Tentative Rulings for July 15, 2025
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.***

21CECG01273 ***RMHP, LLC v. Ian Bogdanoff***

25CECG01276 ***Umpqua Bank v. Sran***

25CECG01144 ***Umpqua Bank v. Sran***

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: ***Jane Doe v. Jasdave Maan, M.D.***
Case No. 25CECG00954

Hearing Date: July 15, 2025 (Dept. 503)

Motion: Defendant's Motion to Unseal the True Name of Plaintiff

Tentative Ruling:

To grant defendant's motion to unseal the true name of plaintiff. To order plaintiff to file and serve her first amended complaint in her true name within 10 days of the date of service of this order.

Explanation:

Under Code of Civil Procedure section 422.40, "In the complaint, the title of the action shall include the names of all the parties…" (Code Civ. Proc., § 422.40.) "The names of all parties to a civil action must be included in the complaint. That requirement extends to real parties in interest—anyone with a substantial interest in the subject matter of the action." (*Department of Fair Employment and Housing v. Superior Court of Santa Clara County* (2022) 82 Cal.App.5th 105, 109 (*DEFH*), citations omitted.)

"Because of the inherently sensitive nature of some proceedings, statutes specifically allow for keeping certain parties' identities confidential. (See, for example, Civ. Code, § 1708.85, subd. (f)(1) [plaintiff in action for nonconsensual distribution of sexually explicit materials may proceed under pseudonym]; Code Civ. Proc., § 372.5 [allowing pseudonym for guardian ad litem litigating on behalf of a minor]; Civ. Code, § 3427.3 [allowing pseudonym in actions for interference with access to health care]; Cal. Rules of Court, rule 8.401(a) [providing for anonymity in juvenile appeals].) Even in the absence of a statute, anonymity for parties may be granted when necessary to preserve an important privacy interest." (*Id.* at p. 110, some citations omitted.)

"In *Doe v. Lincoln Unified School Dist.,* the court of appeal noted the common practice in California courts of using pseudonyms to protect privacy, and observed federal courts have likewise permitted plaintiffs to use pseudonyms '"in special circumstances when the party's need for anonymity outweighs prejudice to the opposing party and the public's interest in knowing the party's identity."' But no California case has articulated the standard that applies to determine whether a party may proceed anonymously absent specific statutory authorization." (*Ibid*, citations omitted.)

"[A]nother important constitutional right is implicated when a party is allowed to proceed anonymously: the right of public access to court proceedings. Among the guarantees of the First Amendment to the United States Constitution is that court proceedings are open and public. Public access to court proceedings is essential to a functioning democracy. It promotes trust in the integrity of the court system, and it exposes abuses of judicial power to public scrutiny. The right of public access applies not only to criminal cases, but also to civil proceedings like this one. And the right to access

court proceedings necessarily includes the right to know the identity of the parties." (*Id.* at pp. 110–111, citations omitted.)

"Much like closing the courtroom or sealing a court record, allowing a party to litigate anonymously impacts the First Amendment public access right. Before a party to a civil action can be permitted to use a pseudonym, the trial court must conduct a hearing and apply the overriding interest test: A party's request for anonymity should be granted only if the court finds that an overriding interest will likely be prejudiced without use of a pseudonym, and that it is not feasible to protect the interest with less impact on the constitutional right of access. In deciding the issue the court must bear in mind the critical importance of the public's right to access judicial proceedings. Outside of cases where anonymity is expressly permitted by statute, litigating by pseudonym should occur 'only in the rarest of circumstances.'" (*Id.* at pp. 111–112, citation and fn. omitted.)

In *DFEH*, *supra*, the Court of Appeal cited with approval the decision of the federal Ninth Circuit Court of Appeals in *Does 1 thru XXIII v. Advanced Textile Corp*. (2000) 214 F.3d 1058, which set forth analysis of the factors that the courts should consider when determining whether to allow a party to appear anonymously in a case. In *Advanced Textile*, the court stated that "a district court must balance the need for anonymity against the general presumption that parties' identities are public information and the risk of unfairness to the opposing party. Applying this balancing test, courts have permitted plaintiffs to use pseudonyms in three situations: (1) when identification creates a risk of retaliatory physical or mental harm; (2) when anonymity is necessary 'to preserve privacy in a matter of sensitive and highly personal nature,'; and (3) when the anonymous party is 'compelled to admit [his or her] intention to engage in illegal conduct, thereby risking criminal prosecution.'" (*Id.* at p. 1068, citations omitted.)

