Tentative Rulings for January 21, 2026
Department 503

For any matter where an oral argument is requested and any party to the hearing desires a remote appearance, such request must be timely submitted to and approved by the hearing judge. In this department, the remote appearance will be conducted through Zoom. If approved, please provide the department's clerk a correct email address. (CRC 3.672, Fresno Sup.C. Local Rule 1.1.19)

There are no tentative rulings for the following cases. The hearing will go forward on these matters. If a person is under a court order to appear, he/she must do so. Otherwise, parties should appear unless they have notified the court that they will submit the matter without an appearance. (See California Rules of Court, rule 3.1304(c).) ***The above rule also applies to cases listed in this "must appear" section.***

The court has continued the following cases. The deadlines for opposition and reply papers will remain the same as for the original hearing date.

(Tentative Rulings begin at the next page)

Tentative Rulings for Department 503

Begin at the next page

(03)

Tentative Ruling

Re:	***Worldway International Investment Holdings Limited v. Advanced Bioenergy, LP*** Case No. 25CECG01954
Hearing Date:	January 21, 2026 (Dept. 503)
Motion:	Defendants' Motion to Disqualify DLA Piper, LLP as Counsel for Plaintiff Worldway International Investments Holdings Limited

Tentative Ruling:

To deny defendants' motion to disqualify DLA Piper, LLP as counsel for plaintiff Worldway International Investments Holdings Limited.

Explanation:

Defendants claim that DLA has an irreconcilable conflict of interest because it represents both plaintiff and Third Eye Capital (TEC), which both loaned money to defendants, and both of which have conflicting interests in collecting on their separate loans. TEC has not waived the conflict of interest, so defendants conclude that DLA must be disqualified from representing plaintiff here. Defendants also claim that DLA obtained confidential financial information from defendant Aemetis during the loan negotiation process with TEC, which DLA could use to obtain an unfair advantage over defendants in the present case. Therefore, defendants conclude that the court should grant the motion to disqualify DLA.

First, however, defendants have not provided any explanation for their lengthy delay in bringing their motion to disqualify DLA, despite the fact that it appears that defendants have known for years that DLA represented both plaintiff and third party lender Third Eye Capital (TEC). The court has discretion to deny a motion for disqualification if the moving party unreasonably delayed in making the motion after learning of the conflict and the other party was prejudiced as a result.

"[A] motion for disqualification is equitable in nature and reasonable diligence is required." (*River West, Inc. v. Nickel* (1987) 188 Cal.App.3d 1297, 1305, citation omitted.) "The trial court must have discretion to find laches forecloses the former client's claim of conflict. The burden then shifts back to the party seeking disqualification to justify the delay. That party should address: (1) how long it has known of the potential conflict; (2) whether it has been represented by counsel since it has known of the potential conflict; (3) whether anyone prevented the moving party from making the motion earlier, and if so, under what circumstances; and (4) whether an earlier motion to disqualify would have been inappropriate or futile and why." (*Id.* at p. 1309.)

However, "[b]ecause of the law's concern for unhampered counsel on both sides of the litigation, 'mere delay' in making a disqualification motion is not dispositive. The delay must be extreme in terms of time and consequence. Thus the court must initially determine when the former client became aware of the attorney's potential conflict.

Whether there was diligence in making the motion for disqualification depends upon establishing that knowledge." (*Id.* at p. 1311.)

Here, it appears that defendants have been aware of the fact that DLA represented TEC at least since April of 2025, when DLA filed the present action on behalf of plaintiff, and probably since 2020, when DLA sued defendants and helped negotiate and draft the settlement of the prior lawsuit between plaintiff and defendants. Thus, there has been a lengthy delay of at least six months, and possibly about five years, since defendants learned of the alleged conflict. Defendants do not state when they first learned of the conflict, nor do they explain why they waited until October 3, 2025, just before their opposition to the plaintiff's summary judgment motion was due, before first raising the issue of the alleged conflict of interest. Defendants have been represented by counsel since 2020, when they were first sued by plaintiff. They also have not shown that they could not have brought the motion earlier, or that anyone prevented them from moving for disqualification sooner. Therefore, they have failed to show that they were diligent in objecting to the representation.

Also, plaintiff would be prejudiced if their chosen law firm were disqualified from representing them, since they have already litigated the case for about nine months and brought a summary judgment motion, which the court has now granted. As a result, the court intends to find that defendants have waived their right to object to the representation by excessively and unreasonably delaying before moving to disqualify plaintiff's counsel.

Next, even if defendants did not waive their right to object to the representation, the court would still deny the motion on the merits. Defendants have contended that DLA cannot represent both plaintiff and TEC at the same time, as plaintiff and TEC have conflicting interests in collecting money from defendants. However, defendants have no standing to raise the conflict of interest that DLA might have with its clients when defendants are not themselves clients of DLA.

Defendants assert that DLA's dual representation of plaintiff and TEC violates Rules of Professional Conduct, rules 1.6, 1.7, 1.9 and 1.10. However, Rules 1.6, 1.7, 1.9, and 1.10 only apply to the relationship between lawyers and their clients. Where there has never been an attorney-client relationship between the party moving for disqualification and the law firm, the moving party usually lacks standing to bring the motion. "A 'standing' requirement is implicit in disqualification motions. Generally, before the disqualification of an attorney is proper, the complaining party must have or must have had an attorney-client relationship with that attorney." (*Great Lakes Construction, Inc. v. Burman* (2010) 186 Cal.App.4th 1347, 1356, citations omitted.)

