Tentative Rulings for July 14, 2026
Department PS2

To request oral argument, you must notify Judicial Secretary Carol Delfosse-Kidd 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.**

COUNSEL AND SELF-REPRESENTED PARTIES ARE ENCOURAGED TO APPEAR AT ANY LAW AND MOTION DEPARTMENT TELEPHONICALLY WHEN REQUESTING ORAL ARGUMENTS.

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You may also make a Telephonic Appearance: On the day of the hearing, call into one of the below listed phone numbers, and input the meeting number (followed by #):

- Call-in Numbers: 1-833-568-8864 (Toll Free), 1-669-254-5252, 1-669-216-1590, 1-551-285-1373 or 1-646-828-7666
- Meeting Number: 161 644 5616

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.

Riverside Superior Court provides official court reporters for hearings on law and motion matters only for litigants who have been granted fee waivers and only upon their timely request. (See General Administrative Order No. 2021-19-1) Other parties desiring a record of the hearing must retain a reporter pro tempore.

1.

CASE #	CASE NAME	HEARING NAME
CVPS2402536	FALCON VS CNRC, LLC	MOTION TO CONTINUE HEARING

Tentative Ruling: No tentative ruling. Hearing will be conducted on Tuesday, July 14, 2026 at 8:30 a.m., Department PS2.

2.

CASE #	CASE NAME	HEARING NAME
CVPS2406360	MONDRAGON VS COUNTY OF RIVERSIDE	DEMURRER ON 2ND AMENDED COMPLAINT OF IRMA MONDRAGON BY BRANDON BECENTI, HOLIDAY INN EXPRESS & SUITES

Tentative Ruling: Sustained and overruled in part.

Sustained with leave for one additional opportunity to amend as to 1st and 2nd causes of action within 10 days of this order becoming final. Overruled as to 3rd cause of action.

Moving party to provide notice pursuant to CCP 1019.5.

Plaintiff Irma Mondragon ("Plaintiff") worked for defendant County of Riverside as a Social Services Assistant for about 9 years. Plaintiff alleges that on 4/25/23, the County assigned her to supervise a minor alone at a hotel operated by Defendant Holiday Inn Express & Suites ("Defendant") in Corona. The minor, allegedly known to have a history of violence, physically attacked Plaintiff in the hotel gymnasium for about 40 minutes. Plaintiff alleges that this caused significant physical and psychological injury, and she was diagnosed with Post-Traumatic Stress Disorder (PTSD).

The operative Second Amended Complaint ("SAC"), filed 9/17/25, names Defendant and its General Manager, Branden Becenti ("Becenti"), the County, and the supervising county employees, in the following causes of action: (1) intentional misconduct and vicarious liability, (2) negligent hiring, training, and supervision, (3) premise liability, (4) FEHA discrimination, (5) failure to engage in the interactive process, (6) failure to accommodate, (7) retaliation for request for reasonable accommodation, (8) FEHA retaliation, (9) failure to prevent discrimination and retaliation, (10) CFRA retaliation, (11) Labor Code § 1102.5 retaliation (whistleblower retaliation), (12) violation of right to privacy.

Defendants Holiday Inn and Becenti (collectively, "Defendants") demur to the 1st, 2nd, and 3rd causes of action in the SAC for failure to state facts sufficient. Defendants argue that the 1st cause of action for "intentional misconduct" is not a cognizable tort. Even if construed as intentional infliction of emotional distress ("IIED"), passive observation of the attack is not extreme and outrageous conduct. The SAC does not plead intent to cause distress. For the 2nd cause of action (negligent training), Defendants argue that the SAC does not name a single hotel employee who caused injuries. For the 3rd cause of action (premises liability), Defendants assert that landowners owe no duty to prevent third-party criminal conduct. They argue that there were no prior similar incidents to show a reasonably foreseeable risk.

In opposition, Plaintiff argues that for the 1st cause of action for IIED, Defendants had real-time knowledge of the attack, knew of the minor's violent history, and chose not to intervene or assist. For the 2nd cause of action for negligent hiring, Plaintiff argues that Defendant fails to train employees, supervise or adopt protocols, and that Becenti is personally liable as the general manager who directed operations. For the 3rd cause of action, Plaintiff argues that the hotel had actual prior notice of violent conduct on the premises, that a police call at the hotel the night before showed foreseeable risk of criminal acts, a duty exists, and that Defendants breached their duty.

In reply, Defendants argue that for IIED, inaction does not constitute outrageous conduct. They assert that negligent training and supervision is a derivative tort that requires an underlying tort, which is lacking. Defendants assert that they owed no duty to protect Plaintiff because there were no prior *similar* incidents, and the SAC fails to plead that the hotel or Becenti knew of the prior night's event. They otherwise repeat their arguments in the moving papers.

