

**PLACER COUNTY SUPERIOR COURT
THURSDAY, CIVIL LAW AND MOTION
DEPARTMENT 3
THE HONORABLE MICHAEL W. JONES
TENTATIVE RULINGS FOR OCTOBER 29, 2026, AT 8:30 A.M.**

These are the tentative rulings for the **THURSDAY, OCTOBER 29, 2026, at 8:30 A.M.**, civil law and motion calendar. The tentative ruling will be the court's final ruling unless notice of appearance and request for oral argument are given to all parties and the court by **4:00 p.m., WEDNESDAY, OCTOBER 28, 2026**. Notice of request for argument to the court must be made by calling (916) 408-6481. Requests for oral argument made by any other method will not be accepted. Prevailing parties are required to submit orders after hearing to the court within 10 court days of the scheduled hearing date and approval as to form by opposing counsel. Court reporters are not provided by the court. Parties may provide a court reporter at their own expense.

NOTE: REMOTE APPEARANCES ARE STRONGLY ENCOURAGED FOR CIVIL LAW AND MOTION MATTERS. (PLACER COURT LOCAL RULE 10.24.) More information is available at the court's website: www.placer.courts.ca.gov.

Except as otherwise noted, these tentative rulings are issued by **THE HONORABLE MICHAEL W. JONES**. If oral argument is requested, it shall be heard at **8:30 a.m.** in **DEPARTMENT 3** located at the Historic Auburn Courthouse, 101 Maple Street, Auburn, California.

1. M-CV-0094021 GRANITE BAY ESTATES MHC v. ANDERSON, LANCE

The motion to set aside is dropped from calendar as no moving papers were filed with the court.

2. M-CV-0096239 ROCKLIN SIERRA APTS II v. TATE, TREYVON

Status Conference re: Appointment of Counsel

Appearances of the parties are required at the hearing.

3. S-CV-0047031 SUTTLES, MARK v. DIRECTAPPS

The motion for final approval is continued to Tuesday, November 24, 2026, at 8:30 a.m. in Department 32.

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4. S-CV-0051046 NELSON, MICHAEL v. RONK, SUZY

Defendants Kent Rhodes and Susan Rhodes's Motion for Summary Judgment, or in the Alternative, Summary Adjudication

Preliminary Matters

Defendants' requests for judicial notice are granted.

Defendants' objections to plaintiffs' request for judicial notice and evidentiary objections are sustained. Therefore, plaintiffs' requests for judicial notice are denied and their objections are overruled. The remainder of defendants' objections are overruled.

Ruling on Motion

Defendants Kent Rhodes and Susan Rhodes move for summary judgment or, in the alternative, summary adjudication as to plaintiffs' operative second amended complaint ("SAC"). A motion for summary judgment may be granted if "all the papers submitted show that there is no triable issue as to any material fact and the moving party is entitled to a judgment as a matter of law." (Code Civ. Proc. § 437c, subd. (c).) This is compared to summary adjudication that requires a showing that there is no merit to one or more of the causes of action. (*Id.* at § 437c, subd. (f)(1).) A motion for summary adjudication proceeds "in all procedural respects as a motion for summary judgment." (*Id.* at § 437c, subd. (f)(2).) In reviewing either motion, the trial court must view the supporting evidence, and inferences reasonably drawn from such evidence, in the light most favorable to the opposing party. (*Aguilar v. Atlantic Richfield Company* (2001) 25 Cal.4th 826, 843.) Defendants, as the moving parties, bears the initial burden of establishing that "one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the cause of action." (Code Civ. Proc. § 473c, subd. (p)(2).) Once that burden is met, the burden shifts to the "plaintiff to show that a triable issue of one or more material facts exists as to the cause of action or a defense." (*Ibid.*) Pursuant to the "golden rule" of summary judgments, "if it is not set forth in the separate statement, it does not exist." (*California-American Water Co. v. Marina Coast Water Dist.* (2022) 86 Cal.App.5th 1272, 1296.)

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Fourth Cause of Action—Trespass

A trespass cause of action has a three-year statute of limitations. (Code Civ. Proc., § 338, subd. (b).) “The pleadings delimit the issues to be considered on a motion for summary judgment. [Citation.] Thus, a defendant moving for summary judgment need address only the issues raised by the complaint; the plaintiff cannot bring up new, unpleaded issues in his or her opposing papers.” (*Laabs v. City of Victorville* (2008) 163 Cal.App.4th 1242, 1253.) “Declarations in opposition to a motion for summary judgment are no substitute for amended pleadings. If the motion for summary judgment presents evidence sufficient to disprove the plaintiff’s claims, as opposed to merely attacking the sufficiency of the complaint, the plaintiff forfeits an opportunity to amend to state new claims by failing to request it.” (*Conroy v. Regents of University of California* (2009) 45 Cal.4th 1244, 1254.)

