

**Judge Mosbarger – Law & Motion – Wednesday, April 22, 2026 @ 9:00 AM
TENTATIVE RULINGS**

1. 23CV00692 HINOJOSA, ISIAH V. FORD MOTOR COMPANY ET AL

EVENT: Cross-Defendant Teichert, Inc.'s Demurrer to Defendant/Cross-Complainant County of Butte's Cross-Complaint

On the Court's own motion, this matter is continued to April 29, 2026 at 9:00 a.m.

2. 23CV02211 HOWELL, GREG V. FORD MOTOR COMPANY ET AL

EVENT: Ford Motor Company's Motion for Summary Judgment

"Because it is potentially case dispositive and usually requires considerable time and effort to prepare, a summary judgment motion is perhaps the most important pretrial motion in a civil case. Therefore, the Legislature was entitled to conclude that parties should be afforded a minimum notice period for the hearing of summary judgment motions so that they have sufficient time to assemble the relevant evidence and prepare an adequate opposition." *Robinson v. Woods* (2008) 168 Cal.App.4th 1258, 1262. Trial courts do not have authority to shorten the minimum notice period without the parties' consent. *Ibid.*; accord *Urshan v. Musicians' Credit Union* (2004) 120 Cal.App.4th 758, 760; *McMahon v. Superior Court* (2003) 106 Cal.App.4th 112, 117-118. Therefore, to afford Plaintiff the statutorily prescribed time period to prepare and file an Opposition, this matter is continued to July 22, 2026 at 9:00 a.m.

3. 25CV00691 DOE 1, JANE V. GROZE, MELISSA ET AL

EVENT: Plaintiff's Motion to Compel Defendant Melissa Groze to Respond to Form Interrogatories – General, Set One, and Request for Production of Documents, Set One; Request for Monetary Sanctions

The failure to provide verified responses is tantamount to no response at all, and Defendant failing to provide timely responses has waived her objections. *Code of Civil Procedure* §§2030.290(a), 2031.300(a); and see, e.g., *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants* (2007) 148 Cal.App.4th 390, 403-404. While subsequently serving responses may be cause for relief from application of this waiver, it is required that such subsequent responses be "in substantial compliance" with the statutory provisions governing the form and content of the response. Here, the Court finds that the responses to Plaintiff's Form Interrogatories – General, Set One, and Plaintiff's Request for Production of Documents, Set One, filed with the Court on March 26, 2026, are not in substantial compliance with the Code of Civil Procedure. The Motion is granted, and Defendant Melissa Groze is ordered to provide substantive verified responses without objection to Plaintiff's Form Interrogatories – General, Set One, and Plaintiff's Request for Production of Documents, Set One within 14 days' of the hearing on this Motion. Monetary sanctions are issued against Defendant Melissa Groze in the amount of \$1,700. These sanctions are to be paid to Plaintiff within thirty (30) business days of the hearing on this Motion. Counsel for the Plaintiff shall submit a form of order within two weeks.

4-6. 25CV04054 BLOW, TRAVIS ET AL V. MENTUS, ANDREY ET AL

EVENTS: (1) Motion to Strike Pursuant to CCP § 425.16 (“Anti-SLAPP”)

(2) Demurrer to Cross-Complaint Filed by Andrey Mentus

(3) Motion to Strike Punitive Damages Claim

Motion to Strike Pursuant to CCP §425.16 (“Anti-SLAPP”)

Code of Civil Procedure §425.16 provides a two-step process for determining whether an action is a SLAPP. *Navellier v. Sletten* (2002) 29 Cal.4th 82, 88. First, the Court must decide whether the Cross-Defendants Travis Blow and Janessa Blow (“Cross-Defendants” herein) have made a threshold showing that the challenged causes of action are those arising from protected activity. *Ibid.* Here, the Court finds that Cross-Defendants have done so. Cross-Complainant Andrey Mentus’ claims arise from activity and speech protected under the Anti-SLAPP statute because: (1) Cross-Defendants’ town hall statements were made during a public proceeding convened by the Town of Paradise, a governmental body, concerning construction quality, inspection standards, and habitability of homes built in the post-Camp Fire rebuild. Such statements fall squarely within the absolute privilege of *Civil Code* §47(b) and within the protected activity categories of *Code of Civil Procedure* §425.16(e)(2). (2) Cross-Defendant Janessa Blow’s social media posts are not related solely to a private dispute between a homeowner and a seller, but instead involve matters of public concern, which are protected activity under *Code of Civil Procedure* §425.16(e)(3) and (4) as a matter of law.