Demurrer

A general demurrer lies where the pleading does not state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10, subd. (e).) In evaluating a demurrer, the court gives the pleading a reasonable interpretation by reading it as a whole and all of its parts in their context. (*Moore v. Regents of University of California* (1990) 51 Cal.3d 120, 125.) The court assumes the truth of all material facts which have been properly pleaded, of facts which may be inferred from those expressly pleaded, and of any material facts of which judicial notice has been requested and may be taken. (*Crowley v. Katleman* (1994) 8 Cal. 4th 666, 672.) However, a demurrer does not admit contentions, deductions or conclusions of fact or law. (*Daar v. Yellow Cab Company* (1967) 67 Cal.2d 695, 713.) If the complaint fails to state a cause of action, the court must grant the plaintiff leave to amend if there is a reasonable possibility that the defect can be cured by amendment. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)

1st Cause of Action - Intentional Misconduct

Intentional misconduct or "willful misconduct" is not a separate tort, but "an aggravated form of negligence, differing in quality rather than degree from ordinary lack of care." (*Berkley v. Dowds* (2007) 152 Cal.App.4th 518, 526 [internal citations omitted].) However, courts must determine if the factual allegations are adequate to state a cause of action under *any* legal theory. (*Id*. at 525.) Here, Plaintiff seeks emotional distress damages, alleging that Defendants' failure to act was "intentional and malicious." (SAC ¶ 63.) A potential theory of liability would be a claim for intentional infliction of emotional distress.

The elements of intentional infliction of emotional distress are: (1) extreme and outrageous conduct by the defendant with the intention of causing or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and proximate causation. (*Christensen v. Superior Court* (1991) 54 Cal.3d 868, 903.) Conduct must be "so extreme as to exceed all bounds of that usually tolerated in a civilized society." (*Huntingdon Life Sciences, Inc. v. Stop Huntingdon Animal Cruelty USA, Inc*. (2005) 129 Cal.App.4th 1228, 1259.)

As to Defendant Becenti, the actual cause of action does not identify any particular conduct on his part. (SAC ¶¶ 60-67.) Instead, the court is left to guess what facts in the general allegations in the 59 paragraphs constitute extreme and outrageous conduct. Plaintiff first alleges that her employer, the County, assigned her to care for a minor known to have a history of violent episodes, and that Defendants failed to protect her. (SAC ¶¶ 18-21.) As a result, Plaintiff allegedly endured a physical attack in the hotel gymnasium. (*Id*., ¶¶ 21-22.) Defendants allegedly "did nothing to help the Plaintiff or otherwise deescalate the attack." (*Id*., ¶ 23.) Becenti then allegedly indicated that "he and/or other hotel staff had witnessed the event via camera" but "did not attempt to intervene or assist … only making contact with the supervisor and offering words of support and a copy of surveillance video afterward." (*Id*., ¶ 28.) Finally, the SAC alleges that Plaintiff herself called the police for help, and the police dispatcher "ascertained that the perpetrator was the same child as had been involved in the previous night's call, and told Ms.

Mondragon that the police could not assist because the child is a ward of the court." (*Id.*, ¶ 27.) The remaining allegations deal with the County's failure to accommodate, denial of promotions, and undesirable working conditions. (SAC ¶¶ 31-49.) At best, the allegations describe an inaction on Becenti's part.

As to Defendant Holiday Inn, the actual cause of action identifies that the hotel "observed the Plaintiff being attacked on the premise[s] for over 40 minutes. Even though Holiday Inn was on notice and was observing the attack in real time via the surveillance camera, they did nothing to assist the Plaintiff who was lawfully on the premise[s] at the time. Defendant Holiday Inn, intentional and malicious, observed the attack occurring and subjected the Plaintiff to the ongoing harm and abuse."

All this demonstrates is a failure to offer help or prevent third-party criminal conduct, not extreme and outrageous conduct. In *Davidson v. City of Westminster* (1982) 32 Cal.3d 197, the court concluded that "absent an intent to injure, [an] inaction is not the kind of 'extreme and outrageous conduct' that gives rise to liability under the 'intentional infliction of emotional distress' tort." (*Id.* at 210.)

Here, the SAC contains no facts suggesting that Defendants acted with an intent to injure. The court must sustain the demurrer to the 1st cause of action with leave to amend.

<u>2nd Cause of Action—Negligent Hiring, Training, and Supervision</u>

An employer may be directly liable to a third party for its negligence in hiring, supervising or retaining an unfit employee. (*Doe v. Capital Cities* (1996) 50 Cal.App.4th 1038, 1054.) The employer is liable because he knew or should have known that the employee created a particular risk or hazard, and that harm materializes. (*Id.*) Liability "is based upon the reasoning that if an enterprise hires individuals with characteristics which might pose a danger to customers or other employees, the enterprise should bear the loss caused by the wrongdoing of its incompetent or unfit employees." (*Mendoza v. City of Los Angeles* (1998) 66 Cal.App.4th 1333, 1339.)

To establish a claim for negligent supervision, "a plaintiff must show that a person in a supervisorial position over the [employee] had prior knowledge of [that specific employee's] propensity to do the bad act." (*Z.V. v. County of Riverside* (2015) 238 Cal.App.4th 889, 902.)

Here, the SAC identifies no employee who committed a bad act against Plaintiff. Rather, it alleges that Plaintiff's injuries were inflicted by a minor in the County's custody. (SAC ¶¶ 22, 27.) The only conduct attributed to an employee is the observation of the gymnasium camera and a phone call to the supervisor. (*Id.*, ¶ 28.) As pled, this claim against Defendant hotel for its derivative liability is not sufficient. There are also no other allegations as to Defendant Becenti's duty to hire the hotel's workforce, or to supervise or retain an unfit employee.

