

# Tentative Rulings for June 4, 2026 Department PS2

**To request oral argument, you must notify Judicial Secretary  
Molly Frabotta at (760) 904-5722  
and inform all other counsel no later than 4:30 p.m.**

This court follows California Rules of Court, Rule 3.1308 (a) (1) for tentative rulings (see Riverside Superior Court Local Rule 3316). Tentative Rulings for each law & motion matter are posted on the Internet by 3:00 p.m. on the court day immediately before the hearing at [Riverside Superior Court-Tentative Rulings](#). If you do not have Internet access, you may obtain the tentative ruling by telephone at (760) 904-5722.

To request oral argument, no later than 4:30 p.m. on the court day before the hearing you must (1) notify the judicial secretary for Department PS2 at (760) 904-5722 and (2) inform all other parties of the request and of their need to appear remotely, as stated below. If no request for oral argument is made by 4:30 p.m., the tentative ruling **will become the final ruling** on the matter effective the date of the hearing. **UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.**

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- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252,  
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Please **MUTE** your phone until your case is called and it is your turn to speak. It is important to note that you must call fifteen (15) minutes prior to the scheduled hearing time to check in or there may be a delay in your case being heard.

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1.

CASE #	CASE NAME	HEARING NAME
CVPS2508412	COUNTY OF RIVERSIDE VS INDIO	MOTION FOR PREJUDGMENT POSSESSION BY COUNTY OF RIVERSIDE

**Tentative Ruling:** Granted.

No opposition filed.

Plaintiff County of Riverside (“County”) having brought its motion for an order of prejudgment possession on for hearing, seeking possession of a temporary construction easement in the real property designated as County Project Parcel No. 0048-003A (“Property”), representing portions of the property assigned Riverside County Assessor’s Parcel Number 610-070-041, and which are more particularly described in the County’s complaint on file in this action; and it appearing to the Court that:

- A. The County is entitled to take the Property by eminent domain;
- B. The County deposited in the Condemnation Deposits Fund with the Office of the State Treasurer the probable compensation to be awarded for the taking of the Property;
- C. The County is authorized by law to take prejudgment possession of the Property;
- D. There is an overriding need for the County to possess the Property before the issuance of final judgment;
- E. The County will suffer a substantial hardship if the motion for prejudgment possession is denied or limited;
- F. The hardship that the County will suffer if possession is denied or limited outweighs any hardship on any defendant or occupant that could be caused by the granting of the order of possession; and
- G. Good cause exists for the County’s prejudgment possession. IT IS HEREBY ORDERED, under Code of Civil Procedure section 1255.460, as follows:

The County is authorized and empowered to enter upon and take prejudgment possession of the Property for the purposes described in the County’s complaint on file in this action, and to remove from the Property any and all persons, obstacles, improvements, or structures of every kind or nature situated on the Property and to fully possess and use the Property on the 30th day after service of this Order upon the record owner or owners of the Property and any lawful tenants of the Property, if any, pursuant to Code of Civil Procedure section 1255.450.

A Writ of Assistance may issue ex parte upon affidavit of a representative of the County showing that the owner(s) or occupant(s), if any, have failed to deliver possession of the Property upon the demand of the County pursuant to this Order.

Service of this Order shall be made in a manner specified in Code of Civil Procedure section 1255.450, subdivisions (d) and (f).

2.

CASE #	CASE NAME	HEARING NAME
CVPS2508429	COUNTY OF RIVERSIDE VS GSC INDIO LTD., A CALIFORNIA LIMITED PARTNERSHIP	MOTION FOR PREJUDGMENT POSSESSION BY COUNTY OF RIVERSIDE

**Tentative Ruling:** Hearing taken off calendar. Stipulation for prejudgment possession entered June 2, 2026.

3.

CASE #	CASE NAME	HEARING NAME
CVPS2509390	KIM VS SJY TRANSPORTATION	DEMURRER ON 1ST AMENDED COMPLAINT OF HENRY KIM BY ABRAHAM GEORGES RAYES

**Tentative Ruling:** Sustained.

No opposition filed.

Plaintiff granted leave to file 2<sup>nd</sup> Amended Complaint within 10 days of this order becoming final.

Moving party to provide notice pursuant to CCP 1019.5.

4.

