

TENTATIVE RULINGS

***\*\*This calendar will be heard by Judge Benson\*\****

**1. 22CV02594 MOFFITT, DEREK C ET AL V. MOFFITT, TERESA L ET AL**

*EVENT: Defendants Teresa L. Moffitt and Theldor Farms, Inc.’s Motion for Summary Judgment or, in the Alternative, Summary Adjudication*

Defendants Teresa L. Moffitt and Theldor Farms, Inc.’s (collectively “Defendants” herein) Requests for Judicial Notice are granted pursuant to *Evidence Code* §452(d) [“[r]ecords of (1) any court of this state or (2) any court of record of the United States or any state of the United States.”]

Defendants’ evidentiary objections to the Declaration of Steven J. Chamberlin are sustained, but the Court notes that it has taken judicial notice of the Court’s Order on Plaintiffs’ Motion for Leave to File Their Second Amended Complaint issued in this action on or about May 13, 2026 [see Exhibit 3 to Defendants’ Request for Judicial Notice filed on June 5, 2026], which Mr. Chamberlin references in the portion of his Declaration to which Defendants object.

Defendants’ evidentiary objections to the Declaration of Derek C. Moffitt are sustained as to Objection No. 49 – D. Moffitt Decl., ¶73 [Improper Legal Conclusion (*Evidence Code* §310)], and No. 58 – D. Moffitt Decl., ¶84 [Improper Legal Conclusion (*Evidence Code* §310)], and overruled as to the remainder.

Defendants’ evidentiary objections to the Declaration of Sandi Moffitt are sustained as to Objection No. 8 – S. Moffitt Decl., ¶15 [Improper Legal Conclusion (*Evidence Code* §310)], and overruled as to the remainder.

In Plaintiff’s Separate Statement of Undisputed Material Facts (“UMF” herein) in Opposition to MSJ, specifically in relation to UMF No. 10, Plaintiffs state: “See Objection as to failure to establish foundation for TERESA to testify on this matter as well as her admitted lack of ability to recall the events accurately.” However, Plaintiffs Derek C. Moffitt and Sandi Moffitt (collectively “Plaintiffs” herein) did not file any evidentiary objections in connection with the Opposition, so the Court has not considered any such objections.

As to the First Cause of Action – Partition of Real Property, summary adjudication, as governed by *Code of Civil Procedure* §437c is generally limited to resolving specific issues or causes of action within a case, provided it completely disposes of the issue in question. Contrary thereto, the procedural mechanism for addressing the failure to join a necessary party is typically governed by *Code of Civil Procedure* §389, which allows the court to order joinder or dismiss the action if joinder is not feasible. *Washington Mutual Bank v. Blechman* (2007) 157 Cal.App.4th 662. The Court finds that the case cited by Defendants – *Save Our Bay, Inc. v. San Diego Unified Port Dist.* (1996) 42 Cal.App.4th 686, does not establish that summary adjudication is the appropriate procedural mechanism for addressing the failure to join a necessary party. Instead, it underscores the importance of joinder under *Code of Civil Procedure* §389 and the potential for

dismissal if an indispensable party is not joined within the statutory timeframe. As argued by Plaintiffs, summary judgment requires a showing that an action has no merit or that there is no defense to the action or proceeding [CCP §437c(a)] or if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *Calderon v. Glick* (2005) 131 Cal.App.4th 224, 230]. The Court agrees with Plaintiffs' that the absence of Northwest Farm Credit Service does not negate Plaintiffs' substantive right to partition. The Motion is denied on this basis.

As to the Second Cause of Action for Breach of Written Contract, the Court finds that there exists a triable issue of material fact as to whether a contract exists between Plaintiffs and Defendants [UMF Nos. 8-10, 15-19, 21-30, 32], and the Motion is denied on this basis. Furthermore, *Code of Civil Procedure* §366.2 does not apply in the present case where the debt was not enforceable against Decedent Stephen Moffitt while he was alive, but rather the alleged breach of the contract occurred after Decedent's death. [See First Amended Complaint at ¶¶21, 24, 26-29; UMF Nos. 15, 16, 18, 20, 29-34]. Thus, the Court concludes that the one-year statute of limitations in *Code of Civil Procedure* §366.2 does not apply. The Motion is denied on that basis. Finally, as to the statute of frauds, the Court finds that a reasonable jury could find that estoppel and part performance prevents Defendants from asserting the statute of frauds defense, specifically there are triable issues of material fact as to whether Plaintiff Derek Moffitt's conduct unequivocally refers or clearly relates to the existence of a contract for the sale of real property or transfer of equipment, whether Plaintiff Derek Moffitt seriously changed his position in reliance on any oral agreement, and whether Plaintiff Derek Moffitt suffered an unconscionable injury sufficient to invoke equitable estoppel. Moreover, the Court finds that the modification to the "Purchase Agreement" was for the compensation to Plaintiff Derek Moffitt for the services he performed, not goods, and thus falls outside the scope of both the Uniform Commercial Code and the California Commercial Code. The Motion is denied on this basis as well.