Accordingly, the court must sustain the demurrer to the 2nd cause of action with leave to amend.

<u>3rd Cause of Action—Premises Liability</u>

The elements of a negligence claim are: (1) legal duty owed to plaintiffs to use due care; (2) breach of duty; (3) causation; and (4) damage to plaintiff. (*County of Santa Clara v. Atlantic Richfield Co.* (2006) 137 Cal.App.4th 292, 318.) Premises liability is a form of negligence. Accordingly, the elements of a claim for injuries suffered by an invitee due to a dangerous condition on the premises (whether natural or artificial) are duty, breach, causation, and damages. (*Ortega v. Kmart Corp*. (2001) 26 Cal.4th 1200, 1205.) Concerning the elements of duty and breach, a property owner has a duty to exercise ordinary care in using or maintaining his or her property to avoid exposing others to an unreasonable risk of injury; the failure to fulfill this duty is negligence. (*Alcaraz v. Vece* (1997) 14 Cal.4th 1149, 1156.) "[T]he existence and scope of a property owner's duty to protect against third party crime is a question of law for the court to resolve." (*Castaneda v. Olsher* (2007) 41 Cal.4th 1205, 1213.)

First, a business proprietor owes "a special-relationship-based duty to undertake reasonable and minimally burdensome measures to assist customers or invitees who face danger from imminent or ongoing criminal assaultive conduct occurring upon the premises." (*Morris v. De La Torre* (2005) 36 Cal.4th 260, 269.) Here, Plaintiff was allegedly an invitee lawfully on the hotel premises as a County employee performing her job duties. (SAC ¶¶ 18, 21 29, 63.) Therefore, Defendants allegedly owed Plaintiff a duty to maintain a safe environment and assist in ongoing dangers. "Turning to the question of the scope of a landlord's duty to provide protection from foreseeable third party crime, ... we have recognized that the scope of the duty is determined in part by balancing the foreseeability of the harm against the burden of the duty to be imposed." (*Castaneda v. Olsher, supra*, 41 Cal.4th at 1213.) Here, the SAC alleges that "[d]espite being on notice of the attack as it was occurring, and despite knowledge of the incident that occurred on the Holiday Inn premises the day prior, defendants Holiday Inn and Defendant Branden Becenti did nothing to help the Plaintiff or otherwise deescalate the attack." (SAC ¶ 23.) The SAC further alleges that Defendants "had witnessed" Plaintiff being attacked "via camera footage of the gymnasium," (*Id.*, ¶ 28), and "[e]ven though Holiday Inn was on notice and was observing the attack in real time … they did nothing to assist the Plaintiff who was lawfully on the premise[s] at the time." (*Id.*, ¶ 63.) Here, the SAC asserts that Defendants failed to take *any* reasonable protective measures, and that Defendants breached their duty by failing to "provide the protection of immediate intervention to stop" the attack. (*Id.*, ¶ 72).

As to foreseeability, the SAC alleges that "the police had been called due to an incident with the child the previous night" (*Id.*, ¶ 19), that Defendants had knowledge of the incident that occurred on the Holiday Inn premises the day prior (*Id.*, ¶ 23), and that the hotel and Becenti "were both aware of the child's violent tendencies and past police intervention." (*Id.*, ¶ 28.) At the pleading stage, these allegations must be accepted as true. A police-involved violent incident by the same individual at the same property the night before constitutes a prior similar incident that would place a property owner on notice of a threat.

Contrary to Defendants' argument, whether calling the police would have been futile is a question that cannot be resolved on demurrer. Consequently, because the SAC alleges a special relationship, prior notice of a threat, and a failure to take any protective measures during an ongoing assault, the SAC stated facts sufficient for a premises liability claim. The demurrer to the 3rd cause of action is overruled.

3.

CASE #	CASE NAME	HEARING NAME
CVPS2406360	MONDRAGON VS COUNTY OF RIVERSIDE	MOTION TO STRIKE PORTIONS OF PLAINTIFF'S 2ND AMENDED COMPLAINT

Tentative Ruling: Granted.

No opposition filed.

The following portions of the operative 2nd Amended Complaint are ordered stricken:

1. From paragraph 63 (page 13, line 17), the words: “intentional and malicious, ” and the phrase “intentional and malicious” wherever it appears in that paragraph in reference to Defendant Holiday Inn Express & Suites;

2. From the Prayer for Relief, subparagraph B (page 22, lines 19–22): “For punitive damages pursuant to Civil Code §3294 against the individual defendants only for intentional misconduct, malice, and oppression, to punish wrongdoing and deter future misconduct;” — to the extent the prayer seeks punitive damages against Defendant Branden Becenti;

3. From the Prayer for Relief, subparagraph C (page 22, line 23): “For attorney fees;” — in its entirety as to Moving Defendants Holiday Inn Express & Suites and Branden Becenti.

Moving party to provide notice pursuant to CCP 1019.5.

4.