CASE #	CASE NAME	HEARING NAME
CVPS2600152	DOE VS RIVERSIDE COUNTY	MOTION TO STRIKE 1ST AMENDED COMPLAINT OF JANE DOE BY RIVERSIDE COUNTY

**Tentative Ruling:** Granted in part.

Moving party to provide notice pursuant to CCP 1019.5.

Jane Doe ("Plaintiff") was a patient at one of County of Riverside's ("Defendant") medical facilities. She alleges that Defendant failed to preserve records, altered, and failed to keep complete medical records for Plaintiff. She contends that she did not authorize anyone to alter, delete, or modify her medical records.

The operative pleading is the First Amended Complaint ("FAC"). It asserts the following causes of action: (1) violation of mandatory duty, (2) violation of the Confidentiality of Medical Information Act, (3) violation of patient confidentiality protections, and (4) violation of California constitutional right to privacy.

Defendant brings this motion. Defendant argues that the factual allegations do not support the statutes identified in the first and second causes of action. It asserts that due to this, the requests for damages in these causes of action should be stricken. It argues that provision of the California Constitution at issue does not provide a basis for damages.

In opposition, Plaintiff contends that she has sufficiently alleged damages. She argues that Defendant misconstrues her allegations and legal authority. She asserts that this motion is an improper use of a motion to strike.

Motion to Strike

A party can bring a motion to strike any irrelevant, false, or improper matters inserted in a pleading. (CCP §436(a).) A motion to strike can also be used to strike any part of a pleading that is not drawn or filed in conformity with the laws of the state, a court rule, or an order of the court. (CCP §436(b).)

The instant motion is a bit confusing. It does not seek to strike entire causes of action. It only seeks to strike damages sought in the first, second, and fourth causes of action and language in the “damages” section of the FAC and in the “prayer.” Defendant argues that the damages sought in the first and second causes of action should be stricken because these causes of action fail to state facts sufficient to support a claim. The failure to state a cause of action is not a proper basis to grant a motion to strike. (*Warren v. Atchison* (1971) 19 Cal.App.3d 24, 41; *Pierson v. Sharp Memorial Hospital, Inc.* (1989) 216 Cal.App.3d 340, 342.) Striking damages on this basis makes no sense because the insufficient causes of action would still remain in place. It is unclear why counsel did not bring a demurrer or motion for judgment on the pleading as to these causes of action. Since this is not a proper basis to move to strike a pleading, the motion is denied as to the damages sought in these causes of action.

Defendant though properly attempts to strike Plaintiff’s request for damages in the fourth cause of action. This cause of action asserts a violation of the right to privacy under California Constitution, article I, section I. While a citizen can assert a claim against a public entity for violation of privacy under California Constitution, article I, section I, the only remedy available is injunctive relief, not damages. (*Clausing v. San Francisco Unified School Dist.* (1990) 221 Cal.App.3d 1224, 1238-1239.) As such, the request for damages in the fourth cause of action must be stricken.

The request to strike the portion of the FAC labeled “damages” and “prayer” are not discussed separately in the motion to strike. It appears that the basis to strike these portions of the FAC is based on the arguments discussed above regarding the first, second, and fourth causes of action. The language in the “damages” and “prayer” section of the FAC does not address the request for damages in the fourth cause of action.

**5.**

CASE #	CASE NAME	HEARING NAME
PSC2002599	ALPENGLOW MANAGEMENT GROUP LLC VS COACHILLIN HOLDINGS LLC	MOTION RE: DEFENDANTS' OBJECTIONS TO PLAINTIFFS' (PROPOSED) JUDGMENT ON 1ST AMENDED COMPLAINT ALPENGLOW MANAGEMENT GROUP LLC & DECLARATION OF JOSEPH LEVENTHAL IN SUPPORT OF DEFENDANTS' OBJECTIONS TO PLAINTIFFS' PROPOSED JUDGMENT

**Tentative Ruling:** Overruled and sustained in part.

Plaintiff to file amended proposed judgment within 5 days of this ruling becoming final consistent with this order.

Plaintiff to provide notice pursuant to CCP 1019.5.

