SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

Department 16
(Dept 16 is now hearing cases that were formerly in Dept 2)
Honorable Amber Rosen, Presiding

Felicia Samoy, Courtroom Clerk
191 North First Street, San Jose, CA 95113
Telephone: 408.882.2270

DATE: 05-16-24 TIME: 9 A.M.

All those intending to speak at the hearing are requested to appear in person or by video. Parties are asked NOT to appear by telephone only.

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 prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)

TO CONTEST THE RULING: Before 4:00 p.m. today you must notify the:

(1) Court by calling (408) 808-6856 and
(2) Other side by phone or email that you plan to appear and contest the ruling
(California Rule of Court 3.1308(a)(1) and Local Rule 8.E.)

TO APPEAR AT THE HEARING: The Court will call the cases of those who appear in person first. If you appear virtually, please use video. To access the link, click on the below link or copy and paste into your internet browser and scroll down to Department 16.
https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml. You must use the current link.

TO SET YOUR NEXT HEARING DATE: You no longer need to file a blank notice of motion to obtain a hearing date. You may make an online reservation to reserve a date before you file your motion. If moving papers are not filed within 5 business days of reserving the date, the date will be released for use in other cases. Go to the Court's website at www.scscourt.org to make the reservation.

FINAL ORDERS: The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)

COURT REPORTERS: The Court no longer provides official court reporters. If any party wants a court reporter, the appropriate form must be submitted. See court website for policy and forms.

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LINE #	CASE #	CASE TITLE	RULING
LINE 1	22CV404390 Hearing: Demurrer	Charles Bedolla vs Daughters of Charity of St. Vincent De Paul Province of the West et al	See Tentative Ruling. Court will issue the final order.
LINE 2	23CV422267 Hearing: Demurrer	DUNG DAO vs COUNTY OF SANTA CLARA	Notice appearing proper and good cause appearing, the unopposed demurrer without leave to amend is GRANTED. The failure to file a written opposition "'creates an inference that the motion or demurrer is meritorious.'" *Sexton v. Superior Court* (1997) 58 Cal.App.4th 1403, 1410. Defendant County shall submit the final order within 10 days of the hearing.
LINE 3	20CV370794 Motion: Compel	Regency Centers, L.P. vs Alya Corporation et al	Good cause appearing and notice appearing proper, the unopposed motion to compel is GRANTED. Plaintiff shall submit the final order.
LINE 4	20CV370794 Motion: Compel	Regency Centers, L.P. vs Alya Corporation et al	Good cause appearing and notice appearing proper, the unopposed motion to compel is GRANTED. Plaintiff shall submit the final order.
LINE 5	21CV377584 Motion: Compel	Selvin Ortiz vs Northwall Builders Inc et al	See Tentative Ruling. Northwall shall submit the final order.

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DATE: 05-16-24 TIME: 9 A.M.

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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 prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)

LINE 6	22CV408039 Motion: Discovery	Areli Romero vs Espana's Collision Repair, a California corporation	See Tentative Ruling. Plaintiff shall submit the final order.
LINE 7	23CV418101 Motion: Compel	Ramon Enrique Diaz et al vs Jose Castillo et al	See Tentative Ruling. Plainitiff shall submit the final order.
LINE 8	20CV368701 Motion: Withdraw as attorney	Larry Gilberg vs Power Architects, Corp et al	The unopposed motion is GRANTED.
LINE 9	20CV368701 Hearing: Petition Compel Arbitration	Larry Gilberg vs Power Architects, Corp et al	While the Court acknowledges that Plaintiff failed to properly obtain a motion's date for his motion to vacate the arbitration award, it would make the most sense to continue Defendant's motion to confirm the award to a date after the cases are consolidated and all motions concerning the arbitration award can be considered together. Plaintiff is reminded to follow the rules of court. Parties are to appear to discuss the granting of a new hearing date.
LINE 10	20CV368701 Motion: Consolidate	Larry Gilberg vs Power Architects, Corp et al	The unopposed motion to consolidate is GRANTED. Defendant shall submit the final order, which shall acknowledge that the corporate case is now in D16, not D2.
LINE 11	23CV415280 Hearing: Motion to Dismiss	BIJAN HAGHIGHI vs City of Mountain View et al	Good cause appearing and notice appearing proper, the unopposed motion is GRANTED. Defendant McGuirk shall submit the final order.