In the present case, plaintiff has not shown that her interest in staying anonymous outweighs the public's interest in keeping court records open. As discussed above, unless there is a statute that provides for a party to remain anonymous, the party should not be allowed to be named through a pseudonym except in the rarest of circumstances. (*DFEH, supra*, at pp. 111-112.) Here, plaintiff has not shown that there are any statutes that allow her to remain anonymous, nor has she shown that there are any rare or exceptional circumstances that would permit her to be named through a pseudonym. She has not alleged any facts or presented any evidence that would tend to support any of the factors set forth in *Advanced Textile*, such as a danger that she might suffer retaliation, that the case involves matters of a highly sensitive and personal nature, or that she might have to admit that she intends to engage in criminal activity that would subject her to potential criminal prosecution. (*Advanced Textile, supra*, at p. 1068.) In fact, the case appears to be a relatively routine assault and battery action that does not involve any particularly private or sensitive matters. For example, there are no allegations that plaintiff was a minor at the time of the incident, or that she was the victim of a sexual assault. Therefore, plaintiff has failed to show that her interest in keeping her identity secret outweighs the public interest in keeping court records open.

Also, plaintiff never sought leave of court before filing her complaint under a pseudonym, nor has she presented any evidence or briefing to support a request to keep her identity secret. Under Rule of Court 2.550(c), court records are presumed to be open unless confidentiality is required by law. "The court may order that a record be filed under seal only if it expressly finds facts that establish: (1) There exists an overriding interest that

overcomes the right of public access to the record; (2) The overriding interest supports sealing the record; (3) A substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; (4) The proposed sealing is narrowly tailored; and (5) No less restrictive means exist to achieve the overriding interest." (Cal. Rules of Court, rule 2.550(d)(1)-(5), paragraph breaks omitted.)

Also, "[a] record must not be filed under seal without a court order. The court must not permit a record to be filed under seal based solely on the agreement or stipulation of the parties." (Cal. Rules of Court, rule 2.551(a).) "A party requesting that a record be filed under seal must file a motion or an application for an order sealing the record. The motion or application must be accompanied by a memorandum and a declaration containing facts sufficient to justify the sealing." (Cal Rules of Court, rule 2.551(b)(1).)

Finally, "[a] party or member of the public may move, apply, or petition, or the court on its own motion may move, to unseal a record." (Cal. Rules of Court, rule 2.551(h)(2).) "In determining whether to unseal a record, the court must consider the matters addressed in rule 2.550(c)-(e)." (Cal. Rules of Court, rule 2.551(h)(3).)

Here, plaintiff never filed a motion to seal any part of the court record, including her own name. Nor has she made any showing that sealing her identity is necessary in consideration of the factors listed in Rule of Court 2.550(d), or that her interest in keeping her identity secret outweighs the public interest in keeping court records open. In any event, none of the factors listed in rule 2.550(c)-(e) weigh in favor of keeping her identity secret. There does not appear to be any overriding interest that supports sealing any part of the court record, including the plaintiff's name, that outweighs the public's interest in open court records. Therefore, the court intends to order the plaintiff's name to be unsealed by ordering her to amend her complaint to add her true name.

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 7/14/2025.
(Judge's initials) (Date)

(37) **Tentative Ruling**

Re: ***In re: Ashley Belen Angel Gonzalez/Stephen Amir Angel Gonzalez/Victor Jair Angel Gonzalez***
Superior Court Case No. 25CECG02413

Hearing Date: July 15, 2025 (Dept. 503)

Motions (x3): Petitions for Compromise of Claim of Minor

Tentative Ruling:

To grant. Orders are missing, as noted below, so they should be submitted for signature. Hearing off calendar.

The Court will then set a status conference for Thursday, August 28, 2025 at 3:30 p.m. in Department 503, for confirmation of deposit of the minor's funds into the blocked account. If Petitioner files the Acknowledgement of Receipt of Order and Funds for Deposit in Blocked Account (MC-356) at least five court days before the hearing, the status conference will come off calendar.

