SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Department 10
Honorable Frederick S. Chung

Rachel Tien, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: 408-882-2210

DATE: October 29, 2024 TIME: 9:00 A.M.

To contest the ruling, call (408) 808-6856 before 4:00 P.M.
Make sure to let the other side know before 4:00 P.M. that you plan to contest the ruling, in accordance with California Rule of Court 3.1308(a)(1) and Local Rule 8.E.

The courthouse is open: Department 10 is now fully open for in-person hearings, as of April 18, 2023. The court strongly prefers **in-person** appearances for all contested law-and-motion matters. For all other hearings (*e.g.*, case management conferences), the court strongly prefers either **in-person or video** appearances. Audio-only appearances are permitted but disfavored, as they cause significant disruptions and delays to the proceedings. Please use telephone-only appearances as a last resort.

Scheduling motion hearings: Please go to https://reservations.scscourt.org or call 408-882-2430 between 8:30 a.m. and 12:30 p.m. (Mon.-Fri.) to reserve a hearing date for your motion *before* you file and serve it. You must then file your motion papers no more than five court days after reserving the hearing date, or else the date will be released to other cases.

CourtCall is no longer available: Department 10 uses Microsoft Teams for remote hearings. Please click on this link if you need to appear remotely, and then scroll down to click the link for Department 10: https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml. Again, the court strongly prefers in-person or video appearances. Telephonic appearances are a sub-optimal relic of a bygone era.

Recording is prohibited: As a reminder, most hearings are open to the public, but state and local court rules prohibit recording of court proceedings without a court order. This prohibition applies to both in-person and remote appearances.

Court reporters: Unfortunately, the court is no longer able to provide official court reporters for civil proceedings (as of July 24, 2017). If any party wishes to have a court reporter, the appropriate form must be submitted. See https://www.scscourt.org/general_info/court_reporters.shtml.

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LINE #	CASE #	CASE TITLE	RULING
LINE 1	20CV373181	Ao Wang et al. v. Bethany Liou et al.	OFF CALENDAR
LINE 2	23CV421715	Banc of America Leasing & Capital, LLC v. John Pham et al.	Order of examination: parties to appear.
LINE 3	21CV392344	Valley Water v. Fareed Sepehry-Fard	Click on LINE 3 or scroll down for ruling in lines 3-5.
LINE 4	21CV392344	Valley Water v. Fareed Sepehry-Fard	Click on LINE 3 or scroll down for ruling in lines 3-5.
LINE 5	21CV392344	Valley Water v. Fareed Sepehry-Fard	Click on LINE 3 or scroll down for ruling in lines 3-5.
LINE 6	23CV423619	Timothy Young v. BMW of North America, LLC	Click on LINE 6 or scroll down for ruling in lines 6-9.
LINE 7	23CV423619	Timothy Young v. BMW of North America, LLC	Click on LINE 6 or scroll down for ruling in lines 6-9.
LINE 8	23CV423619	Timothy Young v. BMW of North America, LLC	Click on LINE 6 or scroll down for ruling in lines 6-9.
LINE 9	23CV423619	Timothy Young v. BMW of North America, LLC	Click on LINE 6 or scroll down for ruling in lines 6-9.
LINE 10	23CV427462	Xiaoxue Wu et al. v. Xiang Wang et al.	Click on LINE 10 or scroll down for ruling in lines 10-11.
LINE 11	23CV427462	Xiaoxue Wu et al. v. Xiang Wang et al.	Click on LINE 10 or scroll down for ruling in lines 10-11.

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LINE #	CASE #	CASE TITLE	RULING
LINE 12	24CV440543	Ferras Hamad v. Meta Platforms, Inc.	Application for Shahmeer Halepota to appear pro hac vice: parties to appear. Notice is proper. If no party or third-party (*e.g.*, the State Bar of California) appears at the hearing to object to the application, the court will GRANT it.
LINE 13	24CV440543	Ferras Hamad v. Meta Platforms, Inc.	Application for Joseph Y. Ahmed to appear pro hac vice: parties to appear. Notice is proper. If no party or third-party (*e.g.*, the State Bar of California) appears at the hearing to object to the application, the court will GRANT it.
LINE 14	24CV446375	City of San Jose v. Anthony Vincenzo Alise	Petition re: disposition of weapons: parties to appear. The court has questions for the parties.

