

**1-2. 20CV01781 Leland, Morrissey & Knowles, LLP v. Bailey, Catherine et al.**

*EVENT: (1) Plaintiff's Motion for Sanctions Pursuant to CCP 128.7 (Continued from 2/18/26 and 4/8/26)*

*(2) Plaintiff's Motion for Sanctions Pursuant to CCP 128.5 (Continued from 2/18/26 and 4/8/26)*

Consistent with the Court's ruling granting Ms. Bailey's Motion to Strike the November 19, 2025 order deeming admissions admitted, both motions under CCP 128.5 and 128.7 are denied. (The Court notes that the other allegedly improper papers identified in the motion cannot support CCP 128.5 and 128.7 relief, as CCP 128.7 is only suitable for papers that can be withdrawn, see *Malovec v. Hamrell* (1999) 70 Cal.App.4th 434, 441.)

**3. 22CV01319 Swigart, Barbara et al. v. Westhaven, Inc.**

*EVENT: Motion for Award of Attorney's Fees and Costs Associated With Abandoned Arbitration and for Evidence and Terminating Sanctions (Continued from 3/18/26)*

Consistent with the Court's previous ruling, the Court finds Plaintiff's revised request of \$14,595.00 in attorney fees and \$302.09 in costs reasonable. Accordingly, pursuant to CCP 1281.99, Westhaven is ordered to pay Plaintiffs the sum of \$14,897.09. Plaintiffs shall prepare and submit the form of order.

**4. 23CV01873 Valcarenghi, Gerard v. Leyes, Katja, et al.**

*EVENT: Defendant Katja Leyes' Motion for Order that Matters in Request for Admissions Be Admitted and Imposing Monetary Sanctions*

Defendant Katja Leyes' Motion for Order that Matters in Request for Admissions Be Admitted and Imposing Monetary Sanctions is GRANTED. The Court is not considering the late filed opposition. Plaintiff is sanctioned in the amount of \$1,041.68. Defendant shall prepare and submit a form of order within two weeks.

5. **23CV02889 In re: Rivera, Chenoa**

*EVENT: Petitioner's Ex Parte Request to Make Case Records Confidential Pursuant to Senate Bill No. 59*

Petitioner's Ex Parte Request to Make Case Records Confidential Pursuant to Senate Bill No. 59 is GRANTED. The Court will sign the proposed order.

6. **23CV02958 Lomeli, Baneli et al. v. Environmental Alternatives**

*EVENT: Motion for Preliminary Approval of Class Action and PAGA Settlement*

Motion for Preliminary Approval of Class Action and PAGA Settlement is GRANTED. A final approval hearing is hereby set for August 12, 2026 at 9:00am. The Court will sign the proposed order with this modification.

7. **24CV00627 Norcal Home Design, Inc. v. First Response, Inc et al.**

*EVENT: Motion of Defense First Response Inc. To Have Requests for Admissions Deemed Admitted, to Compel Responses to Form Interrogatories and Request for Production of Documents, and for Imposition of Monetary Sanctions Against Plaintiff and Counsel*

In light of the discovery responses served by Plaintiff, the motion is moot. The Court is not considering whether the discovery responses are code compliant at this time. The request for sanctions is denied. While technically Defendant is correct that meet and confer is not required in these circumstances, the failure to meet and confer is relevant on the issue of sanctions when there appears to be a legitimate explanation for the delay in providing responses.

**8-9. 24CV01499 Pete, David v. Tink, Inc.**

*EVENT: (1) Final Approval Hearing*

*(2) Case Management Conference*

Motion for Final Approval of Class Action is GRANTED. A compliance hearing is set for January 13, 2027 at 9:00am. Plaintiff shall file a status report not later than December 30, 2026. The Court will sign the proposed order with this modification.

**10. 24CV04405 Solano, Eligio Levya v. Gridley Packing, Inc.**

*EVENT: Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement*

Motion for Preliminary Approval of Class Action and PAGA Settlement is GRANTED. A final approval hearing is hereby set for August 12, 2026 at 9:00am. The Court will sign the proposed order with this modification.

**11. 25CV00186 Estate of Tyler E. Simmons et al v. Sladariu, Benjamin**

*EVENT: Plaintiffs' Motion to Compel Compliance with Deposition Subpoena for Production of Business Records*

Plaintiffs' Motion to Compel Compliance with Deposition Subpoena for Production of Business Records is DENIED WITHOUT PREJUDICE.

Although there is a proof of service indicating opposing counsel was served with this motion, the Court is not finding a proof of service demonstrating the District Attorney was served with this motion.

12. 25CV04499 Feng, Zhu v. Xie, John et al.

*EVENT: Demurrer to First Amended Complaint*

Defendants' demurrer is overruled.

Preliminarily, in conjunction with the reply, Defendants have filed a supplemental request for judicial notice which attaches two exhibits not included in the moving papers. The general rule of motion practice is that new evidence is not permitted with reply papers. (*Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537) If permitted, the other party should be given an opportunity to respond. (*Id*)

Technically, the initial request for judicial notice should have included the judgment signed on 3/5/26. However, because the opposition substantively addresses the judgment signed on 3/5/26, there is no due process concern in proceeding. Both Defendants' initial request for judicial notice and the supplemental request for judicial notice is granted.

