SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

Law and Motion Calendar
Honorable David A. Silberman
800 North Humboldt Street, San Mateo, CA 94401
Department 11, Courtroom G
Monday, November 9, 2026 at 2 pm

If you intend to appear on any case on this calendar, you must give notice by 4:00 pm the court day before the hearing to the newly assigned department pursuant to California Rules of Court, Rule 3.1308(a)(1), and San Mateo County L.R. 3.403(b).

Failure to comply with notice as outlined will result in no oral presentation.

Notice of Appearance and Courtesy Copies

1. **Email Dept11@SanMateoCourt.org before 4:00 pm the court day before with a copy to all parties or their counsel of record. The email must include the name of the case, the case number, and the name of the party contesting the tentative ruling.**
2. **Courtesy Copies: You must email a copy of any reply brief, or an Opposition to a Motion for Summary Judgment in an Unlawful Detainer matter to: LawAndMotionReplyBriefs@SanMateoCourt.org**

Day of Hearing

Appearances can be In Person or Remote. If appearing remotely by Zoom, please use your first and last name and mute your audio until your case is called. All parties must use a device with a camera if you are appearing remotely. Please login to the zoom hearing by 1:50 pm.

Remote Appearance Zoom Information

RECORDING OF A COURT PROCEEDING IS STRICTLY PROHIBITED.

https://sanmateocourt.zoomgov.com/ **Meeting ID:** 161 964 0802 **Password:** 734616

TO ASSIST THE COURT REPORTER, the parties are ORDERED to: (1) state their name each time they speak and only speak when directed by the Court; (2) not to interrupt the Court or anyone else; (3) speak slowly and clearly; (4) connect from a computer if at all possible, rather than a cell phone; (5) if a cell phone is absolutely necessary, the parties must be stationary and not driving or moving; (6) no speaker phones under any circumstances; (7) provide the name and citation of any cases referenced; and (8) spell all names, even common names.

Case	Title / Nature of Case

02:00 PM

23-CIV-05119 HELEN GE VS. ALLAN BRODY, ET AL.

LINE 1

HELEN GE	JACOB BROWN
ALLAN BRODY	JULIE VOHL ISLAS

DEFENDANT: ALLAN BRODY AND ROSA BRODY'S MOTION FOR SUMMARY JUDGMENT, OR IN THE ALTERNATIVE, SUMMARY ADJUDICATION

TENTATIVE RULING:

Defendants' motion for summary judgment is DENIED, and summary adjudication is GRANTED as to Plaintiff's claim for premises liability and DENIED as to Plaintiff's claim for negligence.

The Court declines to rule on Defendant's Objections No. 1-10 as it does not deem the evidence subject to those objections material to its disposition of this motion. (Code Civ. Proc., § 437c, subd. (q).)

Background

On October 29, 2021, Plaintiff Helen Ge fell in her backyard while walking on a paver walkway. (UMF No. 1.) The alleged incident occurred at or near 16 Jenna Lane in Half Moon Bay, California. (UMF No. 2.) The walkway and pavers where Plaintiff fell are located entirely within her own backyard and entirely on her own property. (UMF Nos. 3-4.) Plaintiff owned and exercised exclusive possession and control over the property where the walkway is located. (UMF No. 5) Plaintiff used the walkway to access a storage area on her property. (UMF No. 6.)

The uneven paver condition existed prior to the incident and was visible and known to Plaintiff. (UMF No. 9-11.) Plaintiff consulted a landscaper regarding the condition of the walkway, received recommendations regarding pathway repair and root removal, and personally removed pavers from the walkway after the incident. (UMF No. 7.) Plaintiff did not repair, replace, or correct the uneven pavers prior to the incident. (UMF No. 12)

Defendants Allan and Rosa Brody, the defendants, did not own, possess, occupy, inspect, maintain, repair, or control the walkway or pavers located on Plaintiff's property. (UMF Nos. 13-14) The defendants did not install, alter, or perform any work on the walkway or pavers. (UMF No. 15) The walkway and pavers remained under Plaintiff's exclusive possession and control at all relevant times. (UMF No. 16)

Plaintiff first observed uneven pavers on her walkway in approximately summer 2018; at that time, the unevenness was relatively minor. (AMF No. 10.) In summer 2018, Plaintiff personally told Defendant Allan Brody, while the two were on opposite sides of the fence, that roots from his tree were damaging her walkway. (AMF No. 15.)