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Calendar Lines 3-5
Case Name: *Valley Water v. Fareed Sepehry-Fard*
Case No.: 21CV392344

I. BACKGROUND

This is an action for trespass by plaintiff Valley Water against defendant Fareed Sepehry-Fard. Valley Water is a special district authorized by the California Legislature that owns certain real property (the "Property") along Saratoga Creek in Saratoga, California. (Complaint, ¶ 1.) Sepehry-Fard owns adjacent real property at 12309 Saratoga Creek Drive. (*Id.* at ¶ 4.) According to the complaint, filed on December 16, 2021, Sepehry-Fard, without Valley Water's permission, intentionally constructed and maintained encroachments on the Property and has refused to remove them. (*Id.* at ¶ 11.)

The complaint causes of action for (1) trespass, (2) mandatory injunction, and (3) declaratory relief.

On December 16, 2022, Sepehry-Fard filed three motions: a motion to quash service of summons, a motion to strike the summons, and a motion to strike the complaint. On April 7 and 28, 2023, Sepehry-Fard filed a notices "of unavailability due to hospit[a]lization and medical conditions including brain stroke and neu[]rological impairment." The period of unavailability included the time that had been set for hearing the three motions. The court therefore continued the hearing on the motions to October 3, 2023. (See Order, dated June 2, 2023.)[1]

On September 25, 2023, Sepehry-Fard filed a new notice of unavailability, attaching a new doctor's note indicating that Sepehry-Fard was not available for any court proceedings "until at least May 1, 2024." Given these circumstances, and given the fact that Sepehry-Fard had not appeared for any court hearings in several months, the court took the motions off calendar, "without prejudice to Sepehry-Fard's ability to re-notice them for a hearing." (See Minute Order, dated October 3, 2023 [attaching the court's tentative ruling posted on October 2, 2023].)

On May 3, 2024, Sepehry-Fard re-filed substantially similar motions to these three previously filed motions. Valley Water now opposes all three motions.

II. REQUEST FOR JUDICIAL NOTICE

With his reply briefs, Sepehry-Fard requests that the court judicially notice seven documents and a series of statements. (See Request for Judicial Notice ("RJN"), ¶¶ 1-25.) "Judicial notice may not be taken of any matter unless authorized or required by law." (Evid. Code, § 450.) A precondition to judicial notice in either its permissive or mandatory forms is that the matter to be noticed be relevant to the issues before the court. (*Silverado Modjeska Recreation and Park Dist. v. County of Orange* (2011) 197 Cal.App.4th 282, 307, fn. 18, citing *People v. Shamrock Foods Co.* (2000) 24 Cal.4th 415, 422, fn. 2.) It is the court, and not the parties, that determines relevance. Evidence Code section 453, subdivision (b), requires a

[1] On its own motion, the court takes judicial notice of its June 2, 2023 order, as well as of the October 3, 2023 minute order discussed in the next paragraph below.

party seeking notice to "[furnish] the court with sufficient information to enable it to take judicial notice of the matter." (Evid. Code, § 453, subd. (b).) Also, "[a] party requesting judicial notice of material under Evidence Code sections 452 or 453 must provide the court and each party with a copy of the material." (Cal. Rules of Court, rule 3.1306(c).)

The court denies these requests for judicial notice. The court does not find the proferred documents—which are papers apparently filed by Sepehry-Fard in the Sixth District Court of Appeal—to be relevant to the issues raised by these motions. (See RJN, ¶¶ 1-8.) Sepehry-Fard provides no explanation as to why judicial notice is necessary, and he cites no authority to support his request. It is entirely unclear to the court how these briefs, motions, and requests on appeal have any bearing on the issues presently before the court.