"*DCH Health Services Corp. v. Waite, supra,* 95 Cal.App.4th 829, 115 Cal.Rptr.2d 847, held that absent an attorney-client relationship, the moving party must have an expectation of confidentiality. For purposes of a disqualification motion, '[s]tanding arises from a breach of the duty of confidentiality owed to the complaining party, regardless of whether a lawyer-client relationship existed.' Thus, some sort of confidential or fiduciary relationship must exist or have existed before a party may disqualify an attorney predicated on the actual or potential disclosure of confidential information." (*Ibid*, citations omitted.) "Where the relationship of attorney and client was never in fact created between the attorney and the complaining party there is no disqualification for acting for another against that party." (*Kraus v. Davis* (1970) 6 Cal.App.3d 484, 490, citations omitted.)

Here, defendants admit that they are not, and never have been, the clients of DLA Piper. Nor do they present any facts showing that they had a confidential or fiduciary relationship with DLA. Instead, DLA represents plaintiff and TEC, which are both creditors of defendants. Thus, there was no fiduciary or confidential relationship between DLA and defendants. Since defendants are not clients or fiduciaries of DLA, they have no standing to assert that DLA has a conflict due to its dual representation of both plaintiff and TEC.

Nevertheless, defendants argue that DLA should be disqualified because it allegedly obtained confidential and proprietary financial information from defendant Aemetis during the loan negotiations with TEC in 2012 and 2022. Defendants contend that DLA could use this financial information to gain an unfair advantage over them in the present case, including using the information to target its assets as part of its collection efforts. Therefore, defendants conclude that the court should disqualify DLA from representing plaintiff here.

It is true that courts have allowed a non-client to bring a disqualification motion where the law firm obtained confidential information about the party that could be used to gain an unfair advantage over the party in the litigation. However, the moving party must show that there is a substantial risk that the information may be used to obtain an unfair advantage over the adversary. (*Shadow Traffic Network v. Superior Court* (1994) 24 Cal.App.4th 1067, 1083.)

"[A]n attorney may be subject to disqualification when the attorney owes a duty to a nonclient to preserve confidential information - i.e., a confidential nonclient relationship." (*Lynn v. George* (2017) 15 Cal.App.5th 630, 638.) "'In sum, disqualifying conflicts with nonclients can arise as a result of an attorney-client relationship. If an attorney is deemed to have a duty of confidentiality to a nonclient arising out of such a past representation, courts apply the substantial relationship test from successive representation doctrine to determine whether to disqualify counsel in a case against the nonclient.'" (*Ibid*, citation omitted.)

"Where the requisite substantial relationship between the subjects of the prior and the current representations can be demonstrated, access to confidential information by the attorney in the course of the first representation (relevant, by definition, to the second representation) is *presumed* and disqualification of the attorney's representation of the second client is mandatory; indeed, the disqualification extends vicariously to the entire firm." (*Flatt v. Superior Court* (1994) 9 Cal.4th 275, 283, citations omitted, italics in original.)

"We consider the 'subject' of a representation as including information material to the evaluation, prosecution, settlement or accomplishment of the litigation or transaction given its specific legal and factual issues. Thus, successive representations will be 'substantially related' when the evidence before the trial court supports a rational conclusion that information material to the evaluation, prosecution, settlement or accomplishment of the former representation given its factual and legal issues is also material to the evaluation, prosecution, settlement or accomplishment of the current representation given its factual and legal issues." (*Jessen v. Hartford Casualty Ins. Co.* (2003) 111 Cal.App.4th 698, 712–713, citations omitted.)

However, "'[d]isqualification is inappropriate ... simply to punish a dereliction that will likely have no substantial continuing effect on future judicial proceedings.'" (*Hetos Investments, Ltd. v. Kurtin* (2003) 110 Cal.App.4th 36, 49, quoting *Gregori v. Bank of America* (1989) 207 Cal.App.3d 291, 309.) Thus, the court should not disqualify counsel without a showing that the outcome of the proceedings may be affected because the law firm obtained confidential information that it could use to obtain an unfair advantage over the complaining party. (*Ibid*.) An appearance of impropriety by itself is not enough to support a motion for disqualification. (*DCH Health Services Corp. v. Waite* (2002) 95 Cal.App.4th 829, 833-834.)

"'[W]hen no attorney-client relationship exists "[m]ere exposure to the confidences of an adversary does not, standing alone, warrant disqualification."' However, disqualification may be considered where '"there exists *a genuine likelihood that the status or misconduct of the attorney in question will affect the outcome of the proceedings before the court.* Thus, disqualification is proper where, as a result of a prior representation or through improper means, there is a reasonable probability counsel has obtained information the court believes would likely *be used advantageously against an adverse party during the course of the litigation*."'" (*Kennedy v. Eldridge* (2011) 201 Cal.App.4th 1197, 1205, citations omitted, italics in original.) On the other hand, "[s]peculative contentions of conflict of interest cannot justify disqualification of counsel." (*Castro v. Los Angeles County Bd. of Supervisors* (1991) 232 Cal.App.3d 1432, 1442, citation omitted.)

"When a party moves to disqualify opposing counsel based on allegedly improper receipt of privileged or confidential information, the party seeking disqualification has the initial burden to show its adversary possesses confidential information materially related to the proceedings before the court. The moving party need not disclose the actual information asserted to be confidential but must provide the court with the nature of the information and its material relationship to the proceeding." (*Sundholm v. Hollywood Foreign Press Assn.* (2024) 99 Cal.App.5th 1330, 1341, citations omitted [holding moving party had not met its burden of showing counsel's possession of confidential information was relevant to the case or could be used affect the outcome of the case].)