In approximately 2020, Plaintiff consulted a landscaping company about the uneven walkway and was told that repairing it would require addressing the roots, which could jeopardize the tree. (AMF No. 16.) In approximately May or June 2020, Plaintiff told Defendant Allan Brody that the walkway condition was

worsening and that a landscaping company recommended removal of his tree because of the root-related damage. (AMF No. 17.) According to Plaintiff, when she asked Defendant Allan Brody to remove the tree, he responded that he had intentionally grown it there because he did not want to see her house. (AMF No. 18.)

Before the incident, additional paving stones on Plaintiff's walkway became displaced over time, including during the summer of 2021. (AMF 11.) During the weeks preceding the accident, Plaintiff observed additional paving stones becoming displaced along her walkway. (AMF 12.)

Discussion

"A party may move for summary judgment in an action or proceeding if it is contended that the action has no merit or that there is no defense to the action or proceeding." (Code of Civ. Proc., § 437c, subd. (a)(1).) Summary judgment will only be granted "if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." (*Id.*, at subd. (c).)

"A party may move for summary adjudication as to one or more causes of action within an action … if the party contends that the cause of action has no merit … ." (Code of Civ. Proc., § 437c, subd. (f)(1).) A cause of action has no merit if one or more of its elements cannot be separately established or an affirmative defense can be established. (*Id.*, at subd. (o).)

A defendant moving for summary judgment or summary adjudication has an initial burden of showing either that one or more elements of a cause of action cannot be established or that there is a complete defense to the cause of action. (Code of Civ. Proc., § 437c, subd. (p)(2).) Once the initial burden has been carried, the burden shifts to the opposing party to show that a triable issue of material fact exists as either to the cause of action or a defense thereto, as applicable. (*Ibid.*)

For a defendant to meet the initial burden, it may present affirmative evidence negating as a matter of law an essential element of plaintiff's claim. (*Guz v. Bechtel Nat., Inc.* (2000) 24 Cal.4th 317, 334.) Another way for a defendant to meet its initial burden is to show that an essential element of plaintiff's claim cannot be established. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 854.)

The moving party's ultimate burden of persuasion that there are no issues of triable fact, however, never shifts to the opposing party. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 850.) This burden is unaffected by the strength or weakness of the showing in opposition to the motion (*Scalf v. D.B. Log Homes, Inc.* (2005) 128 Cal.App.4th 1510, 1519), and summary judgment must be denied—despite deficiencies in the opposition—if the burden has not been carried (*Kojababian v. Genuine Home Loans, Inc.* (2009) 174 Cal.App.4th 408, 416).

Because summary judgment deprives an adverse party of the right to a trial, any doubts are resolved in favor of the party opposing the motion. (*Huynh v. Ingersoll-Rand* (1993) 16 Cal.App.4th 825, 830; *See's Candy Shops, Inc. v. Superior Court* (2012) 210 Cal.App.4th 889, 900.) Thus, "[t]he moving party's affidavits are to be strictly construed, and … all conflicts in the affidavits are to be resolved in favor of the opposing party and all reasonable inferences are to be drawn in favor of that party as well." (*Hufft v. Horowitz* (1992) 4 Cal.App.4th 8, 20.)

Negligence

Defendants effectively argue that they owed no duty of care regarding how root outgrowth from a tree on their property affects a neighboring property. The Court disagrees.