Here, plaintiff’s SAC alleges defendants trespassed on or before 2019. However, defendants were not joined until plaintiffs filed their second amended complaint October 13, 2025, which is over five years after the alleged trespass occurred and thus beyond the three year statute of limitations. (UMF No. 21.) Plaintiffs cannot add new theories of trespass liability through their declarations in opposition to defendants’ motion for summary judgment. Therefore, defendants meet their burden that plaintiffs cannot establish the trespass cause of action and plaintiffs do not thereafter meet their burden to raise a triable issue of material fact.

Accordingly, defendants’ motion for summary adjudication is granted as to the fourth cause of action for trespass.

Fifth Cause of Action—Easement by Necessity

An easement by necessity requires plaintiffs to establish two elements “(1) a strict necessity for the claimed right-of-way, as when the claimant’s property is landlocked; and (2) the dominant and servient tenements were under common ownership at the time of the conveyance giving rise to the necessity.” (*Murphy v. Burch* (2009) 46 Cal.4th 157, 163.)

Here, defendants meet their burden to establish there is no strict necessity for the claimed right-of-way. (UMF Issue 3, Nos. 5–21.) The burden therefore shifts to plaintiffs to raise a triable issue of material fact.

Plaintiffs do not thereafter meet their burden to raise a triable issue of material fact that there is a strict necessity for the claimed right-of-way.

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Accordingly, defendants' motion for summary adjudication is granted as to the fifth cause of action.

Sixth Cause of Action—Equitable Easement

An equitable easement requires plaintiffs to establish three factors "First, the [encroacher] must be innocent. That is, his or her encroachment must not be willful or negligent. The court should consider the parties' conduct to determine who is responsible for the dispute. Second, unless the rights of the public would be harmed, the court should [stop the encroachment] if the [burdened landowner] "will suffer irreparable injury ... regardless of the injury to [the encroacher]." Third, the hardship to the [encroacher] from [ordering removal of the encroachment] ["must be greatly disproportionate to the hardship caused plaintiff by the continuance of the encroachment and this fact must clearly appear in the evidence and must be proved by the defendant." (*Hansen v. Sandridge Partners, L.P.* (2018) 22 Cal.App.5th 1020, 1027–1028.)

Here, defendants meet their burden to establish plaintiffs' encroachment onto their property was not innocent. (UMF Issue 4, No. 20.) The burden therefore shifts to plaintiffs to raise a triable issue of material fact.

Plaintiffs do not thereafter meet their burden to raise a triable issue of material fact that their encroachment onto defendants' property was innocent.

Accordingly, defendants' motion for summary adjudication is granted as to the sixth cause of action.

Seventh Cause of Action—Implied Easement

An implied easement requires plaintiffs to establish three conditions: "1) the owner of property conveys or transfers a portion of that property to another; 2) the owner's prior existing use of the property was of a nature that the parties must have intended or believed that the use would continue; meaning that the existing use must either have been known to the grantor and the grantee, or have been so obviously and apparently permanent that the parties should have known of the use; and 3) the easement is reasonably necessary to the use and benefit of the quasi-dominant tenement. [Citation.]" (*Thorstrom v. Thorstrom* (2011) 196 Cal.App.4th 1406, 1420.) Importantly, "[a]n easement by implication will not be found absent clear evidence that it was intended by the parties." (*Ibid.*)

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Here, defendants meet their burden to establish that no prior owner used the property at issue such that anyone intended or believed any use would continue. (UMF Issue 5, No. 19.) The burden therefore shifts to plaintiffs to raise a triable issue of material fact.

Plaintiffs do not thereafter meet their burden to raise a triable issue of material fact that any prior owner used the property at issue such that anyone intended or believed any use would continue.

Accordingly, defendants' motion for summary adjudication is granted as to the seventh cause of action.

Eighth Cause of Action—Slander of Title

A slander of title cause of action requires plaintiffs to establish the following elements "(1) a publication, (2) which is *without privilege* or justification, (3) which is false, and (4) which causes direct and immediate pecuniary loss." (*Alpha & Omega Development, LP v. Whillock Contracting, Inc.* (2011) 200 Cal.App.4th 656, 664; *Southcott v. Pioneer Title Co.* (1962) 203 Cal.App.2d 673, 676.)