Here, defendants have not met their burden of showing that DLA's alleged possession of their confidential financial information is relevant to the issues of the present case or is likely to affect the outcome of the case. While it does appear that DLA obtained some confidential financial information from defendants during the loan negotiations with TEC in 2012 and 2022, defendants have not explained how this information could be used by DLA to gain an unfair advantage over defendants in the present case, which involves a different promissory note executed by a different lender in 2025, as well as the underlying loan agreement executed years earlier. The issues of the present case are fairly narrow and simple, as plaintiff has alleged that defendants promised to make payments on the promissory note pursuant to a certain schedule and then failed to make all payments as promised. Given the narrow issues of the case, it does not appear that the confidential financial information that DLA obtained years earlier in connection with different loans from another lender is relevant or could be used by DLA to affect the outcome of the present case.

Defendants claim that DLA could use the financial information to help plaintiff collect on a judgment against them by helping plaintiff to target their assets. However, it is unclear why it would be "unfair" to use defendants' information to assist in collection of a valid judgment. Nor is it clear that any of the information obtained by DLA years ago in the TEC loan process would be useful in such collection efforts. Even assuming that such old information would be useful to plaintiff's collection efforts, the use of the information does not appear to be the type of prejudice contemplated by the cases dealing with disqualification due to possession of confidential information. Those cases primarily dealt with the potential misuse of information to affect the outcome of the case, not information that might be used to collect a judgment after the case had already been resolved. Here, it does not appear that there is any real possibility that DLA could use the confidential information to affect the outcome of the case, which hinges on the simple claim that defendants failed to pay under the terms of the promissory note. There is no reason to believe that the confidential financial information obtained by DLA in 2012 or 2022 in connection with a different set of loans from a different lender would have any relevance to the issues of the present case, or that DLA could use it to gain an unfair advantage over defendants here.

Therefore, the court intends to find that defendants have failed to meet their burden of showing that the information possessed by DLA has any relevance to the issues of the case, or that it could use the information to unfairly affect the outcome of the case. As a result, the court will deny defendants' motion to disqualify DLA from representing plaintiff here.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: **JS** **on** **1/13/2026**.
(Judge's initials) (Date)

(03)

Tentative Ruling

Re: ***Hernandez v. General Motors, LLC***
Case No. 22CECG01163

Hearing Date: January 21, 2026 (Dept. 503)

Motion: Plaintiff's Motion for Attorney's Fees, Costs, and Expenses

Tentative Ruling:

To grant plaintiff's motion for attorney's fees in the total amount of $12,621.50. To grant plaintiff's request for her costs and expenses in the amount of $1,055.04.

Explanation:

1. As the Prevailing Party, Plaintiff is Entitled to Reasonable Fees and Costs

First, since she is the prevailing plaintiff in litigation under the Song-Beverly Act, plaintiff is entitled to an award of her reasonable attorney's fees, expenses, and costs incurred in litigating the action. (Civil Code, § 1794, subd. (d).) Plaintiff settled with defendant for $85,000, plus reasonable fees, expenses and costs to be determined by noticed motion. Therefore, plaintiff is the prevailing party and she is entitled to an award of her attorney's fees actually and reasonably incurred in prosecuting the action. Defendant does not dispute that plaintiff is entitled to an award or her reasonable attorney's fees, and in fact the settlement agreement expressly contemplates that she will seek an award of fees. Therefore, the only real issue is the amount of fees that plaintiff should receive.

2. The Motion is Timely

Defendant has argued that the fees motion should be denied as untimely. However, this argument is without merit. Under Rule of Court 3.1702(b)(1), a fees motion "must be served and filed within the time for filing a notice of appeal under Rules 8.104 and 8.018 in an unlimited civil case…" Under Rule 8.104, a notice of appeal must be filed on or before the earliest of: "(A) 60 days after the superior court clerk serves on the party filing the notice of appeal a document entitled 'Notice of Entry' of judgment or a filed-endorsed copy of the judgment, showing the date either was served; (B) 60 days after the party filing the notice of appeal serves or is served by a party with a document entitled 'Notice of Entry' of judgment or a filed-endorsed copy of the judgment, accompanied by proof of service; or (C) 180 days after entry of judgment." (Cal. Rules of Court, rule 8.104(a)(1), paragraph breaks omitted.)

Here, no judgment has been entered in the case at this time, nor has a notice of entry of judgment been served on the parties. The case has been settled, and a notice of settlement has been filed and served, but no judgment has been entered at this time. Thus, the time to file a motion for attorney's fees has not yet started to run, and the motion is still timely.

The fact that plaintiff's counsel waited over a year after the settlement before filing the motion for fees is not ideal, but defendant has not cited to any authorities holding that the court can deny a fees motion simply because the moving party was not diligent in filing it. The language of the statute sets forth the timeframes for bringing a motion for attorney's fees. Since plaintiff brought her motion within the time limits set forth in the statute, the court may not deny the motion based on her delay in filing the motion.

3. Calculating the Fees

A court assessing attorney's fees begins with a touchstone or lodestar figure, based on the 'careful compilation of the time spent and reasonable hourly compensation of each attorney . . . involved in the presentation of the case." (*Serrano v. Priest* (*Serrano III*) (1977) 20 Cal.3d 25, 48.) As our Supreme Court has repeatedly made clear, the lodestar consists of "the number of hours *reasonably expended* multiplied by the *reasonable* hourly rate. . . ." (*PLCM Group, Inc. v. Drexler* (2000) 22 Cal.4th 1084, 1095, italics added; *Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1134.) The California Supreme Court has noted that anchoring the calculation of attorney fees to the lodestar adjustment method '"is the only way of approaching the problem that can claim objectivity, a claim which is obviously vital to the prestige of the bar and the courts.' " (*Serrano III*, *supra*, 20 Cal.3d at p. 48, fn. 23.)

