to a hired mediator. Defendant's counsel agreed to attend mediation on September 11, 2026, agreed to the selection of the mediator, and confirmed the same to both Plaintiff's counsel and the mediator's office. Plaintiff reasonably relied on this representation of a fellow member of the Bar. Without any warning, or even conversation with Plaintiff's counsel, Ms. Collins cancelled the mediation only three days before it was scheduled, and after Plaintiff had already provided his mediation briefing and exhibits.

Defendants' counsel has failed to provide any rationale or excuse for her conduct and has not filed an opposition to this motion. Accordingly, sanctions are warranted.

Plaintiff's counsel seeks fees and sanctions as follows:

· $3,658 (12.4 hours at $295/hr) in attorney Zoe Savoie's attorney's fees spent researching, writing, and compiling exhibits for the mediation brief and in preparation of attending;

· $2,330.50 (7.9 hours at $295/hr in attorney Zoe Savoie's attorney's fees spent research, writing, gathering exhibits, and preparing the instant motion;

· $474 (1.2 hours at $395/hr) for attorney Seth Nunley in reviewing the mediation brief and preparing for mediation;

· $987.50 (2.5 hours at $395/hr) for attorney Seth Nunley in reviewing and preparing the instant sanctions motion;

· $4,275.00 in non-refundable mediation fees paid on August 28, 2026, prior to Ms. Collins' cancellation; and

· $60 in filing fees.

As no opposition was filed, the Court does not consider the request for anticipated fees related to addressing an opposition.

The Court finds that the hourly rate of the attorneys is reasonable given their experience and that the time spent in preparing for the mediation and the sanctions motion was also reasonable.

Accordingly, the motion for sanctions is **GRANTED. Defendants' counsel is to pay $11,785 to Plaintiff within ten (10) days of this Order**.

The clerk shall provide notice of this ruling to the parties forthwith. Plaintiff to submit a formal Order complying with Rule 3.1312 in conformity with this Ruling.

NICHOLAS v LEMP, et al

25CV45578280

DEFENDANTS' DEMURRER TO FIRST AMENDED COMPLAINT

These matters involve real property disputes between Danny E. Nicholas ("Plaintiff") and Lani Arellanes ("Arellanes"), Cathy Lemp ("Lemp") and Shane Miranda ("Miranda.")

Now before the Court is a demurrer filed by Lemp and Miranda (collectively, "Defendants.")

I. Background Facts

In or around October 24, 2021, Plaintiff entered into an agreement with Lani Arellanes (now deceased) which appears to have been memorialized in a handwritten document prepared and signed by Arellanes ("Agreement") (FAC ¶ 4, Ex. A-1.) Pursuant to this Agreement, Plaintiff would build a home for Arellanes on her property located at 2608 Arrowhead Street ("Arrowhead Property.") Arellanes would provide all materials and tools. In exchange, upon either completion of the work or upon Arellanes death, disability or inability to complete the project, Plaintiff would become owner of both the Arrowhead Property and an additional property would give Plaintiff a $53,000 1.1 acre property located at 2044 Yolo Court ("Yolo Property") (Ibid.)

Plaintiff performed under the Agreement, contributing over 4,000 hours of uncompensated labor and providing over $15,000 in materials, tools and supplies. (FAC ¶ 5.) Plaintiff alleges that in reliance on the Agreement, he forwent pursuit of employment at Lowe's, changed his address to reside at the Arrowhead Property jobsite to live with and care for Arellanes as her domestic partner, and purchased with his own funds the adjoining lot at 2626 Arrowhead Street for $30,000 in order to be close to Arellanes and finish the project. (Ibid.)

A Transfer on Death Deed ("TOD") named Lemp as the beneficiary of the Arrowhead Property. (FAC ¶ 7.) The TOD was recorded on May 31, 2022 – after the Agreement made between Plaintiff and Arellanes. (Ibid.)

On May 19, 2023, Plaintiff filed a lawsuit against Arellanes (Case No. 23CV46746) ("Case One") for breach of contract, common counts and fraud. Arellanes died on or about December 12, 2024. (FAC ¶ 6.) Plaintiff alleges that Defendants hid Arellanes illness and death from him and that he was not aware she had died until five months later. (Ibid.)

In or around August of 2015, Lemp quitclaimed her interest in the Arrowhead Property to Miranda. (Id. ¶ 8.) Plaintiff alleges that this transaction occurred when Lemp had constructive knowledge of the pending Case One and after Plaintiff had already filed a lis pendens in the public records. (Ibid.)

On September 10, 2025, Plaintiff filed a lawsuit against Cathy Lemp (Calaveras County Case No. 25CV48280) ("Case Two") to void a Transfer on Death deed ("TOD"). Specifically, Plaintiff sought to void the TOD which purported to transfer the Arrowhead Property from Arellanes to Lemp.

The cases were consolidated. The FAC brings claims against the Estate of Arellanes, Lemp and Miranda.

II. Legal Standard and Discussion

"A demurrer tests the sufficiency of a complaint and admits all facts properly pleaded." (Setliff v. E.I.Du Pont de Nemours & Co. (1995) 32 Cal. App. 4th 1525, 1533.) The court assumes the truth of the allegations asserted but does not assume the truth of "contentions, deductions, or conclusions of law." (California Logistics, Inc. v. State of California (2008) 161 Cal. App. 4th 242, 247.) The court can further look at those facts that "reasonably can be inferred from those expressly pleaded, and matters of which judicial notice has been taken." (Fremont Indemnity Co., 148 Cal. App. 4th 100, 111.) In considering the demurrer, the court must accept the allegations set forth in the complaint as true. (Serrano v. Priest (1971) 5 Cal.3d 584, 591.)