This is a breach of contract action by Plaintiffs Alpenglow Management Group, LLC, Brightside Estate Holdings, LLC, and EN Primeur, LLC filed June 18, 2020 against Defendants Coachillin Holdings, LLC, Kenneth Dickerson, Indian Canyon & 18<sup>th</sup> Property Owners Association, Kirsten Dickerson and Katherine Dickerson. The Complaint alleged 11 causes of action. Plaintiffs filed a First Amended Complaint on March 11, 2026, which alleges 8 causes of action for 1) breach of written contract, 2) breach of implied covenant of good faith and fair dealing, 3) breach of fiduciary duty, 4) breach of fiduciary duty, 5) breach of CC&Rs, 6) real estate seller's non-disclosure, 7) intentional misrepresentation, and 8) negligent misrepresentation.

The matter was tried before a jury, which delivered its verdict on March 24, 2026. On April 3, 2026, Plaintiffs submitted a proposed judgment.

In the instant motion, Defendants filed objections to the proposed judgment alleging that the proposed judgment does not follow the jury's findings, nor reflect the court's granting nonsuit in favor of Coachillin and Kenneth Dickerson on Plaintiffs' breach of fiduciary duty claim.

In opposition, Plaintiffs assert that the jury returned with a verdict finding in favor of Plaintiffs Alpenglow Management Group LLC and Brightside Estate Holdings LLC on the cause of action for negligent misrepresentation against Defendant Kenneth Dickerson and also finding that Defendant Kenneth Dickerson acted within the scope of his agency relationship with Defendant Coachillin Holdings LLC. The jury awarded damages in the amount of \$459,048.00 to Plaintiff Alpenglow Management Group LLC, and \$453,426.00 to Plaintiff Brightside Estate Holdings LLC. Plaintiffs assert that Defendants attempt to object to the Proposed Judgment based on inadequate and incomplete reasoning. The jury continued to find that Defendant Kenneth Dickerson was acting within the scope of his agency for Defendant Coachillin Holdings LLC, further establishing that Defendant Coachillin Holdings LLC was vicariously responsible for Defendant Kenneth Dickerson's actions. Furthermore, the jury found that Defendants Kenneth Dickerson and Coachillin Holdings LLC were liable to Plaintiffs for damages in the amount of \$459,048.00 to Plaintiff Alpenglow Management Group LLC, and \$453,426.00 to Plaintiff Brightside Estate Holdings LLC. If the jury intended to demonstrate that no Defendant was liable to any Plaintiff as Defendants baselessly assert here, then the jury would not have found that Defendant Kenneth Dickerson and Coachillin Holdings LLC owe Plaintiffs monetary damages. In addition, Plaintiffs assert that Defendants attempt to relinquish Defendant Kenneth Dickerson – who was found liable to Plaintiffs – of any liability owed to Plaintiffs on a theory that he owed no duty to Plaintiffs. Not only is such an argument wrong since negligent misrepresentation does not require contractual relationship between parties because it is a theory based on negligence. But such an argument is specifically preserved by California law for a Motion Notwithstanding the Verdict, and would violate the post-trial statutes and Plaintiffs' due process rights if enforced by the Court at this stage. As to Defendant Indian Canyon judgment is improper as they were dismissed from the action.

Plaintiffs further assert that even if Defendants were correct that there was a fatal ambiguity in the verdict, the remedy would be a new trial. However, the verdict was not ambiguous. Defendants argument rests on the faulty premise that the jury's "no" answer to question 32, asking whether Plaintiffs proved "each and every element in questions 26 through 31," means the jury did not find in favor of Plaintiffs on each and every element to the cause of action for negligent misrepresentation. Question 32 asked about the preceding questions, not the legal elements to the cause of action. Those earlier questions included one that Plaintiffs did not need to establish to prevail on the cause of action (but which the Judicial Council directed the parties to include): number 27, which asked whether Dickerson honestly believed his misrepresentation was true. Answering that question in the affirmative, the jury was compelled to answer question 32 in the negative. That is entirely consistent and had no impact on the jury's other findings that the

Alpenglow Plaintiffs proved each and every element of the cause of action for negligent misrepresentation.