While the fee awards should be fully compensatory, the trial court's role is not to simply rubber stamp the defendant's request. (*Ketchum v. Moses*, *supra*, 24 Cal.4th at p. 1133; *Robertson v. Rodriguez* (1995) 36 Cal.App.4th 347, 361.) Rather, the court must ascertain whether the amount sought is reasonable. (*Robertson v. Rodriguez*, *supra*, 36 Cal.App.4th at p. 361.) However, while an attorney fee award should ordinarily include compensation for all hours reasonably spent, inefficient or duplicative efforts will not be compensated. (*Christian Research Institute v. Alnor* (2008) 165 Cal.App.4th 1315, 1321.) The constitutional requirement of just compensation, "cannot be interpreted as giving the [prevailing party] carte blanche authority to 'run up the bill.' " (*Aetna Life & Casualty Co. v. City of Los Angeles* (1985) 170 Cal.App.3d 865, 880.) The person seeking an award of attorney's fees "is not necessarily entitled to compensation for the value of attorney services according to [his] own notion or to the full extent claimed by [him]. [Citations.]" (*Salton Bay Marina, Inc. v. Imperial Irrigation Dist*. (1985) 172 Cal.App.3d 914, 950.)

The basis for the trial court's calculation must be the actual hours counsel has devoted to the case, less those that result from inefficient or duplicative use of time. (*Horsford v. Board of Trustees of California State University* (2005) 132 Cal.App.4th 359, 395, citing *Ketchum v. Moses*, supra, 24 Cal.4th at p. 1133.)

A. The Number of Hours Billed is Reasonable

Here, a review of each billing entry shows that the time billed by the attorney timekeepers is not excessive. Counsel billed only 35.9 hours for almost three years of work on the case. The amounts of time spent on each task is also reasonable. While defendant complains that plaintiff's counsel uses the same template pleadings and documents in each case, and that counsel should not be compensated over and over again for the same work in every case, plaintiff is entitled to recover her fees for the time actually and reasonably incurred in prosecuting the action. (Civil Code, § 1794, subd. (d).) Defendant has not shown that plaintiff's counsel did not actually incur the claimed hours, or that the time spent was excessive and unreasonable. To the extent that plaintiff's counsel uses templates to prepare documents, the use of such templates is not inherently unreasonable. Indeed, using templates can lead to greater efficiency and save time and money, as the attorneys do not have to "reinvent the wheel" every time they draft a pleading or discovery response.

Also, the fact that six separate timekeepers worked on the case is not necessarily evidence that the fees were excessive or unreasonable. The time records do not reflect any duplicative or unreasonable work on the case, so the fact that plaintiff used several attorneys to work on the case is not a reason to reduce the requested hours. Therefore, the court will not make any deductions to the lodestar hours spent on the case up to the filing of the fees motion.

On the other hand, the court will not award an additional $4,000 to plaintiff for the time spent on reviewing the opposition, preparing the reply, and attending the hearing on the fees motion. Plaintiff's counsel does not state how he calculated the amount of fees, who did the work, their hourly rate, and how much time was actually spent to review the opposition, prepare the reply, and attend the hearing. Therefore, counsel has not shown that the request for $4,000 in fees related to the fees motion is reasonable. The court will award no more than four hours of attorney time for these tasks.

B. Reasonable Hourly Compensation

Reasonable hourly compensation is the "hourly prevailing rate for private attorneys in the community conducting noncontingent litigation of the same type" (*Ketchum v. Moses, supra*, 24 Cal.4th at p. 1133.) Ordinarily, '"the value of an attorney's time . . . is reflected in his normal billing rate."' (*Mandel v. Lackner* (1979) 92 Cal. App. 3d 747, 761.)

The "experienced trial judge is the best judge of the value of professional services rendered in his court." (*Thayer v. Wells Fargo Bank* (2001) 92 Cal.App.4th 819, 832.) Based on a consideration of various factors, the trial court may rely on its own expertise and knowledge to calculate reasonable attorney fees. (*Niederer v. Ferreira* (1987) 189 Cal. App. 3d 1485, 1507.) "When the trial court is informed of the extent and nature of the services rendered, it may rely on its own experience and knowledge in determining their reasonable value." (*In re Marriage of Cueva* (1978) 86 Cal. App. 3d 290, 300.) The court is not limited to the affidavits submitted by the attorney. (*Melnyk v. Robledo* (1976) 64 Cal. App. 3d 618, 625.)

Here, plaintiff's counsel seeks hourly rates of $350 to $550. These rates are all high for Fresno and the court intends to reduce them.

"[I]n the 'unusual circumstance' that local counsel is unavailable," a trial court may award an out-of-town counsel's higher rates. (*Horsford v. Board of Trustees of California State University* (2005) 132 Cal.App.4th 359, 399.) In such rare cases, the justification for awarding the higher rate is that out-of-town rates are needed "to attract attorneys who are sufficient to the cause." (*Ibid*.) At a minimum, therefore, the party seeking out-of-town rates is required to make a "sufficient showing ... that hiring local counsel was impracticable," and the exception is accordingly inapplicable where "no effort was made to retain local counsel." (*Nichols v. City of Taft* (2007) 155 Cal.App.4th 1233, 1244.)

Here, plaintiff has not provided a declaration stating what efforts she made to retain local counsel, or that she was unable to find a local attorney with experience in lemon law to represent her, such that she had to resort to hiring an out-of-town law firm that charges higher rates. In fact, she has not provided any evidence at all on the issue of whether she attempted to retain local counsel before hiring a Los Angeles firm. This is unlike the situation in *Horsford*, where plaintiff presented declarations from multiple attorneys with whom plaintiff had spoken and who declined to represent him. (*Horsford*, *supra*, at pp. 398-399.) Accordingly, the court will award fees based on local rates.

The court finds that the reasonable value of the services of Kevin Jacobson, an attorney admitted to the California Bar in 2018 who possesses substantial experience litigating lemon law matters, is $450 per hour.