The court previously granted defendants' special motion to strike pursuant to Code of Civil Procedure section 425.16 directed at plaintiffs' eighth cause of action for slander of title and struck the alleged communicative conduct that includes defendants statements to third parties that plaintiffs had no right or claim to the unnamed paved driveway and that defendants are the owners of the paved driveway. Thus, the only remaining allegations are defendants removing a boundary fence, storing personal property and waste on plaintiffs' property, and placing a lock on a barrier gate to further deny plaintiffs access to their property.

Here, defendants meet their burden to show plaintiffs cannot establish defendants made any publications to state the slander of title cause of action. (UMF Issue 6, No. 22.) The burden therefore shifts to plaintiffs to raise a triable issue of material fact.

Plaintiffs do not thereafter meet their burden to raise a triable issue of material fact that defendants made any publications that constitute a slander of title.

Accordingly, defendants' motion for summary adjudication is granted as to the eighth cause of action.

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Third and Ninth Causes of Action—Quiet Title and Permeant Injunction

Both parties concede the third cause of action for quiet title and ninth cause of action for permanent injunction are derivative of the above causes of action. As noted above, the court grants defendants’ motion for summary adjudication as to the fourth through eighth causes of action and thus the derivative causes of action fail.

Accordingly, defendants’ motion for summary adjudication is granted as to the third and ninth causes of action.

In sum, defendants’ motion for summary adjudication is granted as to the third through ninth causes of action. In turn, defendants’ motion for summary judgment is granted because they are entitled to judgment as a matter of law.

5. S-CV-0053141 HOSTLER, GRACE v. TERNAVSKY, ALEX

Motion to be Relieved as Counsel

The motion to be relieved as counsel for plaintiff Grace Hostler by Blair Widders is granted, effective upon the filing of proof of service of the signed order after hearing on the client, Grace Hostler. (Code Civ. Proc. § 284, subd. (2); Cal. Rules of Court, rule 3.1362.) The court notes the motion does not include relief for Wilcoxon Callahan and this ruling does not include any relief not properly noticed or requested.

6. S-CV-0053651 LANGNER, KARLA v. GIROLAMO, NOLIVO

Defendants Nolivo’s Motion to Strike Portions of Plaintiff’s First Amended Complaint

Preliminary Matters

The court admonishes defendants for their insufficient meet and confer efforts prior to filing their motion to strike. The court reminds defendants they must adhere to statutory meet and confer requirements for future filings.

Ruling on Motion

Defendants move to strike sixteen paragraphs in the first amended complaint (“FAC”) regarding plaintiff’s allegations about foundational defects in the subject

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property on the grounds the allegations are barred by the applicable statute of limitations. (Code Civ. Proc. §§ 435, 436.)

Plaintiff does not contest the foundational defects allegations are barred by the statute of limitations. Instead, she asserts the delayed discovery rule and relation-back doctrine apply.

Delayed Discovery Rule

A plaintiff may rely on the delayed discovery rule to delay the accrual of a cause of action by pleading facts to show “(1) the time and manner of discovery and (2) the inability to have made earlier discovery despite reasonable diligence.” (*Fox v. Ethicon Endo-Surgery, Inc.* (2005) 35 Cal.4th 797, 808.) Plaintiff bears the burden to establish the requisite diligence. (*Ibid.*)

Here, when taking the factual allegations in the FAC as true, plaintiff does not allege facts sufficient to state her inability to have made earlier discovery of the foundational defects despite reasonable diligence.

Relation-Back Doctrine

“The relation-back doctrine requires that the amended complaint must (1) rest on the *same general set of facts*, (2) involve the *same injury*, and (3) refer to the *same instrumentality*, as the original one.” (*Norgart v. Upjohn Co.* (1999) 21 Cal.4th 383, 408–409 [emphasis in original].)

Here, when taking the factual allegations in the FAC as true, plaintiff states facts sufficient to allege the relation-back doctrine applies to the foundational defect allegations.

Accordingly, the motion to strike is denied. Defendants, including April Noessel and Allison James of California, Inc. who joined the motion to strike, shall file an answer on or before **November 9, 2026**.

7. S-CV-0053720 PHAM, QUOC v. PETKOVA, NELI

The motion for default is dropped from calendar as no moving papers were filed with the court.