If the Court finds that such a showing has been made, it must then determine whether the Cross-Complainant has demonstrated a probability of prevailing on the claim. *Navellier v. Sletten, supra* at 88. It is only a cause of action that satisfies both prongs of the anti-SLAPP statute – i.e., that arises from protected speech or petitioning and lacks even minimal merit – that is a SLAPP, subject to being stricken under the statute. *Id.* at 89. Here, the Court finds that Cross-Complainant has failed to satisfy his burden of demonstrating a probably of prevailing.

The Motion to Strike Pursuant to CCP §425.16 (“Anti-SLAPP”) is granted in its entirety, the Court strikes and dismisses Cross-Complainant Andrey Mentus's claims for libel (First Cause of Action) and slander (Second Cause of Action) as to both Cross-Defendants Travis Blow and Janessa Blow, and awards Cross-Defendants' attorney’s fees and costs as mandatory prevailing parties under *Code of Civil Procedure* §425.16(c) in the amount of \$9,205, which are to be paid within thirty days’ notice of this ruling. Counsel for Plaintiffs/Cross-Defendants Travis Blow and Janessa Blow shall submit a form of order within two weeks.

Demurrer to Cross-Complaint Filed by Andrey Mentus

“The elements of fraud are (1) a misrepresentation of a material fact (false representation, concealment, or nondisclosure); (2) knowledge of falsity; (3) intent to defraud; (4) justifiable reliance; and (5) resulting damage.” *Collins v. eMachines* (2011)

202 Cal.App.4th 249, 259. “The facts constituting the fraud, including every element of the cause of action, must be alleged ‘factually and specifically’” to survive demurrer. *Apollo Capital Fund, LLC v. Roth Capital Partners, LLC* (2007) 158 Cal.App.4th 226, 240 [citing *Committee on Children’s Television, Inc. v. General Foods Corp.* (1983) 35 Cal.3d 197, 216-17]. Here, the Court finds that fraud has been sufficiently pled. See Cross-Complaint at ¶¶58-60, 129-134], and the Demurrer is overruled. The Court will sign the form of order submitted by counsel for the Cross-Complainant.

Motion to Strike Punitive Damages

The Motion is unopposed and is granted. The Court strikes the following from the Verified Cross-Complaint of Cross-Complainant Andrey Mentus for Damages, filed on January 22, 2026:

- (1) Cross-Complaint, Pg.13; lines 3 – 5: Cross-Defendants Travis and Janessa Blow acted with malice, oppression, and fraud in making and publishing these false statements, which is further sufficient to support a demand for punitive damages.
- (2) Cross-Complaint, Pg. 14; Lines 6 – 8: Travis and Janessa Blow acted with malice, oppression, and fraud in making and causing to be made these false statements, which is further sufficient to support a demand for punitive damages.
- (3) Cross-Complaint, Pg. 20; Lines 14 – 15; For punitive damages in accordance with California Civil Code § 3294 due to Defendant’s fraud.

Counsel for Plaintiffs/Cross-Defendants Travis Blow and Janessa Blow shall submit a form of order within two weeks.

7-9. 25CV04754 DONNA MCLAUGHLIN, BY AND THROUGH HER SUCCESSOR IN INTEREST HEIDI BLIDE ET AL V. ENLOE MEDICAL CENTER ET AL

EVENTS: (1) Defendants Francisco Javier Alvarez, M.D. and Enloe Primary Physicians Medical Group, Inc., dba Chico Hospitalist Group’s Demurrer to Plaintiffs’ Complaint

(2) Defendants Francisco Javier Alvarez, M.D. and Enloe Primary Physicians Medical Group, Inc., dba Chico Hospitalist Group’s Motion to Strike Punitive Damages and Attorneys’ Fees and Costs From Plaintiffs’ Complaint