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The prevailing party shall prepare the order unless otherwise ordered. (See California Rule of Court 3.1312.)

LINE 12			
LINE 13			
LINE 14			
LINE 15			
LINE 16			
LINE 17			

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Calendar Line 1
Case Name: *Bedolla v. Daughters of Charity of St. Vincent De Paul, et al.*
Case No.: 22CV404390

I. Background

A. Factual

This is an interpleader action.

Charles Bedolla ("Plaintiff") brings his operative first amended complaint in interpleader ("FAC") against Santa Clara County ("Defendant" or "County") and Daughters of Charity of St. Vincent Depaul Province of the West, a nonprofit corporation ("Daughters of Charity") (collectively, "Defendants.")

According to allegations of the FAC, on December 27, 1961, the Benson Estate gifted "O'Connor Hospital" a ten percent interest in property located at 95 S. Market Street, San Jose, California ("the Property") under a probated will. (FAC, ¶¶ 6-7.) Around 1965, Plaintiff began managing the Property on behalf of beneficiaries of the Estate of Robert Francis Benson. ("Benson Estate")[1] (FAC, ¶ 1.) In July 1974, the Property owners entered into a "50-year Land Lease." (FAC, ¶ 8.) As property manager, Plaintiff has been collecting rent proceeds on behalf of the Property owners, but he has not distributed the rent since 2015. (FAC, ¶¶ 9, 15.) Not knowing who the owner of the rent proceeds is, Plaintiff has withheld the rent. (FAC, ¶¶ 12-17, 20.)

Around 2015, the assets of "O'Connor Hospital" were sold to Verity Health Systems of California, Inc. ("Verity.") (FAC, ¶ 14.) Plaintiff does not know if Verity acquired the ten percent interest in the Property during this time. (FAC, ¶ 14.) On or about February 28, 2019, Defendant County acquired the assets of O'Connor Hospital, but Plaintiff does not know whether Defendant County also acquired the ten percent interest in the Property during this time. (FAC, ¶ 15.) Finally, Plaintiff alleges that he does not know how the Daughters of Charity managed the ten percent interest in the Property. (FAC, ¶ 12.)

B. Procedural

Based on the foregoing allegations, Plaintiff initiated this action on September 13, 2022. He filed the operative FAC in interpleader on November 14, 2023, requesting that this Court order: 1) all Defendants to interplead and litigate their respective rights to the Property; 2) that Plaintiff be discharged from any and all liability on account of the claims of each of the Defendants; and 3) that Plaintiff be awarded costs and reasonable attorney fees to be determined by this Court, and to be paid out of the rental proceeds.

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[1] Court records show that the Benson Estate finalized its probate matters in the Superior Court of California, County of Santa Clara, on December 27, 1961. (See Probate Court Order, Case No. 50186 entitled: *In the matter of the Estate of Robert Francis Benson,* "Final Account and Decree of Distribution for the Probate and Will of the Estate of Robert Francis Benson," filed on December 27, 1961; see also Exh.1 to the FAC.)

Defendant County filed a demurrer to the entirety of the FAC in interpleader on February 1, 2024, for failure to state a claim. Plaintiff filed two oppositions to the motion, one on March 15, 2024 and one on March 19, 2024.[2] Defendant County filed a reply on May 9, 2024.