Sprecher v. Adamson Companies (1981) 30 Cal.3d 358 is the seminal case for imposing a duty on landowners for damage caused to a neighboring landowner's property by natural conditions. There, the Court considered whether an uphill landowner was liable for damage caused to a downhill landowner's property caused by a natural slide condition existing on the uphill landowner's property. (*Id.* at 360-62.) The California Supreme Court departed from traditional common law rule of nonliability for natural conditions in favor of imposing a general duty of care:

> The question is whether in the management of his property, the possessor of land has acted as a reasonable person under all the circumstances. The likelihood of injury to plaintiff, the probable seriousness of such injury, the burden of reducing or avoiding the risk, the location of the land, and the possessor's degree of control over the risk-creating condition are among the factors to be considered by the trier of fact in evaluating the reasonableness of a defendant's conduct.

(*Id.* at 372.) In rejecting the distinction between artificial and natural conditions, the *Sprecher* court noted the anomaly that, under the old rule, a possessor of land would owe a duty of care to trespassers, invitees, and licensees on their own property, but not to their neighbor on the other side of the boundary struck by a dead limb from the possessor's tree. (*Id.*, at 370.)

The *Sprecher* rule was directly applied to tree root growth in *Moeller v. Fleming* (1982) 136 Cal.App.3d 241. There, a pedestrian fell on a break in a public sidewalk caused by the roots of a tree on defendant's adjacent property. (*Id.*, at 243.) In ruling that the defendant was not entitled to summary judgment, the Court acknowledged that "the old common law rule" of immunity for damage caused by natural conditions of land was nullified by *Sprecher* in favor of "the fundamental concept that a person is liable for the harm caused by his want of ordinary care . . . in the management of his property." (*Id.*, at 245 [quotations omitted].) The *Moeller* Court held that:

> Under the *Sprecher* standard it is conceivable that a trier of fact could find Fleming liable for suffering the roots of his tree to cause, with his knowledge, a dangerous condition on an adjacent public sidewalk.

(*Id.*) The Court reversed the lower court's ruling for summary judgment in defendant's favor, finding that the defendant's affidavits neither negated an essential element of the theory of liability under *Sprecher*, nor stated a complete defense to it. (*Id.*)

Here, Defendants argue that they owed no duty "to inspect, maintain, repair, or prevent naturally occurring root growth originating from a tree on their property," where the alleged injury-producing condition was located entirely on Plaintiff's property, which was under Plaintiff's exclusive ownership and control. (MPA, at. 6.) However, Plaintiff alleges that dangerous condition of uneven pavers on her property was caused by root growth from a tree on Defendants' property. (Complaint, at p. 4-5.) Defendants' argument that they owed no duty to Plaintiff merely because the dangerous condition developed on her property is foreclosed by *Sprecher* and *Moeller*.

Defendant further argues that under the factors in *Rowland v. Christian* (1968) 69 Cal.2d 108, no duty of care should be imposed on Defendants regarding root growth from a tree on their property.

Civil Code § 1714(a) declares that every person is responsible for injury to another caused by their want of ordinary care in the management of their property. The California Supreme Court has held that departures from this fundamental principle require the balancing of seven considerations: (1) foreseeability of harm to the plaintiff; (2) the degree of certainty that plaintiff suffered injury; (3) the closeness of connection between defendant's conduct and the injury; (4) the moral blame attached to defendant's conduct; (5) the policy of preventing future harm; and (6) the extent of the burden to the defendant and the consequences of imposing a duty; and (7) the availability, cost, and prevalence of insurance for the risk involved. (*Rowland v. Christian* (1968) 69 Cal.2d 108, 112-13.)

The court has considered the factors, as to those that are at issue:

Defendants do not argue against foreseeability. Nor could they. There can be no serious dispute that dangerous conditions on an adjacent property can foreseeably arise from the outgrowth of tree roots from a tree planted near that property. This factor weighs heavily in favor of Plaintiff.