CASE #	CASE NAME	HEARING NAME
CVPS2504787	HUNTINGTON VS VOLKSWAGEN GROUP OF AMERICA, INC., A NEW JERSEY CORPORATION	MOTION TO ENFORCE COMPLIANCE WITH THE COURT'S 02.09.26 DISCOVERY ORDER BY JEFF HUNTINGTON, LI CAO

Tentative Ruling: Granted in part.

Responding party is ordered to serve verified further responses to the Demand for Production of Documents, Set One, No. 15-22, without objections within 30 days of service of notice (CCP § 2031.310).

Moving party to provide notice pursuant to CCP 1019.5.

This is a lemon law action. On July 1, 2025, Plaintiffs Jeff Huntington and Li Cao (“Plaintiffs”) filed a Complaint against Defendant Volkswagen Group of America, Inc. (“Defendant”) for: (1) breach of express warranty in violation of the Song Beverly Act; (2) breach of implied warranty in violation of the Song Beverly Act; and (3) violation of section 1793.2 of the Song Beverly Act. In the Complaint, Plaintiffs allege that on August 12, 2022, they purchased a 2022 Audi A8 L (the “Vehicle”), on which Defendant issued a written warranty. (Complaint at ¶¶ 8-9, 21.) The Vehicle was delivered to Plaintiffs with defects to the suspension, engine, and electrical systems that impaired the use, value, and safety of the Vehicle. (Complaint at ¶¶ 10, 22, 26.) Plaintiffs brought the Vehicle to Defendant for repairs, and Defendant could not conform the Vehicle to the warranty within a reasonable number of attempts. (Complaint at ¶¶ 11-14, 27-28.)

On August 25, 2025, Plaintiffs propounded requests for production of documents (“RFPs”) on Defendant. On October 31, 2025, Defendant served responses to the RFPs and produced some responsive documents. On December 31, 2025, Plaintiffs filed a motion to compel further responses to the RFPs.

On February 9, 2026, the Court granted Plaintiffs’ motion as to RFP nos. 1-14; granted the motion as to RFP nos. 15-30, but limited to vehicles of the same year, make, and model as the Vehicle and defects that Plaintiffs contend impaired the use, value, and safety or the Vehicle; and denied the motion as to RFP no. 31. The Court ordered Defendant to “serve verified responses to the Demand for Production of Documents, Set One, without objections, within 30 days of service of notice consistent with this order.” (2/9/26 Minute Order.) As of the date identified by the Court for further responses (March 11, 2026), Defendant failed to serve such responses.

Plaintiffs now move for an order compelling Defendant to comply with the court's 2/9/26 order, and for sanctions due to Defendant's willful disobedience of the court order.

In opposition, Defendant argues that the motion should be denied because it has fully complied with the 2/9/26 order; the request for sanctions does not comply with C.C.P. § 2023.040; and prospective sanctions are not appropriate because Defendant did not willfully disobey the order.

In reply, Plaintiffs argue that Defendant waited months to comply with the order requiring it to provide responses without objections, and it still has not produced documents responsive to RFP nos. 15-22.

<u>Motion to Compel Further Response(s)</u>

Pursuant to C.C.P. § 2031.310(i), if a party fails to obey an order compelling a further response to RFPs, "the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of, or in addition to, that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010)." (C.C.P. § 2031.310(i); see also, C.C.P. § 2023.030(a)-(d) [when a party fails to obey a court order compelling responses to discovery requests, the court may impose monetary, issue, evidentiary and/or terminating sanctions].)

Here, there is no dispute that as of the date identified by the Court for further responses (March 11, 2026), Defendant failed to serve such responses. On April 3, 2026, 23 days later (and 53 days after the order was entered), Defendant served further responses to the RFPs, but the responses still included objections the Court had previously determined lacked merit [Decl. of Alexander Kim ["Kim Decl."] at ¶ 7, Ex. C], while the court order required Defendant to serve responses without objections. (2/9/26 Minute Order.) Therefore, at the time the motion was filed, Defendant had still not complied with the Court's order. On May 21, 2026 (45 days after this motion was filed, and more than 14 weeks after the order was issued), Defendant served further responses to the RFPs, without objections, as ordered by the Court on February 9, 2026. (Kim Decl. at ¶ 9, Ex. E.) Further, Defendant only produced documents responsive to RFP no. 30 on June 8, 2026, four months after the order was entered. Therefore, while responses and these documents have now been provided, it seems clear that would not have occurred without this motion.

Additionally, Plaintiffs argue and produce evidence that Defendant has not produced documents responsive to RFP nos. 15-22, including training materials, Salesforce articles, and policies and procedures used in evaluating customer complaints, buyback requests, and complying with the Song Beverly Act. (Decl. of Xavier P. Hozven ["Hozven Decl."] at ¶¶ 7-16.) Defendant, on the other hand, contends that all responsive documents have been provided. In its responses to RFP nos. 15-22, Defendant states "VWGoA will comply in whole and all responsive documents in the demanded category that are in VWGoA's possession, custody, or control and to which no objection has been made will be included in the attached document production." (Kim Decl., Ex. E, nos. 15-22.) Since Defendant inappropriately qualifies its production to documents "to which no objection has been made," there is insufficient evidence showing that all responsive documents have actually been provided. Defendant is ordered to produce all documents in its possession, custody, or control that are responsive to RFP nos. 15-22. If Defendant still contends that all such documents have been provided, they are required to provide a further/amended response to RFP nos. 15-22 stating this and making clear that no documents were withheld.