As for the remaining statements, the requests for judicial notice are either unsupported by law or otherwise improper, or both. For example, Sepehry-Fard requests that the court judicially notice "controlling case laws, Affidavit of Truth, evidence on records at the Santa Clara County Recorder, enacted California and Federal Laws corroboratively evidence [sic] and elucidate the fact that none of the servants at the Cross Defendant/Plaintiff were ever authorized to hire Oneal nor anyone else to continue to harass, intimidate, demonize, threaten and attempt to steal my sovereign land by, inter alia, failing to post their bond at Santa Clara County Recorder." (RJN, ¶ 16.) It is unclear exactly what controlling case law Sepehry-Fard believes that the court needs to notice, but in any event, the request is superfluous because the court is required to follow controlling case law in all cases. Similarly, the request does not apprise the court as to what evidence, records, or "Affidavit of Truth" need to be noticed, and the remainder of the request appears to consist of argument rather than evidence.

As another example, Sepehry-Fard requests judicial notice of the following statement: "Cross Claimant also requests mandatory judicial notice of controlling case laws, Id., that in fact, the salaries that Cross Defendants NAI HSUEH, SUE TIPPETS and their culprits received, without being authorized to receive those salaries, must be returned back to the people plus interest plus other fines. Cross Defendants were successful in embezzling 100s of millions of dollars perhaps billions of dollars of tax payers monies when they were not entitled to receive those salaries . . ." (*Id.* at ¶ 17.) There is no authority for the court to take judicial notice of these obviously disputed allegations.

The other statements in the request consist primarily of obviously disputed allegations of which the court cannot take judicial notice.

III. MOTION TO QUASH

A. General Legal Standards

Code of Civil Procedure section 418.10, subdivision (a)(1), authorizes a defendant to file a motion to quash service of summons "on the ground of lack of jurisdiction of the court over him or her." (Code Civ. Proc. § 418.10, subd. (a)(1).) "[A] motion to quash under section 418.10, subdivision (a)(1), is a limited procedural tool to contest personal jurisdiction over the defendant where the statutory requirements for service of process are not fulfilled." (*Stancil v. Superior Court* (2021) 11 Cal.5th 381, 390.)

"[I]n California, '. . . the original service of process, which confers jurisdiction, must conform to statutory requirements or all that follows is void.' [Citation.]" (*Ruttenberg v.*

Ruttenberg (1997) 53 Cal.App.4th 801, 809.) "Until statutory requirements are satisfied, the court lacks jurisdiction over a defendant. [Citations.]" (*Id.* at p. 808.) "When a defendant challenges the court's personal jurisdiction on the ground of improper service of summons the burden is on the plaintiff to prove . . . the facts requisite to an effective service." (*Summers v. McClanahan* (2006) 140 Cal.App.4th 403, 413, internal quotations omitted; see also *Lebel v. Mai* (2012) 210 Cal.App.4th 1154, 1160.)

To meet the initial burden, a plaintiff's filing of a statutorily compliant proof of service creates a rebuttable presumption that service was proper. (*Dill v. Berquist Construction Co.* (1994) 24 Cal.App.4th 1426, 1441-1442; see also *American Express Centurion Bank v. Zara* (2011) 199 Cal.App.4th 383, 390 (Zara) ["Evidence Code section 647 provides that a registered process server's declaration of service establishes a presumption affecting the burden of producing evidence of the facts stated in the declaration. [Citation.]"].)

B. Discussion

Sepehry-Fard argues that Valley Water never served him with the summons and complaint. In addition, he argues that he "is a sovereign who does not understand any color of law." (Notice of Motion to Quash and Motion to Quash ("Motion to Quash"), p. 2, citing *Yick Wo v. Hopkins* (1886) 118 U.S. 356.)

First, as to service, Valley Water responds that it "properly petitioned the Court for an order for publication of service of summons pursuant to the Code of Civil Procedure. The order was obtained on or about June 14, 2022. Publication was completed at that time, and Defendant was deemed served." (Valley Water's Opposition to Cross Claimant's Notice of Motion to Quash Service of Summons ("Opposition to Motion to Quash"), p 3:9-10.)