(3) Defendants Enloe Medical Center dba Enloe Health; Stephen Shipley, M.D.; and Chico Emergency Physician Medical Group, Inc.’s Demurrer to Complaint

Defendants Francisco Javier Alvarez, M.D. and Enloe Primary Physicians Medical Group, Inc., dba Chico Hospitalist Group’s Demurrer to Plaintiffs’ Complaint

Defendants Francisco Javier Alvarez, M.D. and Enloe Primary Physicians Medical Group, Inc., dba Chico Hospitalist Group’s (collectively “Moving Defendants” herein) Request for Judicial Notice is granted.

Demurrers for uncertainty are disfavored and will be "granted only if the pleading is so incomprehensible that a defendant cannot reasonably respond." *Lickiss v Financial Indus. Regulatory Auth.* (2012) 208 Cal.App.4th 1125, 1135. Additionally, because ambiguities can be clarified through discovery, courts will strictly construe demurrers for uncertainty. *Likiss v Financial Indus. Regulatory Auth.*, *supra*; *Khoury v Maly's of Cal., Inc.* (1993) 14 Cal.App.4th 612, 616. The Court finds that the Complaint is not so incomprehensible that the Moving Defendants cannot reasonably respond and the Demurrer is overruled on that basis.

The Court finds that the First Cause of Action for Elder Abuse/Neglect has been sufficiently pled with the required specificity [see Complaint Paragraphs 2, 21-23, 24-30, 31-37, 38-42, 49-52, 61-105, 115-129], and the Demurrer to the First Cause of Action is overruled.

The Court finds that Plaintiffs have failed to sufficiently plead a cause of action for Battery as it relates to the necessary element of intent to harm, and the Demurrer to the Second Cause of Action is sustained on that basis, with leave to amend.

The Court finds that the Fourth, Fifth, Seventh, Eighth, and Ninth Causes of Action for Intentional Infliction of Emotional Distress/Negligent Infliction of Emotional Distress have been sufficiently pled [see Complaint at Paragraphs 71-72, 80-83, 85-89, 93-95, 146, 150-151, and the Demurrer to the Fourth, Fifth, Seventh, Eighth, and Ninth Causes of Action are overruled.

The Court finds that in regard to the Tenth Cause of Action for Violation of *Probate Code* §4742, that Section does provide for an independent tort cause of action and does authorize the penalty-based private action, and is not prohibited by other mechanisms addressing noncompliance with advance directives, based on the plain language of the Statute that states that "[t]he damages provided in this section are cumulative and not exclusive of any other remedies provided by law." See *Probate Code* §4742(c). Nor does the Court find that this Cause of Action is duplicative. The Demurrer to the Tenth Cause of Action for Violation of *Probate Code* §4742 is overruled.

The pleading requirements for a cause of action under California's Unfair Competition Law (UCL), codified in *Bus & Prof Code* §17200 require a plaintiff to allege that the defendant engaged in an "unlawful, unfair, or fraudulent business act or practice." The statute is written in the disjunctive, meaning that a business practice may be actionable if it falls under any one of these three prongs: unlawful, unfair, or fraudulent. Here, the Court finds that Plaintiffs have done so [see Complaint at Paragraphs 183-192], and the Demurrer to the Eleventh Cause of Action (*Bus. & Prof. Code* §17200) is overruled.

The Court finds that the Twelfth Cause of Action for Unfair Competition (*Civil Code* §1750 et seq.) has been sufficiently pled [see Complaint at Paragraphs 193-213], and the Demurrer to the Twelfth Cause of Action is overruled.

Counsel for Defendants Francisco Javier Alvarez, M.D. and Enloe Primary Physicians Medical Group, Inc., dba Chico Hospitalist Group shall prepare and submit a form of order

consistent with this ruling, and any amended Complaint shall be filed and served within 14 days' notice of this order.