Under the circumstances (Defendant's significant delay in providing objection-free responses and producing documents, and potentially improperly withholding certain responsive documents), sanctions against Defendant and its counsel would be appropriate. (See, C.C.P. § 2031.310(i);

see also, C.C.P. § 2023.030(a).) However, Defendant is correct that Plaintiffs did not comply with the procedural requirements necessary for the imposition of sanctions. C.C.P. § 2023.040 states that “[a] request for a sanction shall, in the notice of motion, identify every person, party, and attorney whom the sanction is sought, and specify the type of sanctions sought. The notice shall be supported by a memorandum of points and authorities, and accompanied by a declaration setting forth fact supporting the amount of any monetary sanctions sought.” Monetary sanctions are not to punish but to make the moving party whole, which means they are based on attorney fees and costs incurred as a result of the misuse of discovery. (See *Cornerstone Realty Advisors, LLC v. Summit Healthcare REIT, Inc.* (2020) 56 Cal.App.5th 771, 790; *Kwan Software Engineering, Inc. v. Hennings* (2020) 58 Cal.App.5th 57, 75.) If the court is unable to ascertain from the record what fees and costs were incurred as a result of the discovery misuse, sanctions can be denied. (See *Cornerstone Realty Advisors, LLC, supra*, 56 Cal.App.5th at 790-791.)

Here, Plaintiffs do not identify the type of sanctions sought against Defendant in their Notice. They also only identify Defendant in the Notice, while also seeking sanctions against defense counsel in the memorandum of points and authorities. Finally, they do not provide a declaration with any facts showing the amount of attorney's fees incurred as a result of the misuse of discovery. Accordingly, the request for sanctions must be denied.

5.

CASE #	CASE NAME	HEARING NAME
CVPS2507250	DEAN VS KAISER FOUNDATION HEALTH PLAN, INC.	MOTION FOR RECONSIDERATION OF [CCP 1048]

Tentative Ruling: Denied.

Plaintiff requests for the court to reconsider its prior ruling on Vexatious Litigant Status from March 19, 2026.

Responding party to provide notice pursuant to CCP 1019.5.

<u>Motion for Reconsideration</u>

A motion for reconsideration must be based on new or different facts, circumstances or law. (C.C.P. §1008(a).) The legislative intent was to restrict these motions to circumstances where a party offers the court some fact or circumstance not previously considered, and some valid reason for not offering it earlier. (*Gilberd v. AC Transit* (1995) 32 Cal.App.4th 1494, 1500.) The burden is comparable to that of a party seeking a new trial on the ground of newly discovered evidence; that is, the information must be such that the moving party could not with reasonable diligence have discovered or produced it at trial. (*New York Times Co. v. Superior Court* (2005) 135 Cal.App.4th 206, 212-13.) A motion for reconsideration must be brought within 10 days of the service of the written notice of entry of the order (C.C.P. §1008(a)), while a renewal of a motion under C.C.P. §1008(b) has no explicit time limit.

“The ‘different state of facts’ language in the statute requires that the party seeking reconsideration provide both newly discovered evidence and an explanation for the failure to have produced such evidence earlier.” (*Robbins v. Los Angeles Unified School Dist.* (1992) 3 Cal.App.4th 313, 317.) “The moving party’s burden is the same as that of a party seeking new trial on the ground of ‘newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial.’” (*Baldwin v. Home Savings of America* (1997) 59 Cal.App.4th 1192, 1198.) And so the moving party must provide the trial court with a satisfactory explanation as to why he or she failed to produce the evidence at an earlier time. (*Mink v. Superior*

Court (1992) 2 Cal.App.4th 1338; *Lucas v. Santa Maria Public Airport Dist.* (1995) 39 Cal.App.4th 1017, 1028.)

Here, the court cannot reconsider the instant motion because Plaintiff has failed to post a bond as previously ordered to do so and thus the CCP section 391.6 stays remains in effect depriving this court of authority to rule on the merits of any pending motion. Moreover, there are no new or different facts, circumstances or law, which would allow this court to change its prior ruling.

6.

CASE #	CASE NAME	HEARING NAME
CVPS2507250	DEAN VS KAISER FOUNDATION HEALTH PLAN, INC.	HEARING ON ANTI-SLAPP MOTION

Tentative Ruling: Matter is dismissed pursuant to CCP Section 391.4. Hearing taken off calendar as moot in light of dismissal.

On October 3, 2025, Plaintiffs Stephan Dean and Liza Dean, individually and d/b/a SureFile Filing Systems (collectively, "Plaintiffs") filed the operative Complaint against Defendants Kaiser Foundation Health Plan, Inc. and Kaiser Foundation Hospitals (collectively, "Defendants").

On January 15, 2026, Defendants filed a special motion to strike under CCP § 425.16. On January 21, 2026, Defendants filed a motion to declare Plaintiffs vexatious litigants under CCP § 391.