Valley Water is generally correct that this court (Judge Kulkarni) granted an order authorizing service by publication on April 29, 2022. Service by publication is complete on the 28th day following the first day of publication. (See *Watts v. Crawford* (1995) 10 Cal.4th 743, 747, fn. 4 ["Service by publication requires four weeks of weekly publication. It is not complete until the conclusion of the fourth week following the first day of publication. ([Code Civ. Proc.] § 415.50, subd. (c); see Gov. Code, § 6064.)"].) Based upon an initial publication date of May 13, 2022 in the Saratoga News, Valley Water completed service on June 3, 2022 and filed a proper proof of service on June 14, 2022.[2]

Sepehry-Fard contends that "failure to conform to statutory requirements means that all that follows is void" (Motion to Quash, pp. 1-2), but he provides no explanation as to how Valley Water's publication failed to follow the statutory requirements. To the extent that Sepehry-Fard argues service by publication is not a valid form of service, this is plainly incorrect. (See Code Civ. Proc., § 415.50.) In his reply brief, Sepehry-Fard also argues that counsel for Valley Water has not signed an affidavit supporting Valley Water's claim that it owns the Property (see Reply, pp. 1-4), but this argument is irrelevant to whether service of process was proper.

Second, the court rejects Sepehry-Fard's "sovereignty" argument, which appears to be based solely on wishful thinking. American courts have consistently rejected such arguments.

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[2] Again, the court takes judicial notice of its prior order on its own motion.

(See *U.S. v. Schneider* (7th Cir. 1990) 910 F.2d 1569, 1570 ["Schneider wanted to present as his sole defense the contention that he is a free, sovereign citizen and as such not subject to the jurisdiction of the federal courts . . . [T]hat defense has no conceivable validity in American law . . ."]; *Williams v. Scheingart* (N.D. Cal. Nov. 20, 2015) 2015 U.S. Dist. LEXIS 157440, at *1-2 [dismissing petition, without leave to amend, that sought release from custody, as well as monetary relief against various officials, on the ground that the state court in which plaintiff was convicted lacked jurisdiction over plaintiff because he is a "sovereign" citizen].)

The court DENIES Sepehry-Fard's motion to quash service of summons.

IV. MOTIONS TO STRIKE THE SUMMONS AND COMPLAINT

A. General Legal Standards

Under Code of Civil Procedure section 436, a court may strike out any irrelevant, false, or improper matter inserted into any pleading, or strike out all or 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., § 436.) The grounds for a motion to strike must appear on the face of the challenged pleading or from any matter that the court is required to take judicial notice. (Code Civ. Proc., § 437, subd. (a).) A motion to strike should not be a procedural "line item veto" for the civil defendant. (*PH II, Inc. v. Superior Court* (1995) 33 Cal.App.4th 1680, 1683.)

In ruling on a motion to strike, the court reads the complaint as a whole, all parts in their context, and assumes the truth of all well-pleaded allegations. (See *Turman v. Turning Point of Central California, Inc.* (2010) 191 Cal.App.4th 53, 63 (*Turman*), citing *Clauson v. Super. Ct.* (1998) 67 Cal.App.4th 1253, 1255.) The court's decision to strike under section 436 is discretionary. (See Code Civ. Proc., § 436 ["The court may . . . strike"].)

B. Extrinsic Evidence

The grounds for a motion to strike must appear on the face of the challenged pleading or from matters of which the court may take judicial notice. (Code Civ. Proc., § 437, subd. (a); see also *City and County of San Francisco v. Strahlendorf* (1992) 7 Cal.App.4th 1911, 1913.) Therefore, the court has not considered the exhibits Sepehry-Fard attaches to his motions, which are all extrinsic evidence.