The court finds that the reasonable value of the services of Harry Terzian, who was admitted to the California Bar in 2022 and who has substantial experience in lemon law, is $325 per hour.

The court finds that the reasonable value of the services of Matthew Treybig, who was admitted to the California Bar in 2021 and who has substantial experience in lemon law, is $300 per hour.

The court finds that the reasonable value of the services of Nicholas Yowarski, who was admitted to the California Bar in 2014, and who has substantial experience in lemon law, is $400 per hour.

The court finds that the reasonable value of the services of Derek Chipman, who was admitted to the California Bar in 2018 and who has substantial experience in lemon law, is $310 per hour.

Finally, the court finds that a reasonable value for the services of Alicia Hinton, who was admitted to the California Bar in 2013 and who has extensive experience in consumer law, is $500 per hour.

Accordingly, the court will set the lodestar fees at $11,381.50 for the work done on the case up to the filing of the attorney's fees motion.

Counsel also seeks another $4,000 for fees incurred in reviewing the opposition to the fees motion, preparing a reply, and appearing at the hearing. However, as discussed above, the request for $4,000 for the cost of preparing the reply brief and appearing at the hearing is excessive and should be reduced. The court will $1,240 in fees based on four hours of time billed at $310 per hour.

Thus, total lodestar fees, including the cost of the reply and appearance at the hearing, will be $12,621.50.

C. Multiplier

Plaintiff has not sought a multiplier to apply to the lodestar.

D. Total Attorney's Fees Awarded

The court will award total fees of $12,621.50.

4. Costs

Plaintiff seeks costs and expenses of $1,055.04. The costs include $600.63 in filing and motion fees, $150 in jury fees, $30.00 in service of process fees, $84.41 for electronic filing or service fees, and $190 for "other" costs (Court Appearance Professionals). (Memo of Costs, at p. 46 of Jacobson decl.) Plaintiff's memo of costs is sufficient to make a prima facie showing that the costs were reasonably necessary to the litigation, and that the court should approve them. Thus, the burden is on defendant to show that the costs were not reasonably necessary to the litigation or that they are unreasonable in amount.

Defendant has objected to several individual items on the memo of costs in the total amount of $334.16. "If the items appearing in a cost bill appear to be proper charges, the burden is on the party seeking to tax costs to show that they were not reasonable or necessary. On the other hand, if the items are properly objected to, they are put in issue and the burden of proof is on the party claiming them as costs. Whether a cost item was reasonably necessary to the litigation presents a question of fact for the trial court and its decision is reviewed for abuse of discretion. However, because the right to costs is governed strictly by statute a court has no discretion to award costs not statutorily authorized." (*Ladas v. California State Auto. Assn*. (1993) 19 Cal.App.4th 761, 774, internal citations omitted.) Expenses that are "merely convenient or beneficial" to preparation for litigation are not recoverable. (*Id.* at p. 775.)

However, in Song-Beverly Act cases, Civil Code section 1794, subdivision (d), provides for an award of not only "costs", but also "expenses" to the prevailing buyer if the costs and expenses were reasonably incurred in the commencement and prosecution of the action. Courts have interpreted the term "expenses" to mean that the trial court has discretion to award more than just the costs provided under section 1033.5, and that the court may grant other costs that were reasonably incurred by the buyer in connection with the commencement and prosecution of the action. (*Jensen v. BMW of North America, Inc*. (1995) 35 Cal.App.4th 112, 137-138, [finding trial court should not have denied plaintiff's request for expert witness fees simply because they were not permitted under section 1033.5]; disapproved on other grounds by *Rodriguez v. FCA US, LLC* (2024) 17 Cal.5th 189.)

Item 1, $63.75 in Filing and Service Fees: Defendant objects to the filing fees incurred to file and serve the motion to compel GM's PMK's deposition. GM contends that plaintiff's counsel insisted on deposing the PMK on issues that have nothing to do with the issues of the case, and that in any event the motion was never heard, as counsel withdrew it. Thus, GM contends that the costs were unnecessary and should not be awarded. However, plaintiff contends that it was necessary to file the motion to compel the PMK deposition, as GM refused to agree to a date for the deposition.

It does appear that it was reasonably necessary for plaintiff to file the motion to compel the PMK deposition, as GM refused to agree to a deposition date. The fact that plaintiff ultimately withdrew the motion does not mean that it was not necessary to file it, since plaintiff needed to bring the motion before GM would agree to the deposition date. Therefore, the court will not tax this cost.

Item 1, $3.60 Filing Fee for Notice of Change of Address: Defendant also objects to the $3.60 cost of filing a notice of change of address with the court. Defendant contends that this is a business overhead cost that it is not required to pay, and the cost should be stricken.

However, defendant has not shown that the notice of change of address was not reasonably necessary to the litigation, or that it was unreasonable in amount. Plaintiff's counsel needed to give notice to the parties of its change of address, so the cost was reasonably necessary to the litigation. The amount of the cost was also minimal. A prevailing plaintiff is allowed to recover her reasonable costs and expenses in a lemon law action. Therefore, the court will not strike this cost.

Item 2, $150 for Jury Fees: GM moves to strike the $150 jury fee cost, contending that the case settled and never went to trial, so the jury fee was not reasonably necessary to the litigation.

However, jury fees are expressly recoverable under section 1033.5(a)(1). Plaintiff needed to pay jury fees in order to preserve her right to a jury trial. The fact that the case settled before trial does not make the payment of jury fees unreasonable or unnecessary. Therefore, the court will not tax this cost.