Plaintiffs also assert that the claim Dickerson owed “no duty” to Plaintiffs is, in addition to being legally flawed, is not the proper way to raise this argument. The judgment at its core is a ministerial act that must be done at this stage in conformity with the jury’s findings. Plaintiffs further assert that Defendants argument from Dickerson and Coachillin be granted judgment “in their favor” on other causes of action would violate the one judgment rule. Further, Plaintiffs assert that the Defendants did not dispute the evidence that En Primeur was a partial assignee of Alpenglow’s interests in this lawsuit. Therefore, since Alpenglow prevailed, so did En Primeur. Lastly, the argument that dismissed defendant Indian Canyon & 18th Property Owners Association should now have judgment entered in its favor ignores that this Court lost jurisdiction to do so when Plaintiffs voluntarily dismissed Indian Canyon pursuant to a Bankruptcy Court order; and second, when Plaintiffs appealed earlier prevailing party determinations in Indian Canyon’s favor.

In reply, Defendants assert Plaintiffs ask this Court to enter judgment in their favor despite the jury’s unanimous and unambiguous finding that no Plaintiff proved each and every element of negligent misrepresentation. Plaintiffs’ response obscures the fundamental issue: it is Plaintiffs’ burden to demonstrate that the verdict supports the judgment they seek, and they failed to carry that burden. Instead, Plaintiffs ask the Court to reconstruct the jury’s findings—despite agreeing to the verdict form—through a chain of inferences that finds no support in the law or the verdict form itself. That is not how special verdicts work. Defendants did not, and do not, contend that the verdict contains a “fatal ambiguity.” The jury returned a unanimous negative answer to Question 32: “Did any Plaintiff prove each and every element in questions 26 through 31.” Far from being fatally ambiguous, the verdict is clear—it reflects a finding of no liability. Thus, the verdict lacks “every finding necessary to sustain a cause of action because any missing elements preclude a judgment in the plaintiff’s favor.” The jury’s response to Question 32 is consistent with its non-answer to Question 42, which Plaintiffs ignore. Plaintiffs’ “fatal ambiguity” authorities are inapposite. Further, Defendants assert that Plaintiffs’ effort to convert the special verdict into a general verdict fails. Lastly, Defendants assert that it was Plaintiffs’ burden to ensure the jury understood the special verdict form submitted to them and to convey how Plaintiffs wanted the jury to complete the form. Plaintiffs went through the special verdict form with the jury.

Defendants further assert that Plaintiffs’ attempt to reconstruct the verdict form lacks merit as their position would require the court to find that Question 32 is superfluous and irrelevant, but it is not. Second, Plaintiffs argue that Question 32 did not ask whether any Plaintiff proved every element for negligent misrepresentation. But that is exactly what Question 32 asked. Third, Plaintiffs’ interpretation requires the Court to assume the jury understood Question 32 to exclude Question 27 from its scope—a sophisticated legal distinction that the jury was never instructed to draw and that finds no support in the plain language of the question.

Dickerson asserts that his lack of duty is proper to resolve here. Defendants argued, in the alternative, that if judgment is entered in favor of Alpenglow and Brightside for negligent misrepresentation, it should not be entered against Mr. Dickerson because (a) he owed no duty because he was not a contracting party with Plaintiffs and “there is no other source of duty,” and at most, Coachillin, as the seller of real property, owed a duty; and (b) absent any duty, there is no basis for liability against Mr. Dickerson because the Court did not find he was an alter ego of Coachillin. Plaintiffs also fail to address the lack of any alter ego finding from the Court. Instead, Plaintiffs try to reframe Defendants’ argument as a substantial evidence challenge that is only appropriate for a post-trial motion or appeal. Defendants are not raising a substantial evidence challenge. Rather, since Plaintiffs concede there is no “other source of duty,” and without an alter ego finding that Plaintiffs never requested, any judgment against Mr. Dickerson individually lacks a legal foundation on the face of the special verdict, and is properly raised here.

Defendants argued, in the alternative, that if judgment is entered in favor of Alpenglow and Brightside for negligent misrepresentation—again, it should not be—judgment should still be entered in favor of Coachillin and Mr. Dickerson on all other claims, e.g., breach of contract, breach of implied covenant, breach of fiduciary duty, real estate seller’s non-disclosure/concealment, and intentional misrepresentation.