Explanation:

Petitioner did not file the following orders:

1) Proposed Order Approving Minors Compromise (MC-351) for Steven Amir Angel Gonzalez
2) Proposed Order to Deposit Funds in Blocked Account (MC-355) for Steven Amir Angel Gonzalez
3) Proposed Order to Deposit Funds in Blocked Account (MC-355) for Victor Jair Angel Gonzalez
4) Proposed Order to Deposit Funds in Blocked Account (MC-355) for Ashley Belen Angel Gonzalez

Petitioner must file each of these orders no later than 3:00 p.m. on July 15, 2025.

Pursuant to California Rules of Court, Rule 3.1312 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** 7/14/2025 .
(Judge's initials) (Date)

(29)

Tentative Ruling

Re: ***Forrest v. Walker***
Superior Court Case no. 24CECG03624

Hearing Date: July 15, 2025 (Dept. 503)

Motion: Application of Mark Olla to appear as counsel *pro hac vice*

Tentative Ruling:

To deny the application without prejudice. (Cal. Rules of Court, rule 9.40.)

Explanation:

The court continued the hearing on this matter to enable moving party to file missing documentation showing service of the application on the State Bar and payment of the fee. As before, the court found no such documentation in its file. The application is therefore denied without prejudice.

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 7/14/2025 .
(Judge's initials) (Date)

(29)

Tentative Ruling

Re: ***Hernandez v. Union Pacific Railroad Company***
Superior Court Case No. 24CECG02944

Hearing Date: July 15, 2025 (Dept. 503)

Motions (x2): Applications of Joseph Michael Sayler and Taylor Brandt Cunningham to appear as counsel *pro hac vice*

Tentative Ruling:

To grant the applications for orders permitting Joseph Michael Sayler and Taylor Brandt Cunningham to appear as counsel *pro hac vice* for plaintiffs. (Cal. Rules of Court, rule 9.40.)

Explanation:

Plaintiffs have filed applications seeking admission *pro hac vice* of attorneys Joseph Michael Sayler and Taylor Brandt Cunningham to appear in the above-titled case. The applications comply with the requirements of California Rules of Court, rule 9.40, and no opposition has been filed. Both applications are granted.

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 7/14/2025 .
(Judge's initials) (Date)

(35)

Tentative Ruling

Re: ***Lopez v. Colmenero et al.***
Superior Court Case No. 24CECG03594

Hearing Date: July 15, 2025 (Dept. 503)

Motion: (1) By Plaintiff Jelina Lopez for Leave to Amend;
(2) By Defendants Lisa Colmenero, Nathaniel Colmenero, and Brian Colmenero for Summary Judgment of the Complaint;
(3) By Defendants Lisa Colmenero, Nathaniel Colmenero, and Brian Colmenero for Sanctions

Tentative Ruling:

To deny the motion for leave to amend.

To deny the motion for summary judgment of the Complaint. To deny the alternative motion for summary adjudication of the Complaint in its entirety. To disregard the moving papers to the extent they seek summary judgment or adjudication of the Cross-Complaint for failure to reserve a hearing and pay for a second motion.

To deny the motion for sanctions in its entirety.

Explanation:

Leave to Amend

The court may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading. (Code Civ. Proc. § 473(a) (1).) Judicial policy favors resolution of all disputed matters between the parties in the same lawsuit. Thus, the court's discretion will usually be exercised liberally to permit amendment of the pleadings. (*Nestle v. Santa Monica (1972)* 6 Cal.3d 920, 939; *Mabie v. Hyatt* (1998) 61 Cal.App.4th 581, 596.) Courts are bound to apply a policy of great liberality in permitting amendments to the complaint "at any stage of the proceedings, up to and including trial." (*Atkinson v. Elk Corp.* (2003) 109 Cal.App.4th 739, 761.) If plaintiff is the party seeking leave to amend (knowing the trial will be delayed), proximity to the trial date is not ground for denial. (*Mesler v. Bragg Mgmt. Co.* (1985) 39 Cal.3d 290, 297.) However, unfair surprise to the opposing party is also to be considered. (*Ibid.*) Moreover, even if a good amendment is proposed in proper form, unwarranted delay in presenting it may, of itself, be a valid reason for denial. (*Huff v. Wilkins* (2006) 138 Cal.App.4th 732, 746.)