**Defendants Enloe Medical Center dba Enloe Health; Stephen Shipley, M.D.;
and Chico Emergency Physician Medical Group, Inc.'s
Demurrer to Complaint**

As to the First Cause of Action for Elder Abuse/Neglect, the Court finds: (1) Apart from the procedures and the immediate post-procedure care, there are allegations in the Complaint to support a finding that Defendants maintained an obligation to see to Mrs. McLaughlin's basic needs based on her medical condition [see e.g., Complaint at Paragraph 80]. Therefore, the facts at bar support a finding of the existence of "a robust and substantial caretaking or custodial relationships and responsibilities" as required under the Elder Abuse Act. (2) The Complaint sufficiently alleges neglect vs. professional negligence. *Stewart v. Superior Ct.* (2017) 16 Cal.App.5th 87; *Fenimore v. Regents of University of California* (2016) 245 Cal.App.4th 1339. (3) The wrongful state of mind required to state a cause of action under the Elder Abuse statute goes beyond negligence and beyond gross negligence. *Berkley v. Dowds* (2007) 152 Cal.App.4th 518, 529. Instead, plaintiff must allege facts showing that the defendant engaged in egregious conduct amounting to recklessness, oppression, fraud, or malice. *Carter v. Prime Healthcare Paradise Valley LLC* (2011) 198 Cal.App.4th 396, 406. Plaintiffs have done so here [see e.g., Complaint at Paragraphs 62-101, 115-129]. The Demurrer to the First Cause of Action is overruled.

As to the Second Cause of Action for Battery, Plaintiffs' argument is compelling and the allegations in the Complaint support a finding that even if arguendo there was somehow some level of consent to treatment in general was expressed by the context of Mrs. McLaughlin's presentation to Defendants' Facility, as is argued by the Defendants, any consent was in conformity with her expressed directives and physician's orders, by law, regulation, statute, and standard of care as alleged, and providing invasive, violative, and life sustaining treatment in violation of said is supportive of battery. The Second Cause of Action has thus been sufficiently plead [see Complaint at Paragraphs 9-11, 55, 69-73, 74-78, 85-86, 88-92, 104, 106-108, 113, 131-133], and the Demurrer to the Second Cause of Action is overruled.

The Court finds that the Third Cause of Action for Willful Misconduct has been sufficiently plead [see Complaint at Paragraphs 137-141], and the Demurrer to the Third Cause of Action is overruled.

The Court finds that the Fourth and Fifth Causes of Action for Intentional Infliction of Emotion Distress, and the Seventh, Eighth, and Ninth Causes of Action for Negligent Infliction of Emotional Distress have been sufficiently plead [see Complaint at Paragraphs 71-72, 80-83, 85-89, 93-95, 146, 150-151, and the Demurrer to the Fourth, Fifth, Seventh, Eighth, and Ninth Causes of Action are overruled.

The Court finds that the Sixth Cause of Action for Negligence/Negligence Per Se has been sufficiently plead [see Complaint at Paragraphs 155-159], and the Demurrer to the Sixth Cause of Action is overruled.

The Court finds that the Tenth Cause of Action for Violation of *Probate Code* §4742, has been sufficiently plead [see Complaint at Paragraphs 177-182, and the Demurrer to the Tenth Cause of Action is overruled.

The Court finds that the Eleventh Cause of Action for Unfair Business Practices (Business & Professions Code §17200 et seq.) has been sufficiently pled [see Complaint at Paragraphs see Complaint at Paragraphs 183-192], and the Demurrer to the Eleventh Cause of Action is overruled.

The Court finds that the Twelfth Cause of Action for Unfair Competition (*Civil Code* §1750 et seq.) has been sufficiently pled [see Complaint at Paragraphs 193-213], and the Demurrer to the Twelfth Cause of Action is overruled.

Counsel for Defendants Enloe Medical Center dba Enloe Health; Stephen Shipley, M.D.; and Chico Emergency Physician Medical Group, Inc. shall prepare and submit a form of order consistent with this ruling, and any amended Complaint (based on leave granted in relation to the Court's sustaining in part the Demurrer by Defendants Francisco Javier Alvarez, M.D. and Enloe Primary Physicians Medical Group, Inc., dba Chico Hospitalist Group) shall be filed and served within 14 days' notice of this order.

