

**Judge Mosbarger – Law & Motion – Wednesday, July 1, 2026 @ 9:00 AM  
TENTATIVE RULINGS**

**1. 22CV01203 MILLER, MARK V. TOGNERI, ROSALINA**

*EVENT: Review Hearing [Report on Status of Sale]*

The Court will hear from counsel for the partition referee, Rob Haley, on the status of the sale of the real property.

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

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

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

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

Defendant A. Teichert & Son, Inc. dba Teichert Construction, Named as DOE 1, Teichert, Inc.'s ("Defendant" herein) Request for Judicial Notice is granted as to the existence of the documents. However, the Court does not, for purposes of this Demurrer, accept as true the inferences, interpretations, or conclusions related to these documents proffered by Defendant.

The elements necessary to plead a cause of action for negligence are 1) duty; 2) breach; 3) causation; and 4) damages. *Toland v. Sunland Housing Group, Inc.* (1998) 18 Cal.4th 253, 267. Here, the Court finds that the Third Amended Complaint sufficiently pleads the required elements. See, Third Amended Complaint at Paragraphs 23-27. As to the completed-and-accepted doctrine, the Court agrees with Plaintiff, that the doctrine presents factual questions that cannot be resolved at the pleading stage. The Third Amended Complaint expressly alleges that the work was not accepted and/or was not completed. At this stage, those allegations must be accepted as true, and the Demurrer to the First Cause of Action for Negligence is overruled.

As to the Second Cause of Action for Strict Liability, based on Plaintiff's Opposition, and the indication therein that Plaintiff does not contend that Teichert is strictly liable as a product seller, the Demurrer to the Second Cause of Action is sustained. The Court grants leave to amend to allow Plaintiff to clarify the Doe designations, so the Second Cause of Action does not run against Teichert. Any amended Complaint is to be filed and served within 20 days' notice of this order. Counsel for the Defendant shall prepare and submit a form of order consistent with this ruling within two weeks.

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

In pleading punitive damages, a party must plead facts from which it can be reasonably inferred that the defendant acted with malice, oppression or fraud within the meaning of

*Civil Code* §3294. “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 insufficient allegations of oppression, fraud, or malice and therefore the claim for punitive damages is inappropriate. Additionally, as to the allegations of corporate ratification, the Court likewise finds those allegations lacking and the Motion to Strike is granted in its entirety. Leave to amend is granted. Any amended Complaint is to be filed and served within 20 days’ notice of this order. The Court will utilize the form of order submitted by Defendant with modification to Paragraph 4 to indicate that leave to amend is granted.

**4-6. 23CV02667 PARRISH SCARBROUGH, MELISSA V. LALLY, KULWINDER ET AL**

- EVENTS: (1) Plaintiff Melissa Parrish Scarbrough’s Motion to Compel Deposition of Defendant Harry Hawinder and Request for Monetary Sanctions in the Amount of \$2,146.00 Against Defendant Harry Hawinder and his Counsel, and evidence, Issue and Terminating Sanctions*
- (2) Plaintiff Melissa Parrish Scarbrough’s Motion to Compel Deposition of Defendant Kuldeep Lally and Request for Monetary Sanctions in the Amount of \$1,794.00 Against Defendant Kuldeep Lally and his Counsel, and evidence, Issue and Terminating Sanctions*
- (3) Plaintiff Melissa Parrish Scarbrough’s Motion to Compel Deposition of Defendant Kulwinder Lally and Request for Monetary Sanctions in the Amount of \$1,794.00 Against Defendant Kulwinder Lally and his Counsel, and evidence, Issue and Terminating Sanctions*

As an initial matter, pursuant to *Code of Civil Procedure* §1005(b), any opposition to the pending motions were to be filed and served no later than June 17, 2026 [9 Court days before the hearing]. Here, Defendants’ Opposition to Plaintiff’s Motion to Compel Depositions and Request for Monetary, Issue, Evidence, and Terminating Sanctions was not filed and served until June 24, 2026. There is no explanation as to why the Opposition was filed untimely and the Court has declined to consider the arguments therein. The Court finds that there has now been a showing of ongoing and willful disobedience of this Court’s discovery orders and blatant and ongoing abuse of the discovery process that rises to the level of discovery abuse to support terminating sanctions. See, *Liberty Mutual Fire Ins. Co. v. LcL Administrators, Inc.* (2008) 163 Cal.App.4th 1093. As such, terminating sanctions are warranted on this record, the Motions are granted, and Defendants’ General Denial filed on March 11, 2026 is hereby stricken. The Court will sign the forms of order submitted by Plaintiff. Given the Court’s ruling, the Court will hear from Plaintiff’s counsel regarding the upcoming hearing on Plaintiff’s Motion for Summary Adjudication. However, this is not an invitation to present oral argument in regard to Plaintiff’s Motions. If the parties wish to argue the tentative ruling, they must comply with Butte County Local Rule 2.9 and California Rules of Court Rule 3.1308(a)(1).