The parties do not dispute that under both claim preclusion and issue preclusion principles the previous case must have resulted in a final judgment on the merits. Here, the judgment in 23CV02654 dated 3/5/26 indicated Defendants' motion nonsuit pursuant to CCP 581(c) (CCP 581(c) is obviously a typo, it should have read CCP 581c(c)) was granted and that the judgment was entered on the merits. Importantly, the basis of the judgment was CCP 339, the applicable statute of limitations period for oral contracts.

Dispositions on statute of limitations grounds are not merit based rulings. (*See Koch v. Rodlin Enters.* (1990) 223 Cal.App.3d 1591, 1595) ["Termination of an action by a statute of limitations is deemed a technical or procedural, rather than a substantive, termination. Thus the purpose served by dismissal on limitations grounds is in no way dependent on nor reflective of the merits -- or lack thereof -- in the underlying action."]

The circumstances in *Koch* are similar (although certainly not identical) to the instant circumstances. In *Koch*, the contract rescission claim was dismissed on summary judgment based on statute of limitations for rescission actions and the plaintiff filed a new case alleging rescission, this time based on fraud.

Here, the previous case was dismissed based on CCP 339, which is the statute of limitations for oral contracts. The complaint in the previous case made no allegations of fraud – all of the causes of action were contract based. The Court notes that Plaintiff did attempt to add fraud to the 23CV02654 case but the motion was denied on notice grounds.

Plaintiff relies on the express language that the judgment was on the merits. As noted in *Koch*, a statute of limitations disposition is procedural, not substantive. Therefore, regardless of how the judgment is titled, a disposition based on statute of limitations grounds is not on the merits according to case law. Further, the previous judgment was based on CCP 339, the statute of limitations for oral contracts. Obviously CCP 339 would not be grounds to dismiss a fraud cause of action, therefore it stands to reason that the previous judgment could not be a merits determination with respect to Plaintiff's fraud claims.

Plaintiff also relies on the statutory language of CCP 581c(c) which provides that unless otherwise stated the judgment operates as an adjudication on the merits. In the Court's view, the language in 581c(c) does not alter long standing case law that statute of limitations is not a merits based adjudication. There are numerous published decisions affirming that principle.

CCP 581c(c) is a general rule that the disposition was on the merits. Conversely, this case law is a specific rule that statute of limitations dispositions are not on the merits. The particular provision is a nearer and more exact view of the subject than the general, of which it may be regarded as a correction. (*Gardena Hospital, L.P. v. Baass* (2024) 99 Cal.App.5th 678, 683)

Because the Court finds the previous judgment does not constitute a merits based ruling for res judicata and collateral estoppel purposes, the demurrer is overruled. The Court declines ruling on other issues, including whether the claims involve the same primary rights, and whether Plaintiff has sufficiently pled delayed discovery for purposes of CCP 338.

Defendants shall file an answer within 20 days' notice of this order. The Court will prepare the order.

### **13. 25CV04780 Stepp, Kylie v. Kalkat, Jasdeep**

*EVENT: Defendant's Demurrer to Plaintiff's Complaint*

The demurrer is overruled with respect to all causes of action.

Defendant's Request for Judicial Notice is granted.

In order for the [statute of limitations] bar to be raised by demurrer, the defect must clearly and affirmatively appear on the face of the complaint. (*Richtek USA, Inc. v. uPI Semiconductor Corp.* (2015) 242 Cal.App.4th 651, 658) Paragraph 13 of the complaint states: "Despite repeated assurances, Defendant never fulfilled his promise to legally marry Plaintiff or share the assets and income that were to be jointly owned." The court, trial and appellate, accepts all facts alleged in the complaint as true, and draws all reasonable inferences from those facts in favor of the plaintiff. (*Kruss v. Booth* (2010) 185 Cal.App.4th 699, 713)

Here, making inferences in favor of Plaintiff, the promise to legally marry and the promise to share in assets are separate promises. Unlike the promise to legally marry (which had a 90 day time window after the ceremony), the Complaint does not identify a specific time in which the more general promise to share in assets was to be performed.

Defendant relies on the allegation that in 2022 he abruptly left the residence to argue that the statute of limitations accrued in 2022. While that may be a viable argument down the road, it is not sufficient on demurrer because the 2022 allegations do not *necessarily* demonstrate the action is time barred. A demurrer based on a statute of limitations defense will not lie where the action may be, but is not necessarily, barred. (*Richtek USA, Inc., supra*, at p. 658)

Defendant shall file an answer within 20 days' notice of this order. Plaintiff shall prepare the form of order within two weeks.

**14. 26MH00060 Butte County Sheriff's Office v. Simcox, Katie Elizabeth**

*EVENT: Petition for Default and Order on Petition for Judicial Determination Re: Return of Firearms*

Petition for Default and Order on Petition for Judicial Determination Re: Return of Firearms is GRANTED. The Court will sign the proposed order.

**15. 26CV00358 In e: Nisa, Tibi Forrest**

*EVENT: Change of name (minor) (Continued from 3/25/26)*

The Court is in receipt of the proof of publication and will sign the decree provided.

**16. 26CV00513 In re: Lee, John Michael**

*EVENT: Change of name (adult)*

There is no proof of publication on file. Upon the filing of the proof of publication, the Court will sign the decree provided.