Defendants argue that the closeness of connection factor weighs in their favor because Plaintiff was not directly injured by the tree, but rather tripped on pavers on her property. This argument is unconvincing. Plaintiff alleges that the tree caused the pavers to become uneven and that the condition worsened over time. Plaintiff alleges a clear connection between the Defendants' tree and the uneven condition of her walkway. She also offers evidence that she told Defendants that their tree was causing problems and she could not remedy those problems without addressing the roots, which she understood would damage the tree.

Defendants further argue that the moral-blame factor weighs against a recognition of duty because blame should be placed on those in control of the circumstances. However, Defendants don't establish there was nothing they could do to prevent or mitigate damage caused by the roots of tree that they planted on their property. Plaintiff's awareness of and ability to mitigate the dangerous condition arising from the root outgrowth goes to comparative fault, not to negating Defendants' standard duty of care.

Defendants further argue that the policy of preventing future harm weighs against the imposition of a duty because future injuries are most effectively prevented by assigning responsibility to the party who owns and controls the land. Defendants' argument misses the mark for the same reason as the moral blame factor. Imposing liability for conditions created by tree root growth encourages property owners to consider that factor in planting and maintaining trees on their property and encourages action upon notice of a dangerous condition arising from their tree.

Finally, Defendants contend that the burden and community consequences disfavor imposition of a duty as it would require property owners to monitor adjacent parcels for signs that roots, vegetation, or other naturally occurring conditions may be affecting private property. While the Court agrees that this factor favors Defendants, the Court finds that it does not tip the balance of the analysis, considering the strength of the other factors in favor of Plaintiff. Notably, the theory of liability recognized in Moeller included notice of the issue: "Under the *Sprecher* standard it is conceivable that a trier of fact could find Fleming liable for suffering the roots of his tree to cause, ***with his knowledge***, a dangerous condition on an adjacent public sidewalk." (*Moeller, supra*, 136 Cal.App.3d at 245.) Here, Plaintiff alleges that she informed Defendant Allan Brody of the root outgrowth in 2018 – three years prior to the incident. (AMF No. 15.)

The Court finds no basis under the *Rowland* factors to depart from imposing a standard duty of care on Defendants for the ordinary management of their property.

Accordingly, as Defendants have only challenged the negligence claim as to duty, Defendants' motion for summary judgment/adjudication is DENIED as to Plaintiff's negligence claim. The Court recognizes that Plaintiff may have serious issues with respect to breach and causation, but those are not the basis of this motion and are generally questions for the jury.

Premises Liability

The elements of premises liability are identical to that of negligence: duty, breach, causation, and damages. (*Nicoletti v. Kest* (2023) 97 Cal.App.5th 140, 145.) However, premises liability is "grounded in the possession of the premises and the attendant right to control and manage the premises". (*Hernandez v. Jensen* (2021) 61 Cal.App.5th 1056, 1070.)

Here, as Defendant argues, Plaintiff was in the possession of the premises on which she was injured and had the attendant right to control and manage the premises. Notwithstanding that liability may be established against Defendants on a general negligence theory, as discussed above, there is no liability under premises liability where the alleged injury did not occur on premises possessed or controlled by Defendants.

Accordingly, Defendant's motion for summary adjudication is GRANTED as to Plaintiff's premises liability claim.

Any party who contests a tentative ruling must email Dept11@sanmateocourt.org with a copy to all other parties by 4:00 p.m., Friday November 6, 2026, stating, without argument, the portion(s) of the tentative ruling that the party contests. However, if a contest is timely noticed, it will occur on November 16, 2026 at 2 p.m.

If the tentative ruling is uncontested, it shall become the order of the court. Thereafter, defendant's counsel shall prepare a written order consistent with the court's ruling for the court's signature, pursuant to California Rules of Court, Rule 3.1312 and Local Rule 3.403(b)(iv), and provide written notice of the ruling to all parties who have appeared in this action. The order should be e-filed only, do not email or mail a hard copy to the court.