On March 19, 2026, the Court granted the vexatious litigant motion, declared each Plaintiff a vexatious litigant subject to a section 391.7 prefiling order, and ordered Plaintiffs to furnish $50,000 in security to the Riverside Superior Court by April 1, 2026, or the case may be dismissed. (Minute Order dated March 19, 2026.) The Court expressly held that upon the filing of the vexatious litigant motion the entire litigation was stayed, and that the Court "need not address the merits of the anti-SLAPP motion unless and until ten (10) days after Plaintiffs post the security required by the Court's order." (*Id.*)

The Court thereafter continued the hearing on the anti-SLAPP motion to July 14, 2026, "to allow time to determine status of posting of security before court to decide merits on the instant motion." (Court's Minute Order dated April 1, 2026.)

On March 30, 2026, Plaintiffs filed a motion for reconsideration of the March 19, 2026 order, also set for hearing on July 14, 2026.

<u>Anti SLAPP</u>

As of July 13, 2026 the docket does not reflect that Plaintiffs have posted the $50,000 security ordered on March 19, 2026. Defendants' Opposition to the motion for reconsideration, filed May 15, 2026, affirmatively represents that "Plaintiffs have not posted the Court-ordered bond," supported by the Declaration of Jack Burns, filed in support of that Opposition. (Burns Decl. ¶ 3.) The April 1, 2026 posting deadline has passed.

The pending motion for reconsideration does not toll the posting deadline. CCP § 391.4 provides that when security "is not furnished as ordered, the litigation shall be dismissed as to defendant for whose benefit it was ordered furnished." (CCP § 391.4 [emphasis added].) The word "shall" is mandatory, and nothing in section 391.3, 391.4, or 391.6 tolls the posting deadline upon the filing of a motion for reconsideration.

To the contrary, section 391.6 stays "the entirety for the litigation" from the filing of the vexatious litigant motion until 10 days after security is furnished, and "does not carve out any exception for proceedings that may continue" other than dismissal under section 391.3(b). (*Hanna v. Little League Baseball* (2020) 53 Cal.App.5th 871, 875–76.) The stay applies to the anti-SLAPP motion itself. (*Id.*)

On the current record, the Court cannot reach the merits of the anti-SLAPP motion (or the motion for reconsideration) because no bond has been posted, (1) the section 391.6 stay remains in effect, depriving the Court of authority to rule on the merits of the anti-SLAPP motion, and (2) because the security ordered on March 19, 2026 was not furnished as ordered, dismissal of the action as to Defendants is mandatory under section 391.4.

7.

CASE #	CASE NAME	HEARING NAME
CVPS2508833	MONTEREY PALMS OPERATING COMPANY, LP, A DELAWARE LIMITED PARTNERSHIP VS ARMSTRONG	DEMURRER ON COMPLAINT FOR BREACH OF CONTRACT OF MONTEREY PALMS OPERATING COMPANY, LP, A DELAWARE LIMITED PARTNERSHIP BY RUTH ARMSTRONG

Tentative Ruling: Overruled.

Defendant to file their answer to operative complaint within 20 days of this order becoming final.

Responding party to provide notice pursuant to CCP 1019.5.

This case is about an unpaid bill for skilled nursing facility care. On November 7, 2025, Plaintiff Monterey Palms Operating Company, LP, dba Monterey Palms Health Care Center ("Plaintiff") filed a Complaint against Defendant Ruth Armstrong ("Defendant"), asserting three causes of action: (1) breach of written contract; (2) common counts (open book account); and (3) quantum meruit.

Plaintiff alleges that on or about January 6, 2024, Defendant entered into a written "California Standard Admission Agreement for Skilled Nursing Facilities and Intermediate Care Facilities" (hereinafter, "Admission Agreement"), which was signed on her behalf by her son, Chris Armstrong, as her agent and "Resident's Representative." (Compl. ¶ 5.) Plaintiff rendered skilled nursing care and treatment to Defendant from on or about December 18, 2023, until June 3, 2025, and alleges it is owed $207,310.80 for that care, which Defendant has failed to pay despite demand. (*Id.* at ¶¶ 6–7, 10.)

Defendant argues that all three causes of action (breach of written contract, open book account, and quantum meruit) fail because the Complaint contains only a conclusory allegation that her son, Chris Armstrong, signed the Admission Agreement as her "agent," without pleading any facts establishing when, how, or under what circumstances she authorized him to act on her behalf. Defendant contends that under California law, family relationship alone does not create agency, that the burden is on Plaintiff to prove authority, and that without factual allegations of express authorization, implied authorization, ostensible authority, or ratification, the Complaint is legally insufficient. Defendant alternatively argues that the Complaint is uncertain under CCP § 430.10(f) because it fails to clearly establish the basis for imposing liability on her.

In opposition, Plaintiff argues that all three causes of action are adequately pled, noting that the Complaint does allege agency—specifically that "Chris Armstrong signed the Contract as Defendant Armstrong's agent and as the 'Resident's Representative'" (Compl. ¶ 5)—and that

Defendant's demand for additional facts regarding the agency relationship goes beyond what is required at the pleading stage. Plaintiff contends it is not required to prove its case in the Complaint, that Defendant can raise these issues as affirmative defenses, and that the common count causes of action (open book account and quantum meruit) are general pleadings that seek recovery of money without specifying the nature of the claim and do not require agency allegations at all.