As to En Primeur, Defendants assert that the agreed upon verdict form required Plaintiff-specific findings, not property-specific findings. The jury unanimously found against En Primeur on liability and damages for every single claim. Second, Plaintiffs’ reliance on CACI 327 (“Assignment Not Contested”) is misplaced. On its face, CACI 327 only applies to claims for breach of contract, a claim for which the jury indisputably found no liability. Therefore, CACI 327 is irrelevant to the judgment question concerning Plaintiffs’ negligent misrepresentation claims. Moreover, CACI 327 says nothing about how the jury is supposed to treat multiple plaintiffs. CACI 103 provides that direction: the jury was required to “decide the case of each plaintiff separately as if it were a separate lawsuit.” On that point, Plaintiffs’ theory actually supports Defendants: it confirms En Primeur’s status as a Plaintiff, triggering CACI 103’s requirement that the jury decide En Primeur’s case separately. The jury did. It found against En Primeur.

Defendants assert that judgment should be entered in Indian Canyon’s favor on (a) a sanctions award in the amount of \$4,080.00; (b) another sanctions award in the amount of \$2,000.00; (c) a cost award in the amount of \$13,142.21; and (d) an attorneys’ fees award in the amount of \$394,440.83. Plaintiffs argue that no judgment can be entered in Indian Canyon’s favor because the Court has no jurisdiction following a voluntary dismissal. (Resp. at 14:9-20.) Plaintiffs are wrong, again. The Court does have jurisdiction to award fees and costs to Indian Canyon despite Plaintiffs’ voluntary dismissal. r Indian Canyon filed its fee motion, on December 19, 2025, the Court adopted its tentative ruling granting Indian Canyon’s fee motion, but indicated it “will stay enforcement pending further court order.” The Court has not yet lifted its stay, thereby preventing finality. Since a final judgment will be entered as to all other parties, the time for the Court to bring finality to Indian Canyon’s cost and fee awards is now. The Court should enter judgment in Indian Canyon’s favor for the full amounts of the sanctions awards, and the cost and fee awards, plus interest at a rate of 10% per annum on each award calculated from the dates of the respective orders.

Objection 1 - Jury Findings Re: Negligent Representation Claim:

The Special Verdict form completed by the jurors in the instant matter reflects that the jury found that Kenneth Dickerson made a false representation of fact to a Plaintiff. (Question 26.) That he had an honest belief that the representation was true when he made it. (Question 27.) That he did not have reasonable grounds for believing the representation was true when he made it. (Question 28.) That he intended that a Plaintiff relied on the representation. (Question 29.) That a Plaintiff’s reliance on his representation was a substantial factor in causing harm to that Plaintiff. (Question 30.)

Then the verdict form asked “Did any Plaintiff prove each and every element in questions 26 through 31. (Question 32.) In response the jury responded “no” to each of the three Plaintiffs.

The verdict form then indicates that they found that Dickerson was acting within the scope of his agency on behalf of Coachillin when the representations were made. (Question 33.) But that he did not intentionally fail to discuss the fact. (Question 34.)

The verdict form showed that the jury awarded in favor of Plaintiff Alpenglow in the amount of \$459,048 and Plaintiff Brightside in the amount of \$453,426 and \$0 as to Plaintiff En Primeur Group.

The elements of negligent misrepresentation are: 1) misrepresentation of a past or existing material fact, 2) without reasonable grounds for believing it to be true, 3) with intent to induce another's reliance on the fact misrepresented, 4) justifiable reliance on the misrepresentation, and 5) resulting damage. (*Apollo Capital Fund, LLC v. Roth Capital Partners, LLC* (2007) 158 Cal.App.4th 226, 243.) Each of the required elements was marked yes by the jurors on the special verdict form.

Question 27 is linked with question 28 in the special verdict form. Question 27 asks if Dickerson had an honest belief that the representation was true. A no answer then required the jury to answer question 28 as to whether he had reasonable grounds for believing the representation was true when he made it. Had the answer been yes to question 27, then it would have ended inquiry on this cause of action.

Answering no to question 27 does not negate any of the required elements of the cause of action, but requires a yes to question 28 to meet the required element (without reasonable grounds for believing it to be true). Had the response to 27 been yes, then the form directs the jury to skip questions 28-33, skipping to an intentional concealment claim (as opposed to negligent misrepresentation). (Question 34.)

Once the jurors answered yes to question 28, they were directed to continue to review the elements required for a negligent misrepresentation case. Those remaining elements are found in questions 29 to 31, each of which the jurors responded yes to. In other words, in order to find negligent misrepresentation the jurors had to find no to question 27 and yes to 28, which they did.