C. Discussion

1. Motion to Strike the Summons

The court notes at the outset that a motion to strike is not the proper procedural vehicle for contesting the validity of a summons. That is the function of a motion to quash (addressed above). Under section 436, *supra*, a motion to strike only lies as to a "pleading," and under section 435, a summons is not a "pleading." (See Code Civ. Proc., § 436 ["The court may . . . [s]trike out any irrelevant, false, or improper matter inserted in any pleading."]; § 435, subd. (a)(2) ["The term 'pleading' means a demurrer, answer, complaint, or cross-complaint."].) For this reason alone, the motion to strike the summons must be DENIED.

2. Motion to Strike the Complaint

Sepehry-Fard also seeks to strike Valley Water's complaint, arguing that as a "sovereign" he is immune from suit, that Valley Water admitted that it does not own the Property, and that "all oath takers of the Plaintiff Valley Water vacated office by their failure to post bond in the Santa Clara County Recorder" pursuant to the Political Code. (*Id.* at p. 3.)

First, the court rejects Sepehry-Fard's sovereignty argument for the reasons discussed above.

Second, Sepehry-Fard fails to provide any factual support for his contention that Valley Water "admitted" that it does not own the Property. Moreover, even if he could provide such facts, they would be extrinsic to the pleadings and inadmissible on a motion to strike. Relatedly, Sepehry-Fard argues that Valley Water has not provided "a notarized affidavit under penalty of perjury that the subject parcel next to [Sepehry-Fard's] land is on the Plaintiff's balance sheet . . ." (Motion to Strike Unverified Complaint, p. 5.) This, too, is extrinsic evidence and irrelevant to a determination regarding the face of the pleadings. On a motion to strike, the court takes well-pleaded facts as true. (See *Turman, supra,* 191 Cal.App.4th at p. 63 ["'In passing on the correctness of a ruling on a motion to strike, judges read allegations of a pleading subject to a motion to strike as a whole, all parts in their context, and assume their truth.' [Citation.]"].)

Third, Sepehry-Fard argues that Valley Water cannot bring suit under Political Code sections 907, 947, and 996 (Motion to Strike Unverified Complaint, pp. 2-3), but the court is unable to locate these alleged code sections.[3] The court also notes that Sepehry-Fard string cites a host of cases that are, in some instances, over 125 years old and of questionable relevance to the issues here. (See Motion, pp. 2-3 [citing *Hull v. Superior Court of Shasta County* (1883) 63 Cal. 174; *Payne v. San Francisco* (1853) 3 Cal. 122, *People v. Taylor* (1881) 57 Cal. 620, *People ex rel. Davidson v. Perry* (1889) 79 Cal. 105, *Lorbeer v. Hutchinson* (1896) 111 Cal. 272, *People ex rel. Fleming v. Shorb* (1893) 100 Cal. 537, *Ball v. Kenfield* (1880) 55 Cal. 320, *People ex rel. McGarvey v. Hartwell* (1885) 67 Cal. 11, *People ex rel. Tracy v. Brite* (1880) 55 Cal. 79, *People v. Taylor* (1881) 57 Cal. 620, *Norton v. Lewis* (1917) 34 Cal.App. 621].) It is not the function of the court to divine what operative statutes might potentially support a party's arguments, when that party has failed to provide sufficient points and authorities to identify them. (See *Quantum Cooking Concepts, Inc. v. LV Assocs., Inc.* (2011) 197 Cal.App.4th 927, 934 [the trial court is not required to "comb the record and the law for factual and legal support that a party has failed to identify or provide"].)

In any event, the sections of the former Political Code cited by Sepehry-Fard appear to concern the requirements for holding elected office, which are irrelevant here. Valley Water

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[3] The California Political Code is no longer operative, and the Government Code adopted some of its provisions. (See, e.g., *California Medical Assn. v. Brown* (2011) 193 Cal.App.4th 1449, 1462 ["But this argument is itself misleading when one looks at the history of Government Code section 16310. When Government Code section 16310 was enacted in 1945, it incorporated the provisions of former Political Code section 444, which had been on the books since 1907, without any substantive change. [Citations.]"]; *Townzen v. County of El Dorado* (1998) 64 Cal.App.4th 1350, 1357 ["In 1947, the Legislature recodified in the Government Code those portions of the former Political Code."]; *In re Tri-Valley Herald* (1985) 169 Cal.App.3d 865, 871 ["In 1943, the provisions of sections 4460 and 4463 of the Political Code were incorporated into the Government Code under sections 6000-6005."].)

alleges that it "is a special district authorized by the State Legislature as codified in the Annotated Water Code, Appendix, Chapter 60." (Complaint, ¶ 1.) Sepehry-Fard fails to discuss how the Political Code sections he cites, even if they were currently operative law, has any bearing on the "special districts" authorized by the Water Code.