**7-8. 23CV03195 GARCIA, ALBERTO V. FIRESTORM WILDLAND FIRE SUPPRESSION, INC**

*EVENTS: (1) Plaintiff's Motion for Leave to Amend Complaint to Substitute Class Representative*

*(2) Order to Show Cause Why Case Should Not be Dismissed in Light of Former Plaintiff Alberto Garcia's Death*

Plaintiff's Motion for Leave to Amend Complaint to Substitute Class Representative is granted. The Court grants leave to amend the class claims to include Plaintiff Devin Baxter and stays the PAGA claim to permit Plaintiff to conduct discovery and identify a qualified PAGA representative to be added by further amendment. The Court sets this matter for a status hearing on September 30, 2026 at 10:30 a.m. for status of the PAGA claim. The Court vacates the Order to Show Cause Why Case Should Not be Dismissed in Light of Former Plaintiff Alberto Garcia's Death in light of the above. The Court also advances the Case Management Conference on July 1, 2026 at 10:30 a.m. to 9:00 a.m. and continues the Case Management Conference to September 30, 2026 at 10:30 a.m. Case Management Statements are to be timely filed and served.

**9. 24CV02467 DOE, JANE V. CHICO UNIFIED SCHOOL DISTRICT**

*EVENT: Defendant Chico Unified School District's Motion to Compel Further Discovery Responses and Request for Monetary Sanctions*

Defendant Chico Unified School District's ("Defendant" herein) Motion to Compel Further Discovery Responses and Request for Monetary Sanctions is granted. Plaintiff Jane Doe ("Plaintiff" herein) shall serve code-compliant verified supplemental responses to Defendant's Supplemental Interrogatories (Set One) Defendant's Supplemental Request for Production of Documents (Set One) within twenty calendar days of service of notice of this Order. Monetary sanctions in the amount of \$3,000 are awarded in favor of Defendant and against Plaintiff and their counsel of record Mary E. Alexander, Mary Alexander & Associates, P.C., which are to be paid within thirty days' notice of this order. The Court will utilize the form of order submitted by counsel with modifications as noted herein.

**10. 24CV02857 PLATTS, TOBIAS II ET AL V. JOHNSON, MARK ET AL**

*EVENT: Defendants' Motion to Compel Further Responses to Requests for Admissions, Set One, and Form Interrogatories, Set One, Request for Monetary, Evidentiary, and Terminating Sanctions*

Defendants' Motion to Compel Further Responses to Requests for Admissions, Set One, and Form Interrogatories, Set One, Request for Monetary, Evidentiary, and Terminating Sanctions is granted in part as follows:

The Motion is denied as to the Requests for Admissions, and Form Interrogatory Nos. 6.3, 7.1 and 7.2, the Court finding that Plaintiffs' responses are code-compliant and sufficient.

The Motion is granted as to Form Interrogatory Nos. 6.4(d) [insufficient as the response does not answer the question posed], 6.7 [insufficient as to subdivisions (b) (the complaints for which the treatment was advised) and (c) (the nature, duration, and estimated cost of the treatment)], 12.6 [insufficient as to (b) [(he date and type of report made), and 17.1 [evasive and incomplete because it has been combined in a single response without specific reference to the Requests for Admission to which it applies]. Plaintiffs are ordered to provide further responses to the aforementioned Form Interrogatories, Set One, within fifteen days from the date of this hearing.

The Court finds that there has been no showing of ongoing and willful disobedience of a Court's discovery order nor blatant and ongoing abuse of the discovery process that rises to the level of discovery abuse to support terminating sanctions. As such, terminating sanctions are not warranted on this record. See, *Liberty Mutual Fire Ins. Co. v. LcL Administrators, Inc.* (2008) 163 Cal.App.4th 1093. Likewise, as to evidentiary sanctions, the Court similarly finds that such are not warranted here. However, the Court awards additional monetary sanctions in the amount of \$3,283, which are imposed jointly and severally against Plaintiffs and Plaintiffs' counsel. The additional monetary sanctions shall be paid to Defendants' counsel within thirty days. The Court will utilize the form of order submitted by counsel with modifications as noted herein.