In reply, Defendant argues that Plaintiffs' opposition confirms the Complaint's fundamental deficiency by relying solely on the conclusory allegation that Chris Armstrong signed the Admission Agreement as Defendant's "agent," without any facts showing that Defendant authorized him to bind her. Defendant contends the general rule permitting an ultimate fact allegation of agency does not apply here because the Complaint and attached Admission Agreement contain specific allegations that contradict or negate the agency relationship—including the agreement's provision that signing as "Resident's Representative" does not itself create liability, and the timing discrepancy showing services began nineteen days before the agreement was signed. Defendant further argues that the common count claims fails for the same reason because they depend on the same unpled agency link, and asks the Court to sustain the demurrer without leave to amend because amendment would be futile.

<u>Demurrer</u>

"[A] demurrer tests the legal sufficiency of the allegations in a complaint." (*Lewis v. Safeway, Inc.* (2015) 235 Cal.App.4th 385, 388.) A demurrer can be used only to challenge defects that appear on the face of the pleading under attack or from matters outside the pleading that are judicially noticeable. (*See Donabedian v. Mercury Ins. Co.* (2004) 116 Cal.App.4th 968, 994.) For purposes of ruling on a demurrer, all facts pleaded in a complaint are assumed to be true, but the reviewing court does not assume the truth of conclusions of law. (*See Aubry v. Tri-City Hosp. Dist.* (1992) 2 Cal.4th 962, 967.) The only issue a demurrer is concerned with is whether the complaint, as it stands, states a cause of action. (*See Hahn v. Mirda* (2007) 147 Cal.App.4th 740, 747.)

<u>1st Cause of Action - Breach of Written Contract</u>

The first cause of action alleges breach of written contract. To state a breach of contract claim, a plaintiff must plead "'(1) the contract, (2) plaintiff's performance or excuse for nonperformance, (3) defendant's breach, and (4) the resulting damages to plaintiff.'" (*Kumaraperu v. Feldsted* (2015) 237 Cal.App.4th 60, 70 [internal quotation omitted].)

Defendant argues the Complaint contains only conclusory allegations that Chris Armstrong acted as Defendant's agent, without pleading any facts establishing Defendant authorized Chris Armstrong to bind her to the Admission Agreement. Specifically, the Complaint alleges in paragraph 5 that Chris Armstrong "signed the Contract as Defendant ARMSTRONG's agent and as the 'Resident's Representative.'" (Compl. ¶ 5.)

Defendant emphasizes that the Complaint contains no factual allegations regarding when Defendant authorized Chris Armstrong to act as her representative; how this authorization was communicated; whether Defendant was competent to authorize an agent; whether Defendant was present at the signing; whether Defendant subsequently ratified the agreement; what specific powers or scope of authority were granted; whether Defendant understood the nature and scope of the agreement; any conduct by Defendant supporting implied authorization; or any facts regarding Defendant's relationship with Chris Armstrong beyond the family relationship of parent and adult child. (Def.'s Demurrer 4:13–5:6.) Defendant further argues the Admission Agreement was executed on January 6, 2024, yet Defendant was admitted on December 18, 2023, creating a timing discrepancy that heightens the need for specific factual allegations regarding authorization and capacity. (*Id.* at 6:6–15.)

Defendant correctly notes that family relationship alone does not establish agency (*Edwards v. Freeman* (1949) 34 Cal.2d 589, 592 ["*Edwards*"]) and that Plaintiff bears the burden to prove Defendant authorized Chris Armstrong to bind her to the contract (*Ewing v. Hayward* (1920) 50 Cal.App. 708, 716 ["*Ewing*"]). However, the distinction between pleading and proof is dispositive here.

California law is clear that "[a]n allegation of agency is an allegation of ultimate fact that must be accepted as true for purposes of ruling on a demurrer." (*City of Industry v. City of Fillmore* (2011) 198 Cal.App.4th 191, 212–13; *Skopp v. Weaver* (1976) 16 Cal.3d 432, 439 ["an allegation of agency as such is a statement of ultimate fact . . . further allegations explaining how this fact of agency originated become unnecessary"].) At the pleading stage, a plaintiff need not plead evidentiary details of how agency was established. (*Skopp*, *supra*, 16 Cal.3d at 439; *see also C.A. v. William S. Hart Union High Sch. Dist.* (2012) 53 Cal.4th 861, 872.)

The Complaint alleges that Chris Armstrong signed the Admission Agreement as Defendant's agent and as "Resident's Representative," identified as her son. (Compl. ¶ 5, Ex. A.) This allegation, taken as true under demurrer standards, is sufficient to survive a facial challenge even though Plaintiff will bear the burden of proving actual or ostensible authority at trial. (*City of Industry*, *supra*, 198 Cal.App.4th at 212; *Hearden v. Windsor Redding Care Ctr., LLC* (2024) 103 Cal.App.5th 1010, 1020 ["*Hearden*"].) While the Complaint does not detail the manner or timing of authorization, such evidentiary specificity is not required at the pleading stage. (*Skopp*, *supra*, 16 Cal.3d at 439 [rejecting defendant's contention that "plaintiffs have not clearly alleged facts explaining how the agency relationship between them and defendants arose" as "an allegation of agency . . . is a statement of ultimate fact" and "further allegations explaining how this fact of agency originated become unnecessary"].)