The court DENIES Sepehry-Fard's motion to strike the unverified complaint.

V. CONCLUSION

All three motions are DENIED.

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Calendar Lines 6-9
Case Name: *Timothy Young v. BMW of North America, LLC*
Case No.: 23CV423619

Currently before the court are four discovery motions by plaintiff Timothy Young against defendant BMW of North America, LLC ("BMW"). The court addresses these four motions individually below.

As a general matter, however, the court notes that Young is seeking an order overruling the "preamble of general objections" contained in each set of discovery responses by BMW, but Young's briefs do not describe what information he believes has been improperly withheld by BMW as a consequence of any of these general objections. Instead, his memoranda of points and authorities simply repeat generic principles of law, which have no bearing on whether Young is actually receiving the discovery he is entitled to. The purpose of a motion to compel discovery is to ensure that a party receives the information and evidence it needs to prosecute or defend a case, not to penalize one or the other side for immaterial, technical violations of the rules. The court therefore DENIES the request to overrule the preambles in BMW's responses.

1. <u>Requests for Production of Documents</u>

BMW's opposition to the motion to compel further responses to the document requests is 19 pages long, which violates rule 3.1113(d) of the California Rules of Court. The court disregards the last four pages of this opposition. It is unlikely to change the outcome of the motion, given that both sides' briefs are unnecessarily repetitive and filled with generic boilerplate, which the court finds to be singularly unhelpful in resolving the parties' disagreements.

The court has reviewed Young's requests for production and BMW's responses and now rules as follows:

Requests for Production Nos. 1, 2, 3, 4, 6, 10, and 14-25: Young takes issue with responses that state that BMW will produce all responsive documents in its possession, custody, or control, "namely, [X, Y, Z]." Young apparently believes that "[X, Y, and Z]" are unduly limited categories of documents, but he completely fails to explain what he believes may have been left out in each of these categories. For example, Request No. 1 seeks all documents that "refer to, relate to, or support any denial . . . of any allegation [in the complaint," and BMW's response says that it will produce all responsive documents, "namely, the sales contract for the 2022 BMW 430i Gran Coupe, VIN: WBA63AV09NFM07722 . . . , a copy of vehicle repair records obtained from any authorized repair facilities concerning service to the Subject Vehicle, a copy of the Warranty Vehicle Inquiry for the Subject Vehicle, and a copy of all call records containing communications with the Plaintiff regarding the Subject Vehicle." To the extent that these enumerated categories of documents are insufficient, Young fails to identify why. If BMW represents that its "denial . . . of any allegation" is based on these documents, then Young bears the burden of showing that this is insufficient and that good cause exists to compel a further response. He had not done so. The court finds that BMW's responses are sufficiently code compliant. DENIED.

Request for Production No. 7: The court does not understand BMW's objection-only response to this request for production. If BMW has in its possession, custody, or control a service contract issued "in connection with [Young's] purchase" of the subject vehicle, then it must be produced. If it does not, then it should say so. GRANTED.

Requests for Production Nos. 8-10: Unlike Request No. 7, these requests are not limited to the subject vehicle and seek general transactions with dealers that go beyond the specific transaction at issue here—the subject vehicle. The court agrees with BMW that these requests are overbroad and seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. DENIED.

Requests for Production Nos. 13, 26-28, and 32-40: The court agrees with BMW that these requests are overbroad and seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. DENIED.

Request for Production No. 29: The court finds BMW's statement of compliance to be adequate. DENIED.