**Defendants Francisco Javier Alvarez, M.D. and Enloe Primary Physicians
Medical Group, Inc., dba Chico Hospitalist Group's
Motion to Strike Punitive Damages and Attorneys' Fees and Costs
From Plaintiffs' Complaint**

“In any action for damages arising out of the professional negligence of a health care provider, no claim for punitive damages shall be included in a complaint or other pleading unless the court enters an order allowing an amended pleading that includes a claim for punitive damages to be filed. The court may allow the filing of an amended pleading claiming punitive damages on a motion by the party seeking the amended pleading and on the basis of the supporting and opposing affidavits presented that the plaintiff has established that there is a substantial probability that the plaintiff will prevail on the claim pursuant to Section 3294 of the Civil Code.” *Code of Civil Procedure* §425.13(a). Courts have held “when a cause of action is asserted against a health care provider on a legal theory other than medical malpractice, the courts must determine whether it is nevertheless based on the ‘professional negligence’ of the health care provider.” *Unruh-Haxton v. Regents of the University of California* (2008) 162 Cal.App.4th 343, 353 [relating to the application of MICRA limits].

Here, Defendants Francisco Javier Alvarez, M.D. and Enloe Primary Physicians Medical Group, Inc., dba Chico Hospitalist Group (collectively “Defendants herein) argue that the claims against Dr. Alvarez and CHG clearly arise out of alleged professional negligence and related professional services rendered by health care providers. The Court disagrees. In *Perry v. Shaw* (2001) 88 Cal.App.4th 658, the Court of Appeal concluded MICRA's \$250,000 limitation on noneconomic damages did not apply to the plaintiff's battery claim because it was not based on professional negligence. The plaintiff in *Perry* had alleged the physician defendant committed a battery by performing a breast enhancement procedure as part of another surgical procedure despite the plaintiff's

specific instructions not to do so. *Id.* at pp. 661–662. The court emphasized it found MICRA's limitation on noneconomic damages did not apply because the plaintiff alleged a battery based on a deliberate decision to ignore the scope of the plaintiff's consent, not a negligent failure to disclose a potential complication. *Id.*, at pp. 664, 668, fn. 4. The allegations here are similar to those in *Perry*, and the Court thus concludes that the allegations fall outside those requiring Court authorization to seek punitive damages, which includes the First Cause of Action for Elder Abuse/Neglect.

In relation to Defendants' remaining arguments, those were addressed in the accompanying Demurrer and based on the Court's ruling thereon, and as set forth above, the Motion is denied. Counsel for the Plaintiffs shall prepare and submit a form of order within two weeks.

10. 26CV00994 WILMINGTON TRUST NATIONAL ASSOCIATION AS TRUSTEE FOR THE BENEFIT OF THE REGISTERED HOLDERS OF BANK 2020-BNK25 COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2020-BNK25 V. CAMPUS WALK DST

EVENT: (1) Motion for Appointment of a Receiver, (2) Temporary Restraining Order, (3) Order to Show Cause Re: Preliminary Injunction and Appointment of Receiver

Plaintiff's Request for Judicial Notice is granted. The Court is afforded broad discretion in appointing a receiver. "If it appears that the party seeking the appointment has at least a probable right or interest in the property sought to be placed in receivership and that the property is in danger of destruction, removal or misappropriation, the appointment of a receiver will not be disturbed on appeal." *Maggiore v. Palo Alto Inn, Inc.* (1967) 249 Cal.App.2d 706, 710, citing *Sachs v. Kileen* (1958) 165 Cal.App.2d 205, 213; See also, *Code of Civil Procedure* §564(b). Here, the Court finds that the appointment of a receiver is neither drastic, expensive, or unnecessary. Rather, the Court finds that the undisputed facts support appointment. The Motion is granted in this regard, and Kevin Singer is hereby appointed as receiver in this action. Plaintiff shall post an undertaking in the sum of \$10,000 pursuant to *Code of Civil Procedure* §529(a) and Rule of Court 3.1150, and the Receiver shall post an undertaking in the sum of \$25,000 pursuant to *Code of Civil Procedure* §567(b). In addition, the request for a preliminary injunction is likewise granted, the Court finding that such relief is necessary to ensure that the receivership can be implemented efficiently and effectively. The Court will utilize the form of order submitted by counsel for the Plaintiffs.