02:00 PM

24-CIV-07441 NORBERTO RODRIGUEZ ZAVALA VS. VOLKSWAGEN GROUP OF AMERICA, INC., ET AL.

LINE 2

NORBERTO RODRIGUEZ ZAVALA	ALEXANDER KHOUBIAN
VOLKSWAGEN GROUP OF AMERICA, INC.	LAURA C. PRATT

DEFENDANTS: VOLKSWAGEN GROUP OF AMERICA, INC. AND BOARDWALK AUTO CENTER, INC.'S MOTION FOR JUDGMENT ON THE PLEADINGS TO ONE CAUSE OF ACTION IN PLAINTIFFS COMPLAINT

TENTATIVE RULING:

Regardless of whether a contest is Noticed, the parties are to APPEAR November 16 at 2 p.m. to discuss the status of the three discovery motions that remain on calendar. Further, each party is ORDERED to email Dept 11 with a summary of the current disputes at issue in those motions of no more than three pages by November 12 at 12 p.m. The Court notes that an IDC was conducted by Order of the Court on June 10. The minutes reflect that:

> This IDC was set by way of a 05/18/2026 Order from the Hon. David Silberman. The issues in dispute involve Defendant's responses to Plaintiff's Special Interrogatories, Set Three ("SROGs), and Requests for Production, Set Three ("RFPs"), as well as to the deposition of Defendant's PMQ. Defendant served objection only responses to the SROGs and RFPs; Defendant now agrees to provide code-compliant, verified responses by 07/10/2026 and endeavor to complete the associated document production by 07/24/2026. If Plaintiff is satisfied with these responses and production, they should file a notice of withdrawal of the two (2) motions to compel presently scheduled for 03/01/2027.

The Court further notes that all 3 motions remain on calendar.

Defendant Boardwalk Auto Center, Inc.'s Motion for Judgment on the Pleadings to one cause of action in Plaintiff's Complaint is GRANTED, as follows:

Background

Plaintiff Norberto Rodriguez Zavala purchased a 2021 Volkswagen Atlas on or about January 31, 2021. He filed this action on November 22, 2024, pleading five statutory warranty causes of action under the Song-Beverly Consumer Warranty Act against Defendant Volkswagen Group of America, Inc., and a sixth cause of action for negligent repair against Defendant Boardwalk Auto Center, Inc. (sued as Boardwalk Cars, Inc.). The complaint alleges that during the warranty period the Vehicle "contained or developed numerous defects including but not limited to: Engine; Transmission; Electrical," which substantially impair the use, value, or safety of the vehicle.

Defendant Boardwalk here moves for judgment on the pleadings as to Plaintiff's Sixth Cause of Action for Negligent Repair.

Discussion

A defendant's motion for judgment on the pleadings may be made only on the ground that the court lacks subject-matter jurisdiction or that "[t]he complaint does not state facts sufficient to constitute a cause of action against that defendant." (Code Civ. Proc. section 438 subd. (c)(1)(A).) The grounds "shall appear on the face of the challenged pleading or from any matter of which the court is required to take judicial notice." (Code Civ. Proc. section 438 subd. (d).) The motion "performs the same function as a general demurrer, and hence attacks only defects disclosed on the face of the pleadings or by matters that can be judicially noticed"; extrinsic evidence is improper. (*Cloud v. Northrop Grumman Corp.* (1998) 67 Cal. App. 4th 995, 999.) The court applies "the same rules governing the review of an order sustaining a general demurrer," accepting "the complaint's properly pleaded factual allegations as true" and giving them "a liberal construction," while disregarding "any contentions, deductions or conclusions of fact or law." (*Cnty. of Orange v. Ass'n of Orange Cnty. Deputy Sheriffs* (2011) 192 Cal. App. 4th 21, 32.)