2. Requests for Admissions

It would be helpful if Young's opening brief actually described the subject matter of the Requests for Admissions in dispute (Nos. 5, 11, and 15), but it does not. Instead, it contains generic, boilerplate arguments. BMW's opposition brief also consists largely of boilerplate arguments that have obviously been cut and pasted from elsewhere. Both sides' briefs are unhelpful. The court therefore turns to the requests and responses themselves to determine what is even at issue on this motion.

RFA No. 5: This request seeks an admission from BMW that Young purchased the subject vehicle "primarily for personal, family, or household purposes." The court does not see how BMW could possibly have any first-hand information about Young's purposes. Although all of BMW's boilerplate objections to this request are either specious or beside the point, the court finds that this request lacks foundation. DENIED.

RFA No. 11: This request seeks an admission that BMW's "authorized service and repair facilities did not repair" the problems in the subject vehicle within 30 days. BMW's objection-only response is improper, and it should either admit or deny this request. GRANTED.

RFA No. 15: This request seeks information (BMW's third-party dispute resolution process) that has no discernible bearing on the causes of action in this case. DENIED.

3. Form Interrogatories

Interrogatory No. 12.1: The court finds that BMW's answer is sufficiently code compliant. If BMW does not have first-hand knowledge of the identity of individuals at BMW of Concord and BMW of Santa Rosa who interacted with Young, then that would be the subject of third-party discovery, given that Young has made a decision not to include these entities in the present action. DENIED.

Interrogatory No. 15.1: BMW's answer is sufficient. Young's boilerplate arguments fail to demonstrate otherwise. DENIED.

Interrogatory No. 17.1: BMW must provide an answer to this interrogatory in connection with the following Requests for Admissions: Nos. 3, 8, 9, 10, and 11. No answer is required in connection with Requests for Admissions Nos. 5, 7, 15, or 16. GRANTED IN PART and DENIED IN PART.

4. Special Interrogatories

As with the motion regarding the document requests, BMW has filed an opposition to the motion regarding the special interrogatories that is overlong—16 pages. The court disregards the last page of BMW's opposition brief. Again, most of the brief is repetitive boilerplate, so it does not really change the outcome.

Special Interrogatories Nos. 1-42: Because Young's opening and reply briefs treat all 42 interrogatories as a single unit, providing no individualized or targeted argument as to any single interrogatory, the court will do the same. The court finds these generic interrogatories to be exceedingly overbroad, with the exception of Nos. 30-31, discussed below. Because the information sought by each of these interrogatories is so broad and general—essentially encompassing the issues in the entire case, as well as issues that go beyond the scope of the causes of action—they constitute a poor use of special interrogatories. In addition, it is obvious that these interrogatories have been cut and pasted from other cases, without any tailoring to the issues in this case. DENIED, except as to Nos. 30-31.

Special Interrogatories Nos. 30-31: These interrogatories are also obviously boilerplate, but because they are discrete in scope—especially if "YOU" is defined to mean "BMW of North America, LLC"—the court finds BMW's objection-only response to be insufficient. BMW must provide a substantive answer. GRANTED.

5. Conclusion

The motion is GRANTED IN PART and DENIED IN PART. For those items of discovery as to which the court is granting the motion, BMW shall provide a supplemental response within 20 days of notice of entry of this order.

The court DENIES Young's various requests for monetary sanctions, given that the court has denied far more items than it has granted.

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Calendar Lines 10-11
Case Name: *Xiaoxue Wu et al. v. Xiang Wang et al.*
Case No.: 23CV427462

Defendants Jin Li Yuan, Inc. ("JLY") and Xiang Wang bring these motions to compel further responses from plaintiffs Xiaoxue Wu and Rui Su. The first motion seeks further responses to requests for production of documents from Wu; the second motion seeks further responses to special interrogatories from both Wu and Su.