Item 14, $84.41 Electronic Filing or Service: GM objects to the $84.41 cost incurred for electronic filing or services fees, contending that this cost was merely convenient rather than necessary for the conduct of the litigation, and that plaintiff's counsel is merely trying to pass on its business overhead costs to GM. However, plaintiff is the prevailing party in a lemon law action, so she is entitled to recover her reasonable expenses, not just the costs listed in section 1033.5. In any event, the court requires documents to be electronically filed, so the cost of such e-filing was reasonably necessary to the conduct of the case and not merely convenient to plaintiff's counsel. Defendant has not provided any evidence or cited to any authorities showing that the e-filing costs are not recoverable here. Therefore, the court will not strike this cost.

Summary: The court intends to grant plaintiff's request for $1,055.04 in costs, and deny defendant's request to strike or tax the individual items of costs.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: JS on 1/15/2026 .
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***Mia Champion v. Billie Bates***
Superior Court Case No. 23CECG00564

Hearing Date: January 21, 2026 (Dept. 503)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant the petition. Order Signed. No appearances necessary.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: JS on 1/20/2026 .
(Judge's initials) (Date)

(27)

Tentative Ruling

Re: ***In re Mia Garcia***
Superior Court Case No. 25CECG05939

Hearing Date: January 21, 2026 (Dept. 503)

Motion: Petition to Compromise Minor's Claim

Tentative Ruling:

To grant the petition. Order Signed. No appearances necessary.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

Tentative Ruling
Issued By: JS on 1/20/2026 .
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Giumarra Brothers Fruit Co. v. Mora***
Superior Court Case No. 23CECG03466

Hearing Date: January 21, 2026 (Dept. 503)

Motion: (1) By Cross-Defendant Giumarra Brothers Fruit Co. for Attorney Fees;
(2) By Cross-Defendant Giumarra Brothers Fruit Co. on Demurrer to Second Amended Cross-Complaint;
(3) By Cross-Defendant Giumarra Brothers Fruit Co. to Strike Portions of the Second Amended Cross-Complaint

Tentative Ruling:

To grant the motion for attorney fees and award $12,652.50 in favor of cross-defendant Giumarra Brothers Fruit Co. and against cross-complainant Cesar Mora.

To overrule the demurrer in its entirety. (Code Civ. Proc., § 430.10, subd. (e).)

To grant the motion to strike in part, and to exclude the seeking of general and special damages from the first cause of action in the prayer for relief on all causes of action.

Cross-Defendant Giumarra Brothers Fruit Co. is directed to file an answer within ten days of service of the order by the clerk.

Explanation:

Fee Motion

On August 4, 2025, cross-complainant Cesar Mora ("Cross-Complainant") filed a Second Amended Cross-Complaint ("SACC") which included a sixth cause of action for negligent and intentional interference with economic advantage. On October 7, 2025, cross-defendant Giumarra Brothers Fruit Co. ("Cross-Defendant") filed a special motion to strike against the sixth cause of action pursuant to Code of Civil Procedure section 425.16 ("anti-SLAPP motion"). On October 28, 2025, prior to the anti-SLAPP motion being heard, Cross-Complainant dismissed the cause of action. Cross-Defendant now seeks attorney fees.

Where a defendant files a motion pursuant to Code of Civil Procedure section 425.16 and prevails, the defendant shall be entitled to recover attorney's fees and costs. (Code Civ. Proc., § 425.16, subd. (c)(1).) Where a plaintiff voluntarily dismisses a defendant, with or without prejudice, after filing a section 425.16 motion, the trial court has discretion to determine whether the defendant is the prevailing party for the purposes of attorney's fees under Code of Civil Procedure section 425.16, subdivision (c). (*Coltrain v. Shewalter* (1998) 66 Cal.App.4th 94, 107.) "In making that determination, the critical issue is which party realized its objectives in the litigation. Since the defendant's goal is to make the plaintiff go away with its tail between its legs, ordinarily the prevailing party will be the defendant. The plaintiff, however may try to show it actually dismissed because it had substantially achieved its goals through a settlement or other means, because the defendant was insolvent, or for other reasons unrelated to the probability of the success of the merits." (*Ibid.*)

Cross-Defendant submits on the presumption of being the prevailing party. Rather than argue that Cross-Complainant's objectives were achieved prior to the dismissal, Cross-Complainant argues the merits of the anti-SLAPP motion. The time for opposing the anti-SLAPP motion was the anti-SLAPP motion itself. Cross-Complainant instead submits that he could have prevailed, but did not want to risk Cross-Defendant exercising any rights of appellate review. This cannot be said as supporting a conclusion that Cross-Complainant prevailed on his goals unrelated to the probability of the success of the merits. Neither can it be said that dismissing the cause of action to lift the automatic stay on discovery means that Cross-Complainant otherwise prevailed. (*See* Mora Decl., ¶ 20.)

Cross-Complainant otherwise opposes only on the grounds that the anti-SLAPP motion would not have been timely heard. (Code Civ. Proc., § 425.16, subd. (f).) No hearing occurred, timely or otherwise, due to Cross-Complainant's dismissal of the sole cause of action against which the anti-SLAPP motion was based. Further, by the nature of the date set by the clerk of the court, the docket conditions required a later hearing. Based on the above, the court finds that Cross-Defendant prevailed on its anti-SLAPP motion.

Cross-Defendant submits 25.45 hours for initial consideration. The hourly rate of $450 for John Migliazzo is reasonable and the court approves it. The hourly rate of $575 for Rolando Gutierrez, who appears to have less time than John Migliazzo as a licensed attorney, is high. However, the court approves the hourly rate of Gutierrez. Time spent by Gutierrez in conference and coordination with Migliazzo is discounted. Gutierrez's 7.2 hours submitted is reduced by 3 hours. Time spent reviewing the opposition and preparing a reply brief adds 5.5 hours. Accordingly, the court awards $12,652.50 in reasonable attorney fees in favor of Cross-Defendant and against Cross-Complainant.[1]

Demurrer

Cross-Defendant demurs to the SACC on the grounds that the third, fourth, fifth, seventh, and ninth causes of action fail to state sufficient facts.[2] The causes of action, respectively, are for promissory fraud; conversion; receipt of stolen goods; breach of fiduciary duty; and fraudulent misrepresentation and concealment.