Now, the most critical section and resulting issue that has arisen from the Special Verdict Form used in this case. Question 32 asked with respect to each named Plaintiff did they "prove each and every element in questions 26 through 31." This is where there the directions are less than ideal. It does not ask the jurors whether or not a Plaintiff proved each and every element of the claim (which the verdict indicates they did) but whether Plaintiff proved each and every element in questions 26 through 31. As there was a "no" answer to question 27 (required to find negligent misrepresentation as otherwise would be intentional misrepresentation), the jurors could clearly have believed that therefore a "no" to question 32 (since not a "yes" answer to all questions) was required. This is the flaw in the process of the subject Special Verdict Form.

The instructions are equally confusing as the instructions direct the jurors to answer question 33 regardless of whether they answered yes or no to question 32. Arguably, if question 32 was intended, as Defendants seem to assert, to be the jurors' determination of whether or not any Plaintiff proved all the elements of a negligent misrepresentation claim, then the instructions should have instructed the jurors that a "no" answer to all three Plaintiffs should result in no further questions needed to be answered (which would result in a finding that none of the Plaintiffs had proven negligent misrepresentation). That is not the case. Rather, the instructions required the jurors to then address whether Dickerson was acting within the scope of his agency on behalf of Coachillin Holdings, LLC (Question 33) and whether Dickerson intentionally failed to disclose a fact that Plaintiff did not know and could not have reasonably discovered (Question 34.)

A no to Question 34 then directs jurors to question 41 regarding damages. The jurors' response to question 41 is that they found in favor of Plaintiffs Alpenglow and Brightside and provided the damages determined.

The instructions indicate that had the jurors answered yes to question 32 as to any of the Plaintiffs then they were to answer question 42 regarding apportionment of responsibility, which the jurors did not do. Defendants assert that the jurors failure to answer question 42 is indicative that they

did not find that any of the Plaintiffs proved negligent misrepresentation. Plaintiffs' opposition did not address this argument.

A reading of the special verdict makes clear that the only way to find for any Plaintiff on the negligent misrepresentation claim was to answer the questions as the jury did as to questions 26-31 (as previously discussed above).

Defendants cite *Simgel Co., Inc. v. Jaguar Land Rover North America, LLC* (2020) 55 Cal.App.5th 305 for the proposition that Plaintiffs' proposed judgment is inconsistent with the jurors' findings, as the jurors could only award damages if they found in favor of any Plaintiff. Defendants assert that the jurors did not find any liability. The facts in *Simgel* are dramatically different. In *Simgel* the verdict form had only one question regarding liability to which the jurors answered no; therefore, the court found that the instructions should have instructed jurors to stop there not continue on to the damages section. In other words, in *Simgel* the jurors answered the sole question concerning liability (that the car did not have a window defect that rendered the care unfit for the ordinary purpose of providing transportation). Because the jury found no liability on the sole question the court was able to correct the mistaken verdict awarding damages pursuant to CCP section 663. However, no such situation exists here.

Here, there were multiple questions that the jurors had to answer to find negligent misrepresentation. The jurors provided the required responses to indicate that they found that Dickerson made a negligent misrepresentation while acting in the scope of his agency on behalf of Coachillin, which representation was a substantial factor in causing harm to a Plaintiff. To find negligent misrepresentation required a yes response to questions 26 and 29-31 and a no response to question 28, which is exactly what the jurors responded.

Defendants also cite *Behr v. Redmond* (2011) 193 Cal.App.4th 517 as finding that "[i]f a fact necessary to support a cause of action is not included in such a special verdict, judgment on that cause of action cannot stand." (*Behr v. Redmond* (2011) 193 Cal.App.4th 517, 531.) Defendants reliance on *Behr* is misplaced. In *Behr* Plaintiff pleaded claims for both fraudulent concealment and fraudulent misrepresentation but the special verdict form only laid out the elements for concealment and not for misrepresentation; therefore, the jury did not make the required finding that the defendant made a misrepresentation (because the form did not include a question regarding whether a misrepresentation was made), which precluded a finding of judgment for the plaintiff on that claim. Unlike *Behr*, here the special verdict form included all of the required elements to support a finding of judgment for Plaintiffs Alpenglow and Brightside. Therefore, here there is no need for the court to "imply findings in favor of the prevailing party" as there were explicit findings as to each element made by the jurors.