Specificity of Allegations

Here, the parties are in agreement that the elements of the negligence cause of action are duty, breach, causation, and damages. (See Motion at p. 5:14-15, citing *Artiglio v. Corning Inc.* (1998) 18 Cal.4th 604, 614; Opp. at p. 4:20-21.) They disagree about the level of detail that is required to be pleaded, with Defendant arguing that the pleading fails to allege facts sufficient to constitute a cause of action.

"In the ordinary personal injury lawsuit, in which the complaint's factual recitations show plainly the connection between cause and effect, it suffices to plead causation succinctly and generally." (*Bockrath v. Aldrich Chem. Co*. (1999) 21 Cal. 4th 71, 78.) Ultimate facts may be pleaded in a conclusory fashion where a plaintiff's knowledge of the precise cause is limited, and specific causation facts need be pleaded only where the pleaded facts of negligence and injury do not give rise to an inference of causation. (*Id*., at 78-81.)

Plaintiff's Complaint identifies Boardwalk as the facility to which the Vehicle was delivered "for substantial repair on multiple occasions." (Complaint, ¶36.) It alleges a duty of ordinary care and skill in the storage, preparation and repair of the Vehicle. (*Id*., at ¶37.) It further alleges breach of that duty and that the negligent breach caused Plaintiff's damages. (*Id*., at ¶¶38-39.) Reading these facts in conjunction with the incorporated allegations that the vehicle at issue developed recurring engine, transmission, and electrical defects, the pleading supplies the repair context and the nature of the claimed negligence. (See *id*. at ¶12.) Reading the pleading liberally, an inference of causation can be drawn here where a repair facility is alleged to have repeatedly serviced a vehicle but left it in a defective condition. The general allegation of causation is sufficient in these circumstances.

Defendant raises a subsidiary argument that the complaint fails because it does not state a damages figure specific to the negligent-repair count under Code of Civil Procedure section 425.10. However, the complaint alleges damages "not less than $25,000.00." (Complaint, ¶15.) Defendant Boardwalk concedes it "is not arguing that Plaintiff must state an exact monetary amount for damages." This argument does not establish that the Complaint fails to plead facts sufficient to state a cause of action.

The Motion is accordingly DENIED as to this ground.

Economic Loss Rule

Defendant argues that Plaintiff's cause of action for negligent repair is barred by the economic loss rule, which provides that there is no recovery in tort for negligently inflicted purely economic losses, meaning financial harm unaccompanied by physical or property damage. (*Rattagan v. Uber Techs., Inc*. (2024) 17 Cal. 5th 1, 20–21.) "Economic loss" includes "costs of repair and replacement of the defective product . . . without any claim of personal injury or damages to other property. [Citation.] [Citation.]" (*Food Safety Net Servs. v. Eco Safe Sys. USA, Inc*. (2012) 209 Cal. App. 4th 1118, 1130, fn 4.)

The Court agrees. When a customer brings a vehicle to a dealership for warranty repair, the parties are in contractual privity — the repair order creates a direct contractual relationship. The dealership's obligation to repair the vehicle arises from the warranty and the repair contract. Under the *Rattagan* framework, a court must determine whether there is an independent tort duty to refrain from the alleged conduct and, if so, whether the plaintiff can establish the tort's elements independently of the contractual rights and duties.

In reaching that conclusion, the Court considered *N. Am. Chem. Co. v. Superior Ct*. (1997) 59 Cal. App. 4th 764, 784–785.) However, *Erlich v. Menezes*, 21 Cal. 4th 543, 981 P.2d 978 (1999) appears to limit the services exception to contexts involving a special relationship between the parties, and no such special relationship has been pled in this case and the Court does not believe Plaintiff can plead such a relationship. (*Id.* ["conduct amounting to a breach of contract becomes tortious only when it also violates a duty independent of the contract arising from principles of tort law."]*; see also Stop Loss Ins. Brokers, Inc. v. Brown & Toland Med. Grp.* (2006) 143 Cal. App. 4th 1036 [explaining that *Erlich* qualified *North American Chemical's* statement about contractual duties, and that mere negligent breach of contract does not suffice for tort damages].). The Court recognizes that this issue has not been squarely determined in this particular context by the Court of Appeal and there is a split of authority among trial courts that have addressed it. But the Court concludes that absent some sort of wrong outside of a negligent breach of the contractual duty to repair the car, the plaintiff cannot avoid the economic loss rule.

