

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

Special Set Law and Motion Calendar
Judge: HONORABLE NINA SHAPIRSHTEYN
Department 11
1050 Mission Road, South San Francisco
Courtroom L

Wednesday, January 22, 2025 AT 10:00 AM

IF YOU **INTEND TO APPEAR** ON ANY CASE ON THIS CALENDAR YOU MUST DO THE FOLLOWING:

1. EMAIL Dept11@Sanmateocourt.org BEFORE 4:00 P.M. CONTEMPORANEOUSLY COPIED TO ALL PARTIES OR THEIR COUNSEL OF RECORD. IF BY EMAIL, IT MUST INCLUDE THE NAME OF THE CASE, THE CASE NUMBER, AND THE NAME OF THE PARTY CONTESTING THE TENTATIVE RULING, OR
2. YOU MUST CALL (650) 261-5111 BEFORE 4:00 P.M. AND FOLLOW THE INSTRUCTIONS ON THE MESSAGE.
3. AND You must give notice before 4:00 P.M. to all parties of your intent to appear pursuant to California Rules of Court 3.1308(a)(1).

Failure to do item 1, or both 2 and 3 will result in no oral presentation.

At this time, personal appearances are allowed but not required. Parties may appear by Zoom, advance authorization is not required for remote appearances
Zoom Video/Computer Audio Information COURTROOM 2B:

<https://sanmateocourt.zoomgov.com/>

Meeting ID: 161 576 6143

Password: 142907

Zoom Phone-Only Information Please note: You must join by dialing in from a telephone; credentials will not work from a tablet or PC

Dial in: +1 (669)-254-5252

(Meeting ID and passwords are the same as above)

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) use a dedicated land line 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 case cites; and (8) spell all names, even common names.

New: You must email a copy of any reply briefs, or any Unlawful Detainer Opposition or Motion for Summary Judgment to:
lawandmotionreplybriefs@sanmateocourt.org

Case
Title / Nature of Case

10:00

LINE:1

21-CIV-04985 DEL SARTO 1997 FAMILY LP, ET AL. VS. LIAV LESHEM, ET AL.

DEL SARTO 1997 FAMILY LIMITED PARTNERSHIP
LIAV LESHEMP. KURT PETERSON
JOEL F. DONAHOE

MOTION FOR LEAVE TO FILE THIRD AMENDED CROSS-COMPLAINT BY DEFENDANTS/CROSS-COMPLAINANTS DOG CLUB POOL, LLC, ORI ZALTZMAN, LIAV LESHEM, INBAL LESHEM, AND MICHAL REZNIZKI IS GRANTED.

TENTATIVE RULING:

Defendant and Cross-Complainants DOG CLUB POOL, LLC, ORI ZALTZMAN, LIAV LESHEM, INBAL LESHEM, AND MICHAL REZNIZKI (collectively "Dog Pool") seek leave to file a Third Amended Cross-Complaint to allege negligent interference with prospective economic advantage.

Dog Pool filed its initial Cross-Complaint on November 4, 2021, followed by two amendments. Dog Pool contends - although does not explain how - it discovered it has a meritorious claim for negligent interference with prospective economic advantage during expert discovery. Dog Pool further argues there is no prejudice to Plaintiffs because there is no need for further discovery.

Plaintiffs, on the other hand, argue the new cause of action for negligent interference with prospective economic advantage is significantly factually distinct from the existing intentional interference cause of action and requires further discovery, although Plaintiffs do not explain what type of discovery. Plaintiffs also point to Defendants' unreasonable delay as the ground to deny the motion.

Motions for leave to amend the pleadings are directed to the sound discretion of the judge. "The court *may, in furtherance of justice, and on any terms as may be proper,* allow a party to amend any pleading." (Code Civ. Proc. § 473(a)(1) (emphasis added); see Code Civ. Proc. § 576.)

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," *absent prejudice* to the adverse party. (*Atkinson v. Elk Corp.* (2003) 109 Cal. App. 4th 739, 761 [internal quotes omitted].)

If delay in seeking the amendment has not misled or prejudiced the other side, the liberal policy of allowing amendments prevails. Indeed, it is an *abuse of discretion* to deny leave in such a case, even if sought as late as the time of trial. (*Higgins v. Del Faro* (1981) 123 Cal. App. 3d 558, 564-565; see also *Berman v. Bromberg* (1997) 56 Cal. App. 4th 936, 945.)