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8. S-CV-0053910 SPENCER, JEFFREY v. HYUNDAI MOTOR AMERICA

Motion to be Relieved as Counsel

The motion to be relieved as counsel for plaintiffs Jeffrey L Spencer and Bridget M Spencer by Roger Jaffe is granted, effective upon the filing of proof of service of the signed order after hearing on the clients, Jeffrey L Spencer and Bridget M Spencer. (Code Civ. Proc. § 284, subd. (2); Cal. Rules of Court, rule 3.1362.) The court notes the motion does not include relief for The Law Office of Roger V. Jaffe and this ruling does not include any relief not properly noticed or requested.

Defendant's Motion Pursuant to Code of Civil Procedure Section 437C(A)(3), Finding Good Cause to Hear Defendant's Timely Served Motion for Summary Judgment ("MSJ") Less Than 30 Days Before the November 9, 2026, Trial Date

Defendant's motion is denied without prejudice as moot in light of the court granting defendant's ex parte application that continued the trial date to April 26, 2027, and the motion for summary judgment hearing date to February 11, 2027.

9. S-CV-0054901 ZEHRING, RICHARD v. GENERAL MOTORS

Plaintiff's Motion for \$41,814.00 in Attorneys' Fees and \$2,512.10 in Costs Pursuant to California Civil Code § 1794(D)

Plaintiff's motion is granted.

Civil Code section 1794, subdivision (a) allows a buyer of a vehicle to bring an action for recovery of their damages and other legal and equitable relief for any failure to comply with obligations arising under the chapter. (Civ. Code § 1794, subd. (a).) If the buyer successfully prevails in their action, he or she may recover "attorney's fees based on actual time expended, determined by the court to have been reasonably incurred by the buyer in connection with the commencement and prosecution of such action." (*Id.* at subd. (d).)

Here, plaintiff is the prevailing party because he achieved his litigation objectives and the parties stipulated to plaintiff's recovery of reasonable attorney's fees. Defendant does not challenge this. Accordingly, the court must make an initial determination of the actual time expended; and then to ascertain whether under all the circumstances of the case the amount of actual time expended and the monetary charge being made for the

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time expended are reasonable. These circumstances may include, but are not limited to, factors such as the complexity of the case and procedural demands, the skill exhibited and the results achieved. If the time expended or the monetary charge being made for the time expended are not reasonable under all the circumstances, then the court must take this into account and award attorney fees in a lesser amount. A prevailing buyer has the burden of “showing that the fees incurred were ‘allowable,’ were ‘reasonably necessary to the conduct of the litigation,’ and were ‘reasonable in amount.’ ” ’ ’ ’ ’

(*Morris v. Hyundai Motor America* (2019) 41 Cal.App.5th 24, 34.)

Turning to the question of whether the number of hours expended were reasonable, the court has carefully reviewed the invoice attached as Exhibit 1 to the declaration of Joseph Kaufman. The court observes instances where the work appears to be duplicative or unnecessary to the prosecution of the causes of action and instances where an excessive number of hours are billed for what should be relatively straightforward tasks. The court determines that 12.2 hours are reasonable for Joseph Kaufman, 3 hours are reasonable for Brian Lynn, 7.9 hours are reasonable for Maria Sanjur-Van Brande, 4.3 hours are reasonable for Layne Arguello, 3.6 hours are reasonable for Justin Hung, 0.2 hours are reasonable for Scott Sanchez, and 8.1 hours are reasonable for Melissa Lopez

The court must next address whether the requests for \$595 and \$615 per hour by Joseph Kaufman, \$475 per hour by Brian Lynn, \$395 per hour by Maria Sanjur-Van Brande, \$375 per hour by Layne Arguello, \$395 per hour by Justin Hung, \$375 per hour by Scott Sanchez, and \$195 and \$250 per hour by Melissa Lopez are reasonable. Determining the reasonable amount of attorneys’ fees is known as the lodestar method, that is, the number of hours reasonably expended multiplied by the reasonable hourly rate. (*PLCM Group v. Drexler* (2000) 22 Cal.4th 1084, 1095; *Serrano v. Priest* (*Serrano III*) (1977) 20 Cal.3d 25, 48–49.) The lodestar figure may then be adjusted, based upon factors specific to the case, to fix the fees at a fair market value for the legal services provided. (*PLCM Group v. Drexler*, 22 Cal.4th at p. 1095.) Moreover, “[t]he court may apply a multiplier based on contingent risk, exceptional skill, or numerous other factors. [Citation.] There is no magic formula; any one factor may justify an enhancement.” (*Sonoma Land Trust v. Thompson* (2021) 63 Cal.App.5th 978, 986.)