As to the Third Cause of Action for Common Count, the Court finds that a triable issue of material fact exists as to whether Plaintiff Derek Moffitt waived his right to compensation. [UMF Nos. 39-43]. The Motion is denied on this basis.

As to the Fourth Cause of Action for Replevin, one of the essential elements of a claim for replevin is plaintiff's ownership or title to the property. *Stockton Morris Plan Co. v. Mariposa County* (1950), 99 Cal.App.2d 210, 213. In this regard, the Court finds that a triable issue of material fact exists as to whether Plaintiffs owned the personal property. [UMF Nos. 49-50]. The Motion is denied on this basis. Additionally, another essential element of a claim for replevin is that a demand for possession and defendant's refusal to deliver, prior to filing an action. *Stockton Morris, Supra*; see also *Paige v. O'Neal* (1859) 12 Cal. 483, 495. Here, in granting Plaintiffs' Motion for Leave to File First Amended Complaint on March 19, 2026, although the Court found that the replevin facts existed at the time of the original complaint, the replevin cause of action was not added to this action until March 28, 2025, after demand was made. [UMF Nos. 45-47, 51-52]. Thus, the Court concludes that Plaintiffs complied with the requirement to make a

demand prior to filing a lawsuit (specific to replevin) and the Motion is denied on this basis.

Defendants Teresa L. Moffitt and Theldor Farms, Inc.'s Motion for Summary Judgment or, in the Alternative, Summary Adjudication is denied in its entirety. Plaintiffs shall prepare and submit a form of order consistent with this ruling within two weeks.

**2-3. 23CV00692 HINOJOSA, ISIAH V. FORD MOTOR COMPANY ET AL**

*EVENTS: (1) Defendant A. Teichert & Son, Inc. dba Teichert Construction, Named as Doe 1, Teichert, Inc.'s Motion to Strike Portions of Third Amended Complaint*

*(2) Defendant A. Teichert & Son, Inc. dba Teichert Construction, Named as Doe 1, Teichert, Inc.'s Demurrer to Third Amended Complaint*

Given the issues with the rejection and re-submission of the Demurrer, as well as the incorrect hearing date and time in the Motion to Strike (10:00 a.m. is indicated rather than the correct time of 9:00 a.m.), on the Court's own motion, this matter is continued to July 1, 2026 at 9:00 a.m. No appearances are required on June 17, 2026.

**4. 24CV02590 GOODLIN, SCOTT ET AL V. WILLIAMS AG SERVICES, INC ET AL**

*EVENT: Plaintiff Scott Goodlin's Motion to Compel Defendant Williams Ag Services, Inc. to Respond to Scott Goodlin's Special Interrogatories, Set One (1), and for Sanctions*

Plaintiff Scott Goodlin ("Plaintiff" herein) has failed to include a Separate Statement in compliance with California Rules of Court Rule 3.1345(a), and the Motion is denied on that basis. See, *Mills v. U.S. Bank* (2008) 166 Cal.App.4th 871, 893 [the Court concluded that because Plaintiffs did not comply with the requirements of a code compliant separate statement, the trial court was well within its discretion to deny the motion to compel discovery on that basis]; *St. Mary v. Superior Court* (2014) 223 Cal.App 4th 762, 778 [the Court confirmed that failure to include separate statement required by Cal. Rules of Court provided justification of court's denial of discovery motion].

In addition, the Court finds that Defendant Williams Ag Services, Inc. ("Defendant" herein) provided supplemental responses to the discovery at issue on May 5, 2026 with verifications thereafter served on May 11, 2026 [See Declaration of Amanda G. Hebesha at ¶10]. Consequently, the Court deems the Motion to Compel to be moot and it is denied on that basis as well.

Finally, the Court also addresses Defendant's argument that Butte County Local Rule 2.14(C) requires Plaintiff to participate in the informal discovery process as mandated by the Court. However, the first sentence of the Rule states: "Should any party wish to voluntarily avail themselves of the procedure, or in the event that the Court orders the parties to comply with an informal Pretrial Discovery Conference then,..." Here, no such order has been made in this case and therefore Plaintiff was not required to make such a request prior to the filing of the instant Motion.

Plaintiff's request for sanctions is denied. Counsel for the Defendant shall prepare and submit a form of order within two weeks.

**5. 25CV02079 NLC CA, INC. ET AL V. WEEKS FOREST PRODUCTS INC**

*EVENT: Plaintiffs' Motion for Leave to File First Amended Complaint*

Plaintiffs' Motion for Leave to File First Amended Complaint is unopposed and is granted and the Court will sign the form of order submitted by the Plaintiffs.

**6-7. 25CV03755 CLEANRITE, INC V. WHIPPLE, TIMOTHY ET AL**

*EVENTS: (1) Demurrer to First Amended Cross-Complaint*

*(2) Motion to Strike Portions of First Amended Cross-Complaint*

The Court finds that the Cross-Complainants Timothy Whipple and Shelly Whipple have sufficiently plead both their Fourth Cause of Action – Fraud and Intentional Misrepresentation and Sixth Cause of Action – Rescission and Restitution, and the Demurrer to the First Amended Cross-Complaint is overruled in its entirety.