The judge has discretion to deny leave to amend when the party seeking the amendment has been dilatory and the delay has *prejudiced* the opposing party. (See *Hirsa v. Sup.Ct. (Vickers)* (1981) 118 Cal. App. 3d 486, 490.) Prejudice exists where the amendment would result in a delay of trial, along with loss of critical evidence, added costs of preparation, increased burden of discovery, etc. (*Magpali v. Farmers Group, Inc.* (1996) 48 Cal. App. 4th 471, 486-488; see *P & D Consultants, Inc. v. City of Carlsbad* (2010) 190 Cal. App. 4th 1332, 1345; *Fisher v. Larsen* (1982) 138 Cal. App. 3d 627, 649—leave to amend properly denied where plaintiff knew for over five months claims had not been properly pleaded and took no action to amend until after summary judgment granted against it.)

The court does not find that the amendment will prejudice Plaintiff, given the similarity in the causes of action. Dog Pool's motion to file Third Amended Cross-Complaint is **GRANTED**. The proposed Third Amended Complaint attached to Dog Pool's moving papers is NOT deemed filed by virtue of this motion being granted. **Dog Pool MUST separately file and serve its Third Amended Cross-Complaint on January 22, 2025. Answer to be filed on or before January 23, 2025.**

If the tentative ruling is uncontested, it shall become the final order of the Court. Defendant Dog Pool is to give notice.

2:00

LINE:2

21-CIV-04985 DEL SARTO 1997 FAMILY LP, ET AL. VS. LIAV LESHEM, ET AL.

DEL SARTO 1997 FAMILY LIMITED PARTNERSHIP
LIAV LESHEM

P. KURT PETERSON
JOEL F. DONAHOE

MOTION TO BIFURCATE ISSUE OF INTERPRETATION OF PERSONAL GUARANTY BY
DEFENDANTS/CROSS-COMPLAINANTS DOG CLUB POOL, LLC, ORI ZALTZMAN, LIAV LESHEM,
INBAL LESHEM, AND MICHAL REZNIZKI

TENTATIVE RULING:

Defendants/Cross-Complainants' Motion is DENIED.

Plaintiffs' Request for Judicial Notice of the Court's August 26, 2024
Order Denying Defendants Liav Leshem's, Inbal Leshem's, Michael
Reszniki's, Ori Zaltzman's Motion for Summary Judgment is GRANTED.

If the tentative ruling is uncontested, it shall become the final order of
the Court.

10:00

LINE:3

21-CIV-04985 DEL SARTO 1997 FAMILY LP, ET AL. VS. LIAV LESHEM, ET AL.

DEL SARTO 1997 FAMILY LIMITED PARTNERSHIP
LIAV LESHEM

P. KURT PETERSON
JOEL F. DONAHOE

MOTION TO COMPEL COMPLIANCE WITH DEL SARTO 1997 FAMILY LIMITED PARTNERSHIP'S STATEMENT OF COMPLIANCE BY DEFENDANTS/CROSS-COMPLAINANTS DOG CLUB POOL, LLC, ORI ZALTZMAN, LIAV LESHEM, INBAL LESHEM, AND MICHAL REZNIZKI IS DENIED.

TENTATIVE RULING:

On June 11, 2024, Plaintiff served its responses to Dog Pool Club's Requests for Production of Documents, Set Two, and on June 14, 2024, Plaintiff served its verification to its response. (Chuang Decl., ¶4 and Ex. 3.) Plaintiff indicated it would comply with the requests, but has redacted 150 pages of documents. Dog Pool seeks to compel these documents produced unredacted.

On January 9, 2025, 13 days before trial, Dog Pool filed a motion for an order compelling Plaintiff Del Sarto Family Limited Partnership to comply with its statement of compliance. The May 8, 2025 hearing date was advanced ex parte to January 22, 2025 in light of the January 27, 2025 trial.

Dog Pool's motion to compel compliance should actually be classified as a motion to compel further responses, and as such, is untimely.

All motions are required to be heard at least 15 days before the date initially set for trial. (Code Civ. Proc. § 2024.020(a)), unless the judge, on motion, approves a later date (Code Civ. Proc. § 2024.050). Defendant/Cross-Complainant's motion is untimely for this additional reason and is DENIED.

Plaintiffs' request for sanctions is DENIED.

If the tentative ruling is uncontested, it shall become the final order of the Court. Defendant Dog Pool is to give notice.