The court has carefully reviewed the declaration of counsel and finds the hourly rate of \$350 per hour by Joseph Kaufman, \$300 per hour for Brian Lynn, Maria Sanjur-Van Brande, Layne Arguello, Justin Hung, and Scott Sanchez, and \$150 per hour for

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Melisa Lopez are reasonable for similar legal services within Placer County. There is insufficient evidence that plaintiff needed to hire out-of-town counsel or that out-of-town counsel rates are proper. (*Caldera v. Department of Corrections & Rehabilitation* (2020) 48 Cal.App.5th 601, 609–10.) The court declines to issue a multiplier.

Accordingly, plaintiff's motion is granted in the reduced amount of \$11,185 for attorney's fees and costs in the amount of \$2,512.10 for a total amount of \$13,697.10.

10. S-CV-0055010 SIERRA PROPERTY MGMT v. MORTON, NICK

Defendant Nick Morton's Motion to Compel Further Responses to Special Interrogatories, Set One, and Request for Monetary Sanctions in the Amount of \$2,010 Against Sierra Property Management and/or its Attorneys Porter Law group, Inc.

Defendant's motion to compel further responses is denied as moot in light of plaintiff Sierra Property Management providing amended responses on October 14, 2026.

Defendant's request for sanctions against plaintiff Sierra Property Management is granted in the reduced amount of \$500. Plaintiff Sierra Property Management shall pay the monetary sanctions within 15 days after service of the signed order after hearing.

Defendant Nick Morton's Motion to Compel Further Responses to Requests for Production of Documents, Set One, and Request for Monetary Sanctions in the Amount of \$2,335 Against Sierra Property Management and/or its Attorneys Porter Law group, Inc.

Defendant's motion to compel further responses is denied as moot in light of plaintiff Sierra Property Management providing amended responses on October 14, 2026.

Defendant's request for sanctions against plaintiff Sierra Property Management is granted in the reduced amount of \$500. Plaintiff Sierra Property Management shall pay the monetary sanctions within 15 days after service of the signed order after hearing.

The total sanction amount payable by plaintiff Sierra Property Management is \$1,000.

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Defendant Nick Morton's Motion to Compel Further Responses to Requests for Production of Documents, Set One, and Request for Monetary Sanctions in the Amount of \$2,335 Against David Matista and/or its Attorneys Porter Law group, Inc.

Defendant's motion to compel further responses is denied as moot in light of cross-defendant David Matista providing amended responses on October 14, 2026.

Defendant's request for sanctions against cross-defendant David Matista is granted in the reduced amount of \$500. Cross-defendant David Matista shall pay the monetary sanctions within 15 days after service of the signed order after hearing.

The total sanction amount payable by cross-defendant David Matista is \$500.

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11. S-CV-0056991 JPMORGAN CHASE BANK, N.A. v. GAMBILL, JASON

Defendant Rodrigo Carvalho's Motion to Quash Service of Summons

Preliminary Matters

The court exercises its discretion to consider defendant's supplemental motion.

Ruling on Motion

Defendant moves to quash the service of summons purportedly effectuated on him pursuant to Code of Civil Procedure section 418.10. Notably, defendant contends the personal service attempt was improper because he was out of the country and the substitute service attempt was improper because the documents were not delivered to a person apparently in charge, no one named "John Doe" works at Pampas Brazilian Steakhouse, and Pampas Brazilian Steakhouse is not defendant's usual place of business.

Where, as here, defendant challenges the "courts personal jurisdiction on the ground of improper service of process[.]" plaintiff bears the burden "to prove the existence of jurisdiction by proving, inter alia, the facts requisite to an effective service." (*Summers v. McClanahan* (2006) 140 Cal.App.4th 403, 413.)

Here, plaintiff does not meet its burden to establish that either the personal or substitute service attempts were proper.

Accordingly, defendant's motion is granted. The service of summons made on defendant are hereby quashed.

12. S-CV-0057771 IN RE THE PETITION OF ODETTE WININGER

Petition for Approval of Minor's Compromise Claim (Tyler Ariston Wininger)

The petition for approval of minor's compromise claim is granted. After careful consideration of the petition and attachments, the court finds the settlement is in the best interest of the minor. (Prob. Code, § 3500; Code Civ. Proc., § 372; *Pearson v. Superior Court* (2012) 202 Cal.App.4th 1333, 1337-38.)