After defendants filed their opening papers on June 27, 2024, it appears that plaintiffs supplemented their discovery responses a few days later, on June 30, 2024. Unfortunately, defendants' reply briefs do not clearly address these supplemental responses—in fact, the reply briefs do not expressly acknowledge the existence of these responses—and so it is difficult for the court to discern what material disagreements still remain between the parties. As a general matter, defendants' opening and reply briefs lack specifics regarding any alleged deficiencies in plaintiffs' discovery responses. Instead, the briefs consist largely of generic legal arguments about the parties' overall discovery obligations.

Defendants have taken issue with 19 requests for production (Nos. 2-15 and 24-28) and 28 special interrogatories (Nos. 11, 13, 15-19, 22, 24, 28, 30-31, 35, 40, 42, and 44 propounded on Wu and Nos. 11, 13, 15-19, 22, 27, 32, and 34-35 propounded on Su).[4] To describe these motions as "scattershot" would be an understatement. The court has reviewed all of the requests and responses and now rules as follows:

Request for Production No. 2: This request is overbroad on its face. The court finds that Wu's narrowing of the scope of the request to communications with Wang and Tang, as well as any other person regarding the working conditions at JLY is appropriate. DENIED.

Requests for Production Nos. 3-15: Wu's responses, which state that plaintiff will produce "all identified documents" from the special interrogatory responses, are code-compliant and adequate. The court rejects JLY's argument that an insufficient quantity of documents was produced—this is irrelevant to a motion to compel further responses. If JLY believes that plaintiffs have not properly complied with the document requests, that is a separate motion—a motion to compel compliance. Similarly, JLY's argument that Wu must have responsive documents because JLY has responsive documents is irrelevant. Finally, the court agrees with plaintiffs that these are requests for the *production* of documents, not requests for *identification* of documents. The latter is the function of interrogatories. DENIED.

Requests for Production Nos. 24-28: Again, the court finds Wu's responses to be code-compliant and adequate. JLY makes the same erroneous arguments in connection with these requests that it makes in connection with Requests Nos. 3-15. DENIED.

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[4] JLY's notice of motion fails to identify the special interrogatories at issue, and its memorandum of points and authorities carelessly includes an entirely different list of special interrogatories from those that are addressed in its supporting separate statement. (Memorandum, p. 3:20-21.) The items listed in the memorandum but not in the separate statement are addressed nowhere in JLY's papers. The court focuses on those interrogatories that are actually addressed in the separate statement.

Interrogatories Nos. 11, 17, 18, 19, 22 (Wu) & Nos. 11, 17, 18, 19, 22 (Su): These interrogatories seek specific amounts and calculations of lost tips. Plaintiffs argue that they have provided all of the responsive information presently in their possession, but that they need additional discovery from defendants in order to respond fully, including documents that were the subject of the court's prior order on a motion to compel, dated September 5, 2024. JLY argues that these interrogatories must be supplemented, but it does not adequately explain how they can be supplemented if this is all of the information presently in plaintiffs' possession. JLY's arguments are generic and conclusory. DENIED.

Interrogatories Nos. 30-31 (Wu): These interrogatories are entirely lacking in foundation and call for speculation. DENIED.

Interrogatories Nos. 13, 15, 16, 24, 28, 35, 40, 42, 44 (Wu) & Nos. 13, 15, 16, 27, 32, 34, 35 (Su): The court finds that plaintiffs' answers are sufficiently responsive and code-compliant. The court finds that JLY's arguments frequently misconstrue its own interrogatories, seeking additional information that is not actually called for by these interrogatories. DENIED.

Monetary Sanctions: JLY's arguments in support of its motions are uniformly not well taken and appear to misapprehend the function of document requests and interrogatories. The court finds that JLY did not act with substantial justification in bringing these non-meritorious motions to compel, which are being denied in their entirety. The court GRANTS plaintiffs' request for monetary sanctions against JLY, and the court DENIES JLY's request for sanctions. As a reminder, the purpose of discovery sanctions is compensatory, not punitive, and in this instance, the court finds that plaintiffs' request for **$3,600.00** in monetary sanctions, representing eight hours at $450/hour to oppose these motions, is reasonable. The court holds JLY and its counsel jointly and severally liable for this amount, which must be paid within 30 days of notice of entry of this order.

It is so ordered.

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