Defendants demur to all causes of action in the FAC.

A. Void Transfer on Death Deed/Breach of Contract

Defendants demur to these two causes of action pursuant to Code Civ. Proc. Section 430.10(d) on the grounds that there is a defect in the parties. Specifically, Defendants argue that the cause of actions to void the transfer on death deed and breach of contract fail because it is against the Estate of Arellanes, which does not exist.

A cause of action against a defendant who dies during the proceedings is not automatically ended and may be continued against a successor in interest or personal representative. (Code Civ. Proc. § 377.41.) However, it is generally improper to render any judgment against the decedent "without first taking the procedural step of substituting the executor or administrator." (Grappo v. McMills (2017) 11 Cal. App. 5th 996, 1007.) That being said, "the failure to substitute decedent's representative does not automatically void an ensuing judgment. The issue in each case is whether the decedent's estate has been prejudiced by failure to join the decedent's representative." (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2026) Ch. 2-G, ¶2:503 [emphasis in original].)

Here, the Defendants have known of the claims against Arellanes and have actively participated in this litigation, including those claims, since her death. For this reason, while the FAC – as written – does not incorporate those facts, the Court cannot say that an amendment would be futile.

Accordingly, the demurrer as to the cause of action to void the TOD and breach of contract are **SUSTAINED, with** leave to amend within 20 (twenty) days of this ruling.

B. Quiet Title

The elements of an action to quiet title are: 1) the plaintiff is the owner and in possession of the land and 2) the defendant claims an interest therein adverse to the plaintiff. (South Shore Land Co. v. Petersen (1964) 226 Cal.App.2d 725, 740.)

Pursuant to Code Civil Procedure section 761.020(a), a complaint for quiet title must set forth, in the case of real property, a description which must "include both its legal description and its street address or common designation, if any."

The FAC identifies the Arrowhead Property by its common designation and street name but does not contain a legal description. The FAC is also not verified as required.

Accordingly, the demurrer is **SUSTAINED, with** 20 (twenty) days leave to amend.

C. Constructive Trust

"A constructive trust is a remedial device primarily created to prevent unjust enrichment; equity compels the restoration to another of property to which the holder thereof is not justly entitled." (Martin v. Kehl (1983) 145 Cal. App. 3d 228, 237.) Such trust may only be imposed where three conditions are satisfied: "(1) the existence of a res (property or some interest in property); (2) the right of a complaining party to that res; and (3) some wrongful acquisition or detention of the res by another party who is not entitled to it"'[citation.]" (PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384, 398 [citations omitted].)

Here, Plaintiff alleges that he has an interest in the Arrowhead Property, has alleged facts showing his right to that property, and has alleged facts showing wrongful acquisition of the property by another who is not entitled to it. However, Defendants argue that claim cannot be maintained because it is a remedy and not a cause of action but provides no case law to support this contention. Further, Defendants argue that the Plaintiff's chronological timeline of events renders the claim unsubstantiated because Lemp could not have transferred an interest to Miranda prior to Arellanes death. However, the fact remains that the FAC pleads a cause of action for constructive trust because all that is required is that Plaintiff plead an interest, show his right to that property (here, it is based on the Agreement), and alleges that someone else (Lemp and/or Miranda) have wrongfully taken it.

Accordingly, the demurrer is **OVERRULED** as to the cause of action for constructive trust.

IV. Conclusion

Defendants' demurrer is sustained in part and part and overruled in part. It is sustained, with leave to amend, as to the first, second and fourth causes of action. It is overruled as to the third cause of action for constructive trust.

The clerk shall provide notice of this ruling to the parties forthwith. Defendants to submit a formal Order and Judgment complying with Rule 3.1312 in conformity with this Ruling.

FUEGO LIVING, LLC, v MALT & B, INC. dba BBQGRILLS.COM

26CV48538

PLAINTIFF'S MOTION TO AMEND JUDGMENT

Now before the Court is a motion to amend judgment brought by Fuego Living LLC ("Plaintiff.")

The motion does not comply with Local Rule 3.3.7. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

3 3 7 Tentative Rulings (Repealed Eff 7/1/06, As amended 1/1/18) All parties appearing on the Law and Motion calendar shall utilize the tentative ruling system. Tentative Rulings are available by 2:00 p.m. on the court day preceding the scheduled hearing and can be accessed either through the court's website or by telephoning 209-754-6285. The tentative ruling shall become the ruling of the court, unless a party desiring to be heard so advises the Court no later than 4:00 p.m. on the court day preceding the hearing including advising that all other sides have been notified of the intention to appear by calling 209-754-6285. Where appearance has been requested or invited by the Court, all argument and evidence Is limited pursuant to Local Rule 3 3. All matters noticed for the Law & Motion calendar shall Include the following language in the notice:

Pursuant to Local Rule 3 3 7, the Court will make a tentative ruling on the merits of this matter by 2:00 p.m. the court day before the hearing. The complete text of the tentative ruling may be accessed on the Court's website or by calling 209-754-6285 and listening to the recorded tentative ruling. If you do not call all other parties and the Court by 4:00 p.m. the court day preceding the hearing, no hearing wiII be held and the tentative ruling shall become the ruling of the court [emphasis in original.]

Failure to include this language in the notice may be a basis for the Court to

deny the motion.

Accordingly, the motion is **DENIED without** prejudice to refile

The clerk shall provide notice of this ruling to the parties forthwith. No further formal Order is required with regard to this Ruling.