The Motion is accordingly GRANTED as to this ground.

Leave to Amend

"It is an abuse of discretion for the court to deny leave to amend where there is any reasonable possibility that plaintiff can state a good cause of action… But the court should deny leave to amend where the facts are not in dispute and no liability exists under substantive law… It is not up to the judge to figure out how the complaint can be amended to state a cause of action. Rather, the burden is on plaintiff to show *in what manner* plaintiff can amend the complaint, and *how* that amendment will change the legal effect of the pleading." Cal. Prac. Guide Civ. Pro. Before Trial Ch. 7(I)-A (citations omitted).

While opposing the motion and asking for leave to amend, Plaintiff has failed to identify any facts that Plaintiff contends Plaintiff could allege to plead around the economic loss rule and no basis for amendment is apparent. Accordingly, leave to amend is DENIED.

If Plaintiff believes it is possible to address the deficiencies identified in this tentative, Plaintiff must contest the tentative and appear to explain in detail what facts Plaintiff can allege to cure.

Any party who contests a tentative ruling must email Dept11@sanmateocourt.org with a copy to all other parties by 4:00 p.m., Friday November 6, 2026, stating, without argument, the portion(s) of the tentative ruling that the party contests. However, if a contest is timely noticed, it will occur on November 16, 2026 at 2 p.m.

If the tentative ruling is uncontested, it shall become the order of the court. Thereafter, defendant's counsel shall prepare a written order consistent with the court's ruling for the court's signature, pursuant to California Rules of Court, Rule 3.1312 and Local Rule 3.403(b)(iv), and provide written notice of the ruling to all parties who have appeared in this action. The order should be e-filed only, do not email or mail a hard copy to the court.

02:00 PM

25-CIV-00841 SAMUEL DOWOON LEE VS. SUNIL EVANS, ET AL.

LINE 3

SAMUEL DOWOON LEE	QUINLAN S. TOM
SUNIL EVANS	JONATHAN D. KINTZELE

CROSS-COMPLAINANTS: MARVIN EVANS, SUNIL EVANS AND GRAND ELECTRIC CONSTRUCTION INC.'S COUNSEL: GENE DESROCHERS MOTION TO BE RELIEVED AS COUNSEL

TENTATIVE RULING:

The unopposed motion of Gene Desrochers to be relieved as counsel of record for Marvin Evans, Sunil Evans, and Grand Electric is denied without prejudice. Counsel has not used the Judicial Council form declaration and proposed order as required by California Rules of Court, rule 3.1362.

The Court considered finding substantial compliance despite the mandatory language of the rule, but counsel failed to include all of the information in his declaration required by the MC-52. If he wishes to be relieved, he should file a new MC-051, MC-052 and MC-053 and fill them out correctly. If he does it immediately, there is a motion hearing available on the Court's calendar for December 7, 2026. He can also pursue being relieved by stipulation using the MC-50.

Any party who contests a tentative ruling must email Dept11@sanmateocourt.org with a copy to all other parties by 4:00 p.m., Friday November 6, 2026, stating, without argument, the portion(s) of the tentative ruling that the party contests. However, if a contest is timely noticed, it will occur on November 16, 2026 at 2 p.m.

If not contested, the denial of the motion will be reflected in the minutes and no formal order will issue.

02:00 PM

25-CIV-05177 JEANNETTE LONG VS. ARTICHOKE JOES CASINO INC.

LINE 4

JEANNETTE LONG	PRO PER
ARTICHOKE JOES CASINO INC.	MELISSA A. HOFFMAN

PLAINTIFF: JEANNETTE LONG'S MOTION

TENTATIVE RULING:

This matter was erroneously calendared for hearing in Department 11. It will be heard in Department 28 at a date and time determined by that department.