II. Plaintiff's Request for Judicial Notice

"Judicial notice is the recognition and acceptance by the court, for use by the trier of fact or by the court, of the existence of a matter of law or fact that is relevant to an issue in the action without requiring formal proof of the matter." (*Poseidon Development, Inc. v. Woodland Lane Estates, LLC* (2007) 152 Cal.App.4th 1106, 1117, citations and quotation mark omitted.)

In support of his opposition to demurrer to FAC in interpleader, Plaintiff requests judicial notice of the following:

1. Restated Article of lncorporation of O'Connor Hospital dated August 30, 1985.
2. Article of lncorporation of O'Connor Foundation dated January 7, 1983.
3. Amended and Restated Article of Incorporation of CHW South Bay dated October 20, 1997.
4. Article of lncorporation of O'Connor Hospital dated September 11, 2001.
5. Order Settling Third and Final Account of Executors, etc., of the Estate of Robert Francis Benson dated December 27, 1961.

Plaintiff's request for judicial notice of item number five is GRANTED. (Evid. Code, § 452, subd. (d).) Court records are expressly subject to judicial notice under Evidence Code section 452, subdivision (d). Thus, the prior order, which directly relates to the rights of the parties in this case, is judicially noticeable. Additionally, Defendant makes no objection to this request.

Defendant objects to Plaintiff's request for judicial notice of items one through four on grounds that documents prepared by a private person and filed with the Secretary of State is neither a record of the court nor an official act of the State under Evidence Code section 452, subdivision (c). (See Request for Judicial Notice in Support of Demurrer to FAC, pp. 1-2.) Plaintiff's request for judicial notice of items one through four is DENIED. Plaintiff does not reasonably rely on or provide meaningful discussion of the requested items in support of his opposition. (*Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301 (*Gbur*) [information subject to judicial notice must be relevant to the issue at hand].) Additionally, Plaintiff incorrectly relies on Evidence Code section 452, subdivision (d), which permits judicial notice of court records, not articles of incorporation.

Accordingly, Plaintiff's requests for judicial notice are DENIED IN PART as to items one through four and GRANTED IN PART as to item five.

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[2] Although the oppositions note different hearing dates, they appear to be substantively identical.

III. Defendant's Request for Judicial Notice

In support of its demurrer to Plaintiff's FAC in interpleader, Defendant requests judicial notice of the following:

1. Articles of Incorporation of O'Connor Hospital Filed December 6, 1954 – Exhibit A
2. Press Release/Attorney General Kamala D. Harris Issues Decision Approving Sale of Six Daughters of Charty Health Facilities Dates February 20, 2015 – Exhibit B
3. Amended and Restated Article of Incorporation of O'Connor Hospital Filed December 8, 2015 – Exhibit C
4. Amended and Restated Articles of Incorporation of O'Connor Hospital Foundation Filed December 8, 2015 – Exhibit D
5. Exhibit A to Motion filed 10/01/2018 (In re: Verity Health System of California, Inc., et. al. (U.S. Bankruptcy Court, C.D. Cal.), Lead Case No.: 2:18-bk-20151-ER, Docket No. 365-1. – Exhibit E
6. Bankruptcy Order filed December 27, 2018 (In re: Verity Health System of California, Inc., et. al. (U.S. Bankruptcy Court, C.D. Cal.), Lead Case No.: 2:18-bk-20151-ER, Docket No. 1153. – Exhibit F
7. Certificate of Amendment of Articles of Incorporation for O'Connor Hospital Filed June 16, 2023 – Exhibit G

Defendant's requests for judicial notice were filed concurrently with its reply. Plaintiff did not have an opportunity to respond to those requests, and as a result, the Court declines to consider them. (See *Jay v. Mahaffey* (2013) 218 Cal.App.4th 1522, 1537-38 ["The general rule of motion practice . . . is that new evidence is not permitted with reply papers."]; see also *Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 252; *San Diego Watercrafts, Inc. v. Wells Fargo Bank, N.A.* (2002) 102 Cal.App.4th 308, 316.) Accordingly, Defendant's request for judicial notice is DENIED in its entirety.