In pleading punitive damages, a party must plead facts from which it can be reasonably inferred that the defendant acted with malice, fraud within the meaning of *Civil Code* §3294. "The mere allegation an intentional tort was committed is not sufficient to warrant an award of punitive damages . . . Not only must there be circumstances of oppression, fraud or malice, but facts must be alleged in the pleading to support such a claim." *Grieves v. Superior Court* (1984) 157 Cal.App.3d. 159, 166. Here, the Court finds that there are sufficient allegations of fraud and therefore the claim for punitive damages is appropriate. The Motion to Strike Portions of First Amended Cross-Complaint is denied.

Cross-Defendant Cleanrite, Inc. is ordered to file and serve its Answer to the First Amended Cross-Complaint within 20 days of this hearing. Counsel for Cross-Complainants Timothy Whipple and Shelly Whipple shall prepare and submit a form of order consistent with this ruling within two weeks.

**8. 25PR00342 ESTATE OF LOPEZ, JAMES M**

*EVENT: Demurrer to First Amended Petition of Nancy Sandburg*

While the Court acknowledges that a demurrer is generally required to be filed within 30 days after service of the complaint pursuant to *Code of Civil Procedure* §430.40, this time limit is not mandatory but permissive, as the statute uses the term "may" rather than "must". See, *McAllister v. County of Monterey* (2007) 147 Cal.App.4th 253. Courts have discretion to consider a demurrer filed beyond the 30-day period if doing so does not affect the substantial rights of the parties. *Ibid*. As there has been no argument by Petitioner Nancy Sanburg ("Petitioner" herein) in regard to any prejudice, or impact on

Petitioner's substantial rights, the Court in its discretion declines to overrule the Demurrer as untimely, and has considered the merits of the Demurrer.

In regard to standing, the Court agrees with the Petitioner that Respondent Mariann Youmans, as Administrator of the Estate of James M. Lopez's ("Respondent" herein) standing argument rests on a narrow reading of both *Probate Code* §850 and §48, statutes that California courts have consistently interpreted broadly. See, e.g., *Estate of Myers* (2006) 139 Cal.App.4th 434. On Demurrer, the question is not whether Petitioner is entitled to the relief requested, but whether she has pled sufficient facts to establish she is an interested person, who therefore has standing to proceed with this Petition. The Court finds that the factual allegations of the First Amended Petition are sufficient to establish Petitioner's standing to proceed (see First Amended Petition at ¶¶8, 16-19, 22, 24-26, 28-29, 31), and the Demurrer is overruled on this basis.

Next Respondent argues that even if Petitioner is found to have standing, she has failed to state facts sufficient to support her claim, arguing that the Petition is entirely inconsistent, and inconsistent with the documents attached to it which take precedence over the contrary allegations. There was no "data failure." There was no "data loss". There are no well-pled allegations that Decedent James Lopez designated Petitioner as the beneficiary of his Thrift Savings Plan account. Respondent argues that all of those allegations are contradicted by the documents incorporated into the Petition. However, this argument asks the Court to interpret the documents attached to the Petition in favor of the Respondent and make a factual finding that they do not support Petitioner's claims. The Court cannot do so on demurrer. Additionally, while Respondent cites to *Cook v. Cook* (1941) 17 Cal.2d 639, 644 and *Estate of MacDonald* (1990) 51 Cal.3d 262, 272, for the position that changes to beneficiary designations have strict requirements, the situation alleged here is slightly different. Here, Petitioner does not ask the Court to override a valid designation on file through informal conduct. Instead, Petitioner alleges that Decedent *did* comply with the strict procedural requirements and made a valid designation in Petitioner's favor, which was then lost. The Court finds that the Petition sufficiently alleges a claim under *Probate Code* §850 (see First Amended Petition at ¶¶16-19, 20-27), and the Demurrer is overruled on this basis as well.

The Demurrer is overruled in its entirety. The Court continues the hearing on Petitioner's First Amended Petition from June 23, 2026 to July 8, 2026 at 9:00 a.m. to allow Respondent sufficient time to file a Response thereto. Counsel for the Petitioner shall prepare and submit a form of order consistent with this ruling within two weeks.

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9. **26CV00945 NATIONAL DEFAULT SERVICING CORPORATION V. ALL CLAIMANTS TO SURPLUS FUNDS AFTER TRUSTEE'S SALE OF REAL PROPERTY LOCATED AT 1741 TEHAMA AVENUE, OROVILLE, CA 95965**

*EVENT: Joint Motion for Disbursement of Surplus Funds*

Pursuant to *Civil Code* §2924j(d), on April 28, 2026, the Court served the required written notice of hearing by first-class mail on all claimants identified in the trustee's declaration at the addresses specified therein. That hearing is set for July 22, 2026 at 9:00 a.m. *Civil Code* §2924j(d) provides that "the court shall consider all claims filed at least 15 days before the date on which the hearing is scheduled by the court..." Here, that date is July 7, 2026, so claimants have until that date to submit their claims. As such, any ruling on the instant Motion would be premature. This matter is therefore continued to July 22, 2026 at 9:00 a.m.