Here, plaintiff Jelina Lopez ("Plaintiff") submits that she seeks to restate her existing causes of action to narrow the relief sought following acts that occurred, and information discovered, after the filing of her Complaint on August 21, 2024. Plaintiff submits that following the filing of suit, suspicions arose as to certain acts of vandalism were perpetrated by defendants Lisa Colmenero, Nathaniel Colmenero, and Brian Colmenero (together "Defendants"). Further, Plaintiff submits uncertainties as to the sale of a motor

vehicle. Finally, Plaintiff submits that Lisa Colmenero was also Plaintiff's care provider at times relevant to the Complaint. Plaintiff concludes that she needs to amend her pleading to restate her requested relief from specific performance to rescission; to add a cause of action for trespass; and to bolster the existing fraud cause of action with these background facts discovered in the course of litigation. Plaintiff argues that these amendments will not exceed the scope of the Complaint as the proposed amendments generally rest on the same set of facts.

Defendants oppose. Defendants suggest that the after-acquired facts existed prior to the filing of the Complaint; that the seeking of leave to amend is purely in response to Defendants' pending motion for summary judgment and seeking of sanctions; and on the summary conclusion that much of the proposed pleading is bolded, highlighting changes, that leave is sought to state far different facts and issues than those of the original Complaint. Defendants conclude that they would be prejudiced by the amendment due to the proximity to trial.

As noted above, a plaintiff seeking leave to amend that delays trial is not a grounds to deny leave. (*Mesler v. Bragg Mgmt. Co.*, *supra*, 39 Cal.3d at p. 297.) The issue to be resolved is whether unwarranted delay results in a prejudice to the opposing party. (*Morgan v. Superior Court* (1959) 172 Cal.App.2d 527, 530.)

Following review of the proposed pleading, it does not appear that there are material changes to the first cause of action for quiet title and fourth cause of action for fraud, except as to clarify the legal bases and understandings at the time of the incidents, upon which the causes of action rest.[1] As to the proposed second cause of action, for breach of contract, and third cause of action for rescission, both appear to rest on existing facts. The cause of action references a contract, Plaintiff's performance, Defendants; non-performance, and damages resulting therefrom. (Lovegren-Tipton Decl., ¶ 12, Ex. C, ¶¶ 62-77; *compare* Complaint, 42-48.) The issue, as Plaintiff acknowledges, is that there is some change to the legal theories. Plaintiff seeks a different remedy from the original facts. Where originally she sought relief by way of specific performance and an injunction, she proposes to seek $90,000 in consequential damages. The proposed third cause of action for rescission extends that change of relief to include, ostensibly in the alternative, that the contract be rescinded in its entirety, rather than compelled to be performed.

The shift to monetary damages constitutes a prejudice to Defendants. (See *Magpali v. Farmers Group, Inc.* (1996) 48 Cal.App.4th 471, 486-488.) At this juncture, fact discovery is closed, leaving Defendants no means by which to measure the merits of the monetary damages sought. Previously there were no issues raised as to monetary damages, regardless of whether the facts in support of an alleged breach, fraud, or, as stated in the proposed sixth cause of action, unjust enrichment. Further, the addition of trespass as an implied cause of action to private nuisance is problematic for the same

[1] Defendants' Request for Judicial Notice is granted to the extent that these records exist. Plaintiff's Request for Judicial Notice is granted to the extent that these records exist. The court does not take judicial notice of the truths of the matters asserted therein. (*Steed v. Dept. of Consumer Affairs* (2012) 204 Cal.App.4th 112, 120-121.)

reasons. Though the proposed pleading does not highlight paragraph 156 as a change, it is a change. (Lovegren-Tipton Decl., ¶ 12, Ex. C., ¶ 156; *compare* Complaint, ¶ 82.)

For the above reasons, the motion for leave to amend is denied. The comments above do not reflect any findings as to the merits of the claims, nor their legal bases. The denial of leave is not to be construed as a rejection of any of the additional supportive facts Plaintiff sought to plead.