On a demurrer a court's function is limited to testing the legal sufficiency of the complaint. A demurrer is simply not the appropriate procedure for determining the truth of disputed facts. (*Fremont Indemnity Co. v. Fremont General Corp*. (2007) 148

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[1] In the event oral argument is requested, the court will consider additional fees for time spent in preparation and attendance thereof.

[2] As noted above, on October 28, 2025, Cross-Complainant dismissed the sixth cause of action, which was also the subject of the present demurrer.

Cal.App.4th 97, 113-114.) In determining a demurrer, the court assumes the truth of the facts alleged in the complaint and the reasonable inferences that may be drawn from those facts. (*Miklosy v. Regents of University of California* (2008) 44 Cal.4th 876, 883.) The court must determine if the factual allegations of the complaint are adequate to state a cause of action under any legal theory. (*Barquis v. Merchants Collection Assn.* (1972) 7 Cal.3d 94, 103.)

Contentions, deductions, and conclusions of law, however, are not presumed as true. (*Aubry v. Tri-City Hospital Dist.* (1992) 2 Cal.4th 962, 967.) A plaintiff is not required to plead evidentiary facts supporting the allegation of ultimate facts; the pleading is adequate if it apprises the defendant of the factual basis for the plaintiff's claim. (*Perkins v. Superior Court* (1981) 117 Cal.App.3d 1, 6.) When the complaint is defective, great liberality should be exercised in permitting a plaintiff to amend the complaint if there is a reasonable possibility that the defect can be cured by amendment. (*Scott v. City of Indian Wells* (1972) 6 Cal.3d 541, 549.)

Promissory Fraud and Fraudulent Misrepresentation

The elements which give rise to a tort action for fraud are: (1) a misrepresentation (concealment); (2) knowledge of the falsity; (3) intent to defraud or induce reliance; (4) justifiable reliance; and (5) resulting damages. (*Engalla v. Permanente Medical Group, Inc.* (1997) 15 Cal.4th 951, 974.) The elements of promissory fraud are the same as misrepresentation, where the misrepresentation is specifically a promise made by a defendant which the defendant did not intend to keep. (*Id.* at pp. 973-974.) Fraud must be pled specifically; general and conclusory allegations do not suffice. (*Lazar v. Superior Court* (1996) 12 Cal.4th 631, 645.) The policy of liberal construction of pleadings will not ordinarily be invoked to sustain a pleading defective in any material respect for allegations of fraud. (*Ibid.*) The requirement necessitates pleading facts which show how, when, where, to whom, and by what means the representations were tendered. (*Ibid.*)

Cross-Defendant submits that count one of the third cause of action for promissory fraud fails to allege that its employees had an intent not to perform the promises identified in the SACC. However, the SACC alleges that the representations made by the employees were false at the time they were made, and the employees knew that the representations were false. (SACC, ¶ 36.) Cross-Defendant next submits that the third cause of action fails because Cross-Complainant could not justifiably rely on the representations. Cross-Defendant argues that portions of the allegations contradict a sublicense agreement, which sets forth certain financial terms and does not represent certain patent statuses.[3] Whether the agreement is accurate and whether Cross-Complainant was justified in reliance of the information he held, particularly in light of the arguments regarding the timing of the reliance, are questions of fact. (*Steed v. Dept. of Consumer Affairs* (2012) 204 Cal.App.4th 112, 120-121 [matters on judicial notice do not prove the truth of documents filed in proceedings].) For the same reasons, the arguments as to count two are unavailing as to reasonable reliance.[4]

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[3] Cross-Defendant's Request for Judicial Notice is granted only to the extent that such documents exist, and not for the truths of the matter asserted therein.

[4] Moreover, a term that allows Cross-Defendant to sell culled fruit is not by itself contradictory to an alleged statement that Cross-Defendant would issue a check for the culled fruit. The basis of

As to the ninth cause of action, Cross-Defendant submits that the SACC states incompatible theories. Specifically, Cross-Defendant argues that portions of the allegation refer to actions done after the entering of a contract, representing contract damages, which should not be restated as a tort. As Cross-Complainant notes in opposition, tort damages are permitted in contract cases where the contract was fraudulently induced. (*Robinson Helicopter Co., Inc. v. Dana Cor.* (2004) 34 Cal.4th 979, 989-990.) The duty that gives rise to the tort is completely independent of the contract or arises from conduct which is both intentional and intended to harm. (*Erlich v. Menezes* (1999) 21 Cal.4th 543, 551-552 *citing Las Palmas Associates v. Las Palmas Center Associates* (1991) 235 Cal.App.3d 1220, 1238-1239.) Cross-Defendant next argues that there was no concealed or suppressed fact, and that there was no duty to disclose. The SACC, with reasonable inferences made, alleges that because Cross-Defendant had the discretion to cull by destruction or sale, it had a duty to exercise that discretion because any sold culled fruit would be paid to Cross-Complainant. (SACC, ¶ 111.) Therefore, Cross-Defendant had a fiduciary duty owed to Cross-Complainant to disclose, among other things, sales. (SACC, ¶ 112.) Failing to disclose, as alleged in paragraph 114 is reasonably construed as concealment. (*See also* SACC, ¶ 115.) Finally, as above, with reasonable reliance based on the passage of time, Cross-Defendant cites no authority that, as a matter of law, sufficient time had passed to constitute unreasonable reliance. For these reasons, the demurrer to the third and ninth causes of action is overruled.