Lastly, Defendants cite *Myers Building Industries, Ltd. v. Interface Technology, Inc.* (1993) 13 Cal.App.4th 949 to support their position. *Myers Building* involved the award of punitive damages that the court found were not supported by the special verdict form as no special verdict findings were submitted to the jury on any cause of action except breach of contract, even though Myers had pleaded cause of action against Interface for breach of fiduciary duty and fraud. As the breach of contract cause of action could not support punitive damages, and the jury was not requested (and there did not make) any findings for a fraud or other tort cause of action, the court found that the award of punitive damages could not be sustained. (*Myers Building Industries, Ltd. v. Interface Technology, Inc.* (1993) 13 Cal.App.4th 949, 960-961.) Once again, Defendants cite to a case with distinctly different facts. Here, the jurors were asked, and did make findings, regarding all of the required findings to support a judgment for negligent misrepresentation. OVERRULED

### Inconsistent Verdicts

Pursuant to Code of Civil Procedure section 664, “judgment must be entered... in conformity to the verdict.” “The judge has the responsibility to interpret the verdict ‘ “from its language considered in connection with the pleadings, evidence and instructions.” ’ ” (*Shapiro v. Prudential Property & Casualty Co.* (1997) 52 Cal.App.4th 722, 729, quoting *Woodcock v. Fontana Scaffolding & Equip. Co.* (1968) 69 Cal.2d 452, 456.) In *Woodcock v. Fontana Scaffolding & Equipment Co.* (1968) 69 Cal.2d 452, the Supreme Court explained the process for evaluating claims of ambiguities in a verdict as follows:

If the verdict is ambiguous the party affected should request a more formal and certain verdict. Then, if the trial judge has any doubts on the subject, he may send the jury out, under proper instructions, to correct the informal or insufficient verdict. But where no objection is made before the jury is discharged, it falls to the trial judge to interpret the verdict from its language considered in connection with the pleadings, evidence and instructions. Where the trial judge does not interpret the verdict or interprets it erroneously, an appellate court will interpret the verdict if it is possible to give a correct interpretation. If the verdict is hopelessly ambiguous, a reversal is required, although retrial may be limited to the issue of damages.

(*Id.* at pp. 456–57 [quotations, citations, and footnotes omitted].)

Defendants did not seek a more formal certain verdict if they believed that there were inconsistencies in the special verdict form. Therefore, to the extent that the response to question 32 raised ambiguities, the trial judge is “to interpret the verdict from its language considered in connection with the pleadings, evidence and instructions.” (*Woodcock v. Fontana Scaffolding & Equipment Co.* (1968) 69 Cal.2d 452.)

Inconsistencies in a verdict, does not mean the whole verdict is to be rejected as the goal is to conform the judgment to the material result reached by the jury. (*Woodcock v. Fontana Scaffolding & Equipment Co.* (1968) 69 Cal.2d 452, 457.) To reject jurors’ findings “general and special verdicts must be beyond possibility of reconciliation under any possible application of the evidence and instructions. If any conclusions could be drawn thereunder which would explain the apparent conflict, the jury will be deemed to have drawn them.” (*Hasson v. Ford Motor Co.* (1977) 19 Cal.3d 530, 540–41.) The findings should be reconciled if it can reasonably be. (*Spear v. United Railroads of San Francisco* (1911) 16 Cal.App. 637, 654.) Here, the findings are easily reconciled and can only support one reasonable interpretation in light of the pleadings, evidence and instructions, which is that the jury made all the required findings to support Plaintiff Alpenglow’ and Brightside’s claim of negligent misrepresentation and determined the damages sustained by each of those plaintiffs.