Summary Judgment

Defendant seek summary judgment of the Complaint.[2] The Complaint states four causes of action for (1) quiet title; (2) specific performance; (3) fraud; and (4) private nuisance.[3]

A trial court shall grant summary judgment where there are no triable issues of material fact and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc. §437c(c); *Schacter v. Citigroup* (2009) 47 Cal.4th 610, 618.) The issue to be determined by the trial court in consideration of a motion for summary judgment is whether or not any facts have been presented which give rise to a triable issue, and not to pass upon or determine the true facts in the case. (*Petersen v. City of Vallejo* (1968) 259 Cal.App.2d 757, 775.)

The moving party bears the initial burden of production to make a prima facie showing of the nonexistence of any triable issue of material fact; if he or she carries this burden, the burden shifts to the opposing party to make a prima facie showing of the existence of a triable issue. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 849.) A defendant has met the burden of showing that a cause of action has no merit if it is shown that one or more elements of the cause of action cannot be established, or that there is a complete defense to that cause of action. (*Ibid.*) Once the defendant has met that burden, the burden shifts to the plaintiff to show a triable issue of one or more material facts exists as to the cause of action or a defense thereto. (*Ibid.*)

Quiet Title

Defendants submit that an essential element to a quiet title action is that the plaintiff is an owner. (*G.R. Holcomb Estate Co. v. Burke* (1935) 4 Cal.2d 289, 297 ["It has been repeatedly held in this state that an action to quiet title will not lie in favor of the holder of an equitable title as against the holder of a legal title."]) However, as Plaintiff submits in opposition, where the equitable relief of quiet title is sought on the basis of fraud, a quiet title action will lie. (*Warren v. Merrill* (2006) 143 Cal.App.4th 96, 113-114.)

Defendants submit no material facts as to triable issues regarding the fraud alleged in the Complaint. (*See generally* Defendants' Undisputed Material Facts ["UMF"]

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[2] The moving papers purport to additionally seek summary judgment of the Cross-Complaint. However, only one filing fee was paid. The court considers the motion for summary judgment of the Complaint as first-in-order. The motion for summary judgment of the Cross-Complaint is taken off calendar.

[3] Defendants' Request for Judicial Notice is granted to the extent that these records exist.

No. 1-3; *compare* Complaint, ¶¶ 13-16, 43-47.) Rather, Defendants submit only that Plaintiff sought to terminate the ongoing contract, terminating her interest in the property. (Defendants' UMF No. 4.) In opposition, Plaintiff submits that the termination was made under fraud, duress, and undue influence. (Plaintiff's Response to UMF No. 4; Lopez Decl., ¶¶ 26-38, and exhibits thereto.) The court finds that the cause of action has sufficient legal basis, and that there are triable issues of material fact. The motion for summary judgment is denied. The alternative motion for summary adjudication of the first cause of action for quiet title is denied.

Specific Performance

Defendants submit that this cause of action is a remedy, and the Complaint fails to state a cause of action for a breach of contract. However, Defendants' citation does not make such a finding. Rather, the Fourth District Court of Appeals concludes merely that the remedy of specific performance requires a breach of contract. (*Golden West Baseball Co. v. City of Anaheim* (1994) 25 Cal.App.4th 11, 49.) That is not the same as requiring a cause of action for a breach of contract. (*See also Real Estate Analytics, LLC v. Vallas* (2008) 160 Cal.App.4th 463, 472.) Rather, to obtain specific performance, a plaintiff must show (1) the inadequacy of legal remedy; (2) an underlying contract; (3) the existence of a mutuality of remedies; (4) contractual terms which are sufficiently definite; and (5) substantial similarity of the requested performance to that promised in the contract. (*Ibid.*)

As with the cause of action on quiet title, Defendants submit no material facts as to the elements of specific performance. (Defendants' UMF No. 5-8.) Moreover, Plaintiff submits that she performed her obligations, and Defendants breached their obligations to not interfere with peaceful possession. (Plaintiff's Response to UMF No. 6; Lopez Decl., ¶¶ 16-27, and exhibits thereto.) As with the first cause of action, Defendants' arguments as to Plaintiff's termination of the agreement is disputed. The motion for summary adjudication of the second cause of action for specific performance is denied.