## **11. 25CV00744 FISHER, JEFF V. FISHER, JENNIFER**

### *EVENT: Amended Motion for Stay of Enforcement Pending Appeal*

As indicated in the Court's prior ruling on June 10, 2026, while the notice period complied with *Code of Civil Procedure* §1005, the proof of service showing service by email on May 8, 2026, service was made on Defendant's prior counsel – Leonard C. Hart Nibbrig. However, on May 6, 2026, Defendant filed a Substitution of Attorney wherein Mr. Nibbrig substituted out, and Defendant Jennifer Fisher, indicated she would be proceeding in pro per. There is still no evidence that the Motion was served on Jennifer Fisher and the Court therefore continues this matter one last time to July 22, 2026 at 9:00 a.m. to allow for proper notice. Plaintiff Jeff Fisher is ordered to serve a copy of the Amended Motion with notice of the new hearing date on Defendant Jennifer Fisher, and file with the Court a proof of service. If the proof of service is not filed with the Court prior to the continued hearing date, the Motion will be denied.

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**12-13. 26CV00748 SANCHEZ, HUMBERTO ET AL V. VUE, A THIT**

*EVENTS: (1) Defendant A Thit Vue's Demurrer to Complaint*

*(2) Defendant A Thit Vue's Motion to Strike Portions of Plaintiffs' Complaint*

**Defendant A Thit Vue's Demurrer to Complaint**

In order to prevail on a cause of action for breach of contract, the Plaintiffs must prove (1) the contract, (2) the plaintiff's performance of the contract or excuse for nonperformance, (3) the defendant's breach, and (4) the resulting damage to the plaintiff. *Richman v. Hartley* (2014) 224 Cal.App.4th 1182, 1186. To do so, Plaintiffs must either attach a copy of the written agreement to the complaint and incorporate it by reference, set out the terms of the contract verbatim within the body of the complaint, or plead the legal effect of the contract by satisfactorily alleging the existence of the contractual obligations that form the basis of the claim and the relevant terms. *Harris v. Rudin, Richman & Appel* (1999) 74 Cal.App.4th 299; *Construction Protective Services, Inc. v. TIG Specialty Ins. Co.* (2002) 29 Cal.4th 189. The Court finds that here, Plaintiffs have failed to prove the existence of a contract and the Demurrer is sustained as to the breach of contract cause of action.

It is "improper" to "recast" a breach of contract cause of action as a tort claim under the economic loss doctrine. *BFGC Architects Planners, Inc. v. Forum/Mackey Constr., Inc.*, (2004) 119 Cal.App.4th 848, 853. "That judicially created doctrine bars recovery in negligence for pure economic losses when such claims would disrupt the parties' private ordering, render contracts less reliable as a means of organizing commercial relationships, and stifle the development of contract law." *Sheen v. Wells Fargo Bank, N.A.* (2022) 12 Cal.5th 905, 915 ("[T]he rule functions to bar claims in negligence for pure economic losses in deference to a contract between litigating parties."). The doctrine extends to all tort-based claims "when they arise from—or are not independent of—the parties' underlying contracts." *Id.* at 633; *Aas v. Superior Court* (2000) 4 Cal.4th 627, 643 ("[A] person may not ordinarily recover in tort for the breach of duties that merely restate contractual obligations"). Here, the Court finds that Plaintiffs have failed to plead breach of any duty independent or not arising from the alleged breach of contract and the Demurrer is sustained as to the intentional tort cause of action.

Finally, 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 Plaintiffs have failed to plead any of the elements of fraud; they have not stated what representation Defendant made that was false, that Defendant had knowledge of its falsity, that Defendant had intent to defraud, that Plaintiffs justifiably reliance upon the misrepresentation, and that there was damage

resulting from that justifiable reliance, and the Demurrer is sustained as to the fraud cause of action.

The Court grants leave to amend. Any amended complaint is to be filed and served within 20 days' notice of this order. Counsel for the Defendant shall prepare and submit a form of order within two weeks.

**Defendant A Thit Vue's Motion to Strike  
Portions of Plaintiffs' Complaint**

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. "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. When facts supporting oppression, fraud, or malice have not been properly alleged in the complaint, the trial court should grant the motion to strike. *Id.* at 168. Conclusory allegations and generalizations are insufficient. *Small v. Fritz Companies, Inc.* (2003) 30 Cal. 4th 167, 184. Here, because the Court has sustained the Demurrer as to the fraud claims, the Motion to Strike in this regard is likewise granted.

In regard to Defendant's arguments requesting the Court strike all allegations of fraud and intentional misconduct, that Court finds that such arguments are inappropriate in connection with this Motion to Strike and the Court has already considered and addressed these arguments in relation to the concurrently filed Demurrer. As such, the Motion to Strike is denied in this regard.

Finally, the Court finds that *Civil Code* §1950.5 provides the basis for the requested statutory relief, which is supported by the allegations of the Compliant and the Motion to Strike in this regard is denied.

The Court grants leave to amend. Any amended complaint is to be filed and served within 20 days' notice of this order. Counsel for the Defendant shall prepare and submit a form of order within two weeks.