Defendants point out that the jurors (because they believed they needed to answer question 32 as “no” because of the “no” response to question 27 (which is the only reasonable interpretation) they failed to answer question 42 regarding comparative fault. Defendants argument that this failure is indication that the jurors did not find negligent misrepresentation lacks merit as set forth above. To the extent that the jurors should have, but failed, to then go on and determine comparative fault, it was Defendants’ burden to raise that issue before the jury was excused. Generally, under the comparative fault doctrine, a defendant has the burden of establishing that some nonzero percentage of fault is properly attributed to the plaintiff. (*Phipps v. Copeland Corp. LLC* (2021) 64 Cal.App.5th 319, 332.) OVERRULED

Defendants also object to the proposed judgment on the grounds that it fails to reflect any judgment in favor of Coachillin and Dickerson against En Primeur as to all claims. Plaintiffs arguments in opposition lack merit. The special verdict form is clear that the jury found in Dickerson’s and Coachillin’s favor as to the negligent misrepresentation claim. The fact that En

Primeur had an assignment interest from Alpenglow does not change the jury's findings. The jury was not asked to make any findings regarding the assignment or what portion if any of Alpenglow's judgment is subject to the assignment. The only issue determined by the jury was that Dickerson and Coachillin were not liable to En Primeur for negligent misrepresentation. Accordingly, Dickerson's and Coachillin's position regarding the judgment are persuasive. To the extent that Dickerson and Coachillin then seek a determination as to being a prevailing party, then perhaps the issue of the assignment and En Primeur's participation in the case would become relevant. As to the proposed judgment, only the juror's determinations are relevant. SUSTAINED AS TO JUDGMENT IN FAVOR OF MOVING DEFENDANTS AGAINST PLAINTIFF EN PRIMEUR.

### Alter Ego

In the alternative, Dickerson asserts that if the court enters a judgment in favor of Alpenglow and Brightside for negligent misrepresentation the judgement should not be entered against Dickerson as he did not owe a duty to either Plaintiff. Dickerson asserts that while Coachillin may have owed Plaintiffs a duty as the seller who owes a duty of disclosure, he was not the seller nor found to be the alter ego of Coachillin. Nor did Plaintiffs request that a finding of alter ego liability be made.

The 8<sup>th</sup> cause of action in Plaintiffs' First Amended Complaint for negligent misrepresentation was alleged against both Coachillin and Dickerson. The claim was not alleged against Dickerson as Coachillin's alter ego but based on direct liability for the representations he made. A negligent misrepresentation claim does not require the existence of a duty owed between the parties, as opposed to concealment claim which does require as an element of the claim a finding that there was a duty owed. The jury's findings reflect that all elements required to impose direct liability against Dickerson for negligent misrepresentation were found.

Accordingly, the court must find that all of Dickerson's and Coachillin's arguments against the proposed language of the judgment as it relates to the negligent misrepresentation claim lack merit.

### Objection 2 – Proposed Judgment Fails to Account for Nonsuit Granted in Defendants' Favor as to the 4<sup>th</sup> Cause of Action for Breach of Fiduciary Duty

The one judgment rule forbids piecemeal disposition (*Dana Point Safe Harbor Collective v. Superior Court* (2010) 51 Cal.4th 1, 5.) The proposed judgment should include language reflecting the nonsuit. SUSTAINED.

### Objection 3 – Proposed Judgment Fails to Include any Judgment Entered in Favor of Indian Canyon

Defendants assert that the judgment fails to include the court's granting previous motions for sanctions and attorney's fees and costs awarded by the court. The award of attorney's fees and costs was based on the court's finding that Indian Canyon was a prevailing party, which finding is currently on appeal. Defendants assert that prior efforts to reduce those awards to a judgment were denied by the court on the grounds of the one judgment rule.

Plaintiffs oppose the inclusion in the court's judgment the above awards previously made by the court on the grounds that the court lacks jurisdiction as Indian Canyon is a dismissed case and that CCP §916 bars the court from proceedings that may possibly affect the outcome of a pending appeal.

The court does not lack jurisdiction to take action to reduce its previous orders to judgment. First, the orders were entered prior to Indian Canyon's dismissal and/or are related to prevailing party cost applications, which as Plaintiffs noted the court has continuing jurisdiction to rule on. Second, the inclusion in the judgment of the court's previous orders would not have any impact on the pending appeal regarding this court's determination that Indian Canyon was a prevailing party.

Defendants position lacks merit. Those are final orders that the court continues to have the ability to enforce. The only findings to be included in the judgment are related to the jury's findings. An entry of judgment, based on the jury trial, does not in any way alter Indian Canyon's right to enforce previous awards by this court. Nor did the voluntary dismissal of Indian Canyon affect any orders entered by this court granting sanctions, costs or attorney's fees. **OVERRULED**