Fraud

Defendants submit that Plaintiff cannot demonstrate fraud because she knew at the time of entering into the contract that title would not convey until full payment, not just the down payment, was made. (Defendants' UMF No. 9, 10.) Defendants submit that they made no representations to Plaintiff regarding the conveyance of title. (Defendants' UMF No. 11.) Each of these facts are disputed. (Plaintiff's Response to UMF No. 9-11.) Defendants suggest that even if representations were made[4], Plaintiff could not reasonably rely on those representations due to having read the contract provisions herself. As with the other causes of action, whether Plaintiff reasonably relied on alleged, but disputed, representations based on fraud is a disputed material fact. The motion for summary adjudication as to the third cause of action for fraud is denied.

[4] Defendants suggest that Plaintiff has conceded that there were no representations made by them. (Defendant's Compendium of Evidence, Ex. F, Declaration of Andrea Chapman, Ex. C thereto, Deposition of Jelina Lopez, p. 88:8-15.) The deposition testimony cited does not support the conclusion.

Private Nuisance

Defendants submit that there was no substantial or unreasonable conduct. Specifically, Defendants submit that property was stored at the residence by permission, and that Plaintiff specifically agreed to exclude certain people from the residence. (Defendants' UMF No. 24-29.) Accordingly, Defendants conclude that these are reasonable actions. These facts are disputed. (Plaintiff's Response to UMF No. 24-29.) The language of the contract afforded peaceful possession. The contract does not have any further agreements regarding storage, or covenants by Plaintiff to restrict access to the property from certain individuals. What conversations and promises occurred, outside of the written contract where an integration clause exists, and whether these amount to substantial or unreasonable interference are, as Plaintiff suggests in opposition, triable issues of material fact. The motion for summary adjudication of the fourth cause of action for private nuisance is denied.

Sanctions

Defendants seek monetary sanctions and terminating sanctions.

Defendants submit that Plaintiff filed a Verified Complaint with knowledge that the allegations therein were false. In light of the findings on summary judgment, Defendants have not sufficiently established that the lawsuit was frivolously filed.

Defendants further submit a legal conclusion that Plaintiff perjured herself in making certain contradictory statements in deposition, and in filing a Verified Answer to Defendants' Cross-Complaint. Plaintiff's potential perjury is not at issue in this action, nor is the matter before the court for adjudication. (*E.g.* Pen. Code § 118 *et al*.)

Defendants submit that they incurred additional expense due to deposition issues on January 25, 2025 and March 4, 2025. Defendants argue that counsel for Plaintiff inappropriately sought to include a law clerk, Michael Shaddix, in the deposition proceedings when there was no space for him. Defendants contend that because Shaddix was not an attorney, he could not attend nor make the decision to attend.

It does not appear contested that Plaintiff appeared at the scheduled time for each deposition notice. To any extent that Defendants were unable to obtain answers to questions on January 25, 2025, Defendants did not seek an order to compel Plaintiff's answers. (*E.g.* Code Civ. Proc. § 2025.480.) Defendants completed the record of the deposition scheduled for January 25, 2025. The jurisdictional deadline of 60 days has passed, and the court finds no basis to issue monetary sanctions on this deposition.

As to March 4, 2025, nothing precluded Defendants from conducting the deposition at the noticed time. The parties elected to conduct settlement negotiations in an effort to avoid the deposition. (Chapman Decl., ¶ 18.) The result that the deposition required a second day is a consequence of the parties' decisions. Moreover, Defendants do not distinguish between the costs associated with a second day, as compared to the costs of obtaining the deposition testimony of the second day. To issue monetary sanctions for the second day would otherwise require a finding that the entirety of the second day produced no testimony as sought.

As something of an afterthought, Defendants complain that Shaddix is not an attorney, despite having met and conferred with Shaddix. Defendants suggest that Shaddix inappropriately practiced law. (Chapman Decl., ¶¶ 3-4.) This is expressly refuted. (Shaddix Decl., ¶ 5.) In any event, as with the issue of perjury, Shaddix's alleged unauthorized practice of law is not at issue in this action.[5]

The motion for monetary sanctions and terminating sanctions is denied.

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
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[5] Defendants inappropriately submit evidence on reply. The court does not consider the evidence on reply.