Conversion

The elements of a cause of action for conversion are: (1) the plaintiff's ownership or right to possession of the property; (2) the defendant's conversion by a wrongful act or disposition of the property rights; and (3) damages. (*Lee v. Hanley* (2015) 61 Cal.4th 1225, 1240.)

Cross-Defendant submits, in effect, that this cause of action is subject to the economic loss doctrine, and is in any event describing the loss of money, which cannot be the object of a conversion claim unless identified in specific sums. Again, Cross-Defendant relies on a provision regarding discretion to cull fruit. As noted above, the economic loss doctrine does not preclude actions of fraud that arise from the contractual relationship. Further, as Cross-Complainant notes, while money cannot be the subject of conversion unless a specific sum is identified, where an agent is liable for converting funds, and is required to turn over a definite sum received by the agent, the remedy of conversion is proper. (*Haigler v. Donnelly* (1941) 18 Cal.2d 674, 681.) Here, the allegation is for monies from culled fruit, and failing to report the amount sold. (SACC, ¶¶ 61-66.) Cross-Defendant argues that granting sole discretion to sell or dispose of culled fruit indicates a surrender of ownership. Cross-Defendant ignores the possibility of consignment, which is alleged. (SACC, ¶ 14.) The demurrer to the fourth cause of action is overruled.

the claim otherwise cites to "PACA", presumably in reference to the Perishable Agricultural Commodities Act under Chapter 20A of Title 7 of the United States Code. (SACC, ¶ 46.)

Receipt of Stolen Property

Every person who receives any property that has been stolen or that has been obtained in any manner constituting theft, knowing the property to be so stolen or obtained, or who conceals, sells, withholds any property from the owner, knowing the property to be so stolen or obtained is liable for three times the amount of actual damages. (Pen. Code § 496, subd. (c).) To prove a theft, the plaintiff must establish criminal intent on the part of the defendant beyond mere proof of nonperformance or actual falsity. (*Siry Investment, L.P. v. Farkhondehpour* (2022) 13 Cal.5th 333, 361.) This is to prevent ordinary commercial defaults from being transformed into theft. (*Ibid.*) If misrepresentations or unfulfilled promises are made innocently or inadvertently, they can no more form the basis for a prosecution for obtaining property by false pretenses than can an innocent breach of contract. (*Ibid.*)

As above, Cross-Defendant argues without evidence admissible for purposes of demurrer that Cross-Complainant relinquished ownership of the culled fruit. Cross-Defendant cites again to the proposition that it had sole discretion to sell or destroy culled fruit. As above, these arguments merely contradict the allegation that the fruit was on consignment. Whether the culled fruit was taken in good faith, as Cross-Defendant argues, is a question of fact. The SACC alleges to the contrary. (SACC, ¶¶ 73-76.) The demurrer to the fifth cause of action is overruled.

Breach of Fiduciary Duty

The prior demurrer to this cause of action was overruled and not subject to a second challenge. Leave to amend was not sought nor granted as to this cause of action, which remains unchanged from the prior pleading challenge. Cross-Defendant's objection is noted, but the court will not revisit this cause of action for further challenge. The demurrer to the seventh cause of action is overruled. (*See Pacific States Enterprises, Inc. v. City of Cochella* (1993) 13 Cal.App.4th 1414, 1420, fn. 3.)

Motion to Strike

Cross-Defendant seeks to strike portions of the SACC as to paragraphs 83 to 91, a prayer for punitive damages, a prayer for treble damages, and a prayer for special and general damages.

As to paragraphs 83 to 91, Cross-Defendant only argues that its demurrer is meritorious. Paragraphs 83 to 91 were part of the sixth cause of action, which Cross-Complainant voluntarily dismissed. The motion to strike as to paragraphs 83 to 91 is denied as moot.

As to the remaining categories of prayers for relief, Cross-Defendant relies primarily on the merits of its filed demurrer. The demurrer was overruled in its entirety. Cross-Defendant next argues that punitive damages may not arise from contractual agreements. As noted on demurrer, and as Cross-Complainant argues in opposition, tort damages are permitted in contract cases where the contract was fraudulently induced. (*Robinson Helicopter Co., Inc. v. Dana Cor.* (2004) 34 Cal.4th 979, 989-990.) As Cross-

Defendant submits no other argument other than the tort causes of action arise from a contract agreement, the motion is denied as to prayers for punitive damages.

For similar reasons, Cross-Defendant's argument as to the treble damages of the fifth cause of action is not sufficiently argued, relying instead only on its demurrer as a basis to seek the striking of the related prayer. As with the other causes of action, this cause of action is pled as arising from a contractual relationship, but not of it.

Finally as to the prayer for general and special damages across all causes of action, Cross-Defendant submits that these prayers are improper as to the first and second causes of action, for Unfair Competition Law and breach of the implied covenant. As to the first cause of action, Cross-Defendant submits that only restitution and injunctive relief are available in an Unfair Competition Law claim. (*Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal.4th 1134, 1148.) In opposition, Cross-Complainant characterizes recovery of profits given to a defendant as damages, but is restitution. (*Id.* at pp. 1148-1149 [finding that "restitution is broad enough to allow a plaintiff to recover money or property in which he or she has a vested interest" as part of the restitutionary theory].) The motion to strike is granted to preclude the seeking of general and special damages from the first cause of action. No argument was advanced as to the second cause of action. The motion is denied as to the second cause of action.

Pursuant to California Rules of Court, rule 3.1312(a), and Code of Civil Procedure section 1019.5, subdivision (a), no further written order is necessary. The minute order adopting this tentative ruling will serve as the order of the court and service by the clerk will constitute notice of the order.

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