02:00 PM

25-CIV-06884 BENJAMIN CUNNINGHAM VS. URBAN DESIGNSCAPES, INC., ET AL.

LINE 5

BENJAMIN CUNNINGHAM	PRO PER
URBAN DESIGNSCAPES, INC.	PRO PER

PLAINTIFF: BENJAMIN CUNNINGHAM'S MOTION TO STRIKE DEFENDANTS' ANSWER AND DEFAULT DEFENDANTS

TENTATIVE RULING:

For the reasons stated below, Plaintiff Benjamin Cunningham's ("Plaintiff") "Motion to Strike Defendants' Answer and default Defendats [sic]," filed Feb. 10, 2026, is DENIED. (Code Civ. Proc. § 435-437.)

"Any party, within the time allowed to respond to a pleading may serve and file a notice of motion to strike the whole or any part thereof." (Code Civ. Proc. Sect. 435(b)(1)). "The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper: (a) Strikeout any irrelevant, false, or improper matter inserted in any pleading; (b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court." (Code Civ. Proc. Sect. 436.) "The grounds for a motion to strike shall appear on the face of the challenged pleading or from any matter of which the court is required to take judicial notice." (Code Civ. Proc., § 437, subd. (a).) Like a demurrer, a motion to strike "challenges the legal sufficiency of the complaint's allegations, which are assumed to be true." (*Blakemore v. Superior Court* (2005) 129 Cal.App.4th 36, 53.)

The motion is denied for failure to show proper service of the moving papers. The Proof of Service attached to Plaintiff's Feb. 10, 2026 Motion to Strike is both undated and unsigned. Accordingly, there is no proper Proof of Service on file showing that the moving papers were served on defendant Robert Vo. As to defendant Urban Designscapes, Inc., there is no Proof of Service showing that Urban Designscapes, Inc. was ever served with the Summons and Complaint (or this motion). Accordingly, there is no basis for the Court taking its default. The Court notes that Plaintiff is correct and that a non-attorney cannot represent a corporation and if Designscapes is a Corporation and if it is served, it will need to retain a lawyer to defend the case.

The Court also notes that if this motion had been properly served as to Mr. Vo and, absent opposition from Mr. Vo, it may very well have been granted. But if it were granted it would have likely been granted with leave to amend to allow Mr. Vo an opportunity to verify his response and respond to the allegations in the complaint. Code Civ. Proc. § 431.30(d).

Any party who contests a tentative ruling must email Dept11@sanmateocourt.org with a copy to all other parties by 4:00 p.m., Friday November 6, 2026, stating, without argument, the portion(s) of the tentative ruling that the party contests. However, if a contest is timely noticed, it will occur on November 16, 2026 at 2 p.m.

If not contested, the denial of the motion will be reflected in the minutes and no formal order will issue.

02:00 PM

25-CLJ-07504 WELLS FARGO BANK, N.A. VS. AUSTIN LIN

LINE 6

WELLS FARGO BANK, N.A.	HARLAN M. REESE
AUSTIN LIN	PRO PER

PLAINTIFF: WELLS FARGO'S MOTION TO DEEM REQUESTS FOR ADMISSIONS ADMITTED AND OF NON-APPEARANCE

TENTATIVE RULING:

The unopposed motion is granted. The genuineness of any documents and the truth of any matters in plaintiff's Requests for Admissions, Set One, are deemed admitted.

Any party who contests a tentative ruling must email Dept11@sanmateocourt.org with a copy to all other parties by 4:00 p.m., Friday November 6, 2026, stating, without argument, the portion(s) of the tentative ruling that the party contests. However, if a contest is timely noticed, it will occur on November 16, 2026 at 2 p.m.

If not contested, the grant of the motion will be reflected in the minutes and no formal order will issue.

POSTED: 3:00 PM