Defendant cites *Edwards*, *Ewing*, and *Hearden* to support her argument that the agency allegation is insufficient. However, these authorities address the burden of proving agency at trial or on summary judgment, not what must be pleaded to survive demurrer. *Edwards* holds that agency requires "manifestation of consent" and that "filial regard alone does not establish the relationship"—a substantive rule about what agency is, not a pleading requirement. (*Edwards*, *supra*, 34 Cal.2d at 592.) *Ewing* expressly addresses the "burden of proof" and states that agency "must be proved by evidence aliunde"—a trial/evidentiary standard. (*Ewing*, *supra*, 50 Cal.App. at 716.) *Hearden* likewise concerns the burden at proof: whether a party "does not meet its burden of [proof] when it does not present any evidence." (*Hearden*, *supra*, 103 Cal.App.5th at 1020.) None of these cases holds that an express allegation of agency—that Chris Armstrong signed as Defendant's "agent"—is insufficient at the pleading stage.

Defendant nonetheless argues in reply that *Skopp*'s ultimate-fact rule does not apply here because the Admission Agreement contains specific language stating that signing as Resident's Representative does not itself create liability. (Def.'s Reply 3:2–17.) This language, however, limits when a representative automatically becomes liable, but it does not preclude liability based on agency where, as expressly alleged here, the representative signed as the Resident's agent. (Compl. ¶ 5.) Whether Chris Armstrong in fact had authority is a factual question unsuitable for resolution on demurrer.

Defendant further argues that services began on December 18, 2023, yet the Admission Agreement was not signed until January 6, 2024, and that this timing discrepancy heightens the need for detailed agency allegations. But whether services rendered before contract execution are covered by the agreement, or were later ratified, is a merits question, not a pleading question.

The timing discrepancy does not alter Skopp's rule that an allegation of agency is an ultimate fact accepted as true on demurrer.

Finally, Defendant relies in reply on a series of skilled nursing facility arbitration cases—*Valentine v. Plum Healthcare Group, LLC* (2019) 37 Cal.App.5th 1076; *Rogers v. Roseville SH, LLC* (2022) 75 Cal.App.5th 1065; *Young v. Horizon West, Inc.* (2013) 220 Cal.App.4th 1122; and *Flores v. Evergreen at San Diego, LLC* (2007) 148 Cal.App.4th 581—to argue that agency cannot be established by the purported agent's own conduct or by family relationship alone. These cases, however, address whether agency was *proven* to compel arbitration or establish liability in the skilled nursing context. They suffer from the same limitation as *Edwards*, *Ewing*, and *Hearden*—they establish substantive agency doctrine and evidentiary burdens, but do not hold that an express ultimate fact allegation of agency is insufficient on demurrer.

To the extent Defendant demurs on the alternative ground of uncertainty under CCP § 430.10(f), that argument also fails. Demurrers for uncertainty are disfavored and will be sustained only where the pleading is so incomprehensible that a defendant cannot reasonably respond. (*Lickiss v. Financial Industry Regulatory Auth.* (2012) 208 Cal.App.4th 1125, 1135.) The Complaint plainly identifies the parties, the Admission Agreement, the services rendered, the amount owed, and the agency theory of liability. Defendant is able to respond to the allegations, as her demurrer and reply demonstrate. Thus, the Complaint is not uncertain. Overruled.

<u>2nd and 3rd Causes of Action - Common Counts/Open Book Account</u>

The second cause of action alleges a common count for open book account. To state a claim for an open book account, plaintiff must plead a detailed statement constituting the principal record of transactions between debtor and creditor, showing debits and credits, maintained in the regular course of business. (*Maggio, Inc. v. Neal* (1987) 196 Cal.App.3d 745, 752.) The essential allegations are a statement of indebtedness in a certain sum, the consideration, and nonpayment. (*Farmers Ins. Exchange v. Zerin* (1997) 53 Cal.App.4th 445, 460 ["*Zerin*"].)

The third cause of action alleges quantum meruit. To state a claim in quantum meruit, plaintiff must plead that services were performed at the defendant's request, that defendant knew the services were being rendered, that the services were of reasonable value, and that they are unpaid. (*Haggerty v. Warner* (1953) 115 Cal.App.2d 468, 475 ["*Haggerty*"].)

The same agency pleading analysis applies to both the second and third causes of action. Defendant's demurrer challenges these claims on the ground that Plaintiff has not adequately pled facts establishing that Defendant authorized Chris Armstrong to bind her. However, both common count theories require only that Plaintiff allege Defendant became indebted for services rendered or an account maintained. The Complaint alleges that Defendant received skilled nursing care and treatment from Plaintiff, that an account exists for that care, and that the amount remains unpaid. These allegations, accepted as true on demurrer, sufficiently state causes of action under common count and quantum meruit theories. (*Zerin*, *supra*, 53 Cal.App.4th at 460; *Haggerty*, *supra*, 115 Cal.App.2d at 475.) Thus, for the reasons explained above with respect to the breach of contract claim, the demurrer to the second and third causes of action are each overruled.