IV. Merits of the Demurrer

A. Legal Standard

The Court in ruling on a demurrer treats it "as admitting all material facts properly pleaded, but not contentions, deductions or conclusions of fact or law." (*Piccinini v. Cal. Emergency Management Agency* (2014) 226 Cal.App.4th 685, 688, citing *Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.) "A demurrer tests only the legal sufficiency of the pleading. It admits the truth of all material factual allegations in the complaint; the question of plaintiff's ability to prove these allegations, or the possible difficulty in making such proof does not concern the reviewing court." (*Committee on Children's Television, Inc. v. General Foods Corp.* (1983) 35 Cal.3d 197, 213-214.) Evidentiary facts found in exhibits attached to a complaint can be considered on demurrer. (*Frantz v. Blackwell* (1987) 189 Cal.App.3d 91, 94.)

B. Failure to State a Cause of Action

Defendant County argues Plaintiff does not state a cause of action because he does not have a right to interplead Defendants. (Memorandum of Points and Authorities in Support of

Defendant's Demurrer to FAC ("Dem.,") p. 4:13-27.) Specifically, it contends Plaintiff's FAC in interpleader fails to allege "conflicting claims" as required by Code of Civil Procedure section 386. (*Ibid.*) Alternatively, Defendant argues that the five-year statute of limitations bars Plaintiff's claims. (Dem., p. 6:7-17.) This Court will address each claim in turn.

1. Interpleader Action & Conflicting Claims

" '[I]nterpleader is an equitable proceeding in which the rights of the parties, as between themselves, are governed by principles of equity.' [Citations.] 'The purpose of interpleader is to prevent a multiplicity of suits and double vexation. [Citation.] "The right to the remedy by interpleader is founded, however, not on the consideration that a [person] may be subjected to double liability, but on the fact that he is threatened with double vexation in respect to one liability." [Citation.]' [Citation.]" (*Shopoff & Cavallo LLP v. Hyon* (2008) 167 Cal.App.4th 1489, 1513 (*Shopoff & Cavallo*).)

" 'In an interpleader action, the court initially determines the right of the plaintiff to interplead the funds; if that right is sustained, an interlocutory decree is entered which requires the defendants to interplead and litigate their claims to the funds.' [Citation.] Then, in the second phase of an interpleader proceeding, the trial court also has 'the power under [Code of Civil Procedure] section 386 to adjudicate the issues raised by the interpleader action including: the alleged existence of conflicting claims regarding the interpleaded funds; plaintiffs' alleged position as a disinterested mere stakeholder; and ultimately the disposition of the interpleaded funds after deducting plaintiffs' attorney fees.' [Citation.]" (*Shopoff & Cavallo, supra,* 167 Cal.App.4th at pp. 1513-1514.)

Code of Civil Procedure section 386, subdivision (b) provides in relevant part: "When the person, firm, corporation, association or other entity against whom such claims are made, or may be made, is a defendant in an action brought upon one or more such claims, it may either file a verified cross-complaint in interpleader, admitting that it has no interest in the money or property claimed, or in only a portion thereof, and alleging that all or such portion is demanded by parties to such action, and apply to the court upon notice to such parties for an order to deliver such money or property or such portion thereof to such person as the court shall direct; or may bring a separate action against the claimants to compel them to interplead and litigate their several claims…."

Thus, a plaintiff in an interpleader action "brings such an action when he holds property to which various persons are asserting conflicting claims and in which he has no interest other than that of stakeholder." (*Weingetz v. Cheverton* (1951) 102 Cal.App.2d 67, 79-80 (*Weingetz*).) The statute permits, but does not mandate, the stakeholder to deposit the funds with the court at the time he or she files the action in interpleader. (Code Civ. Proc., § 386, subd. (c) ["Any amount which a plaintiff . . . admits to be payable may be deposited by him with the clerk of the court at the time of the filing of the complaint . . . without first obtaining an order of the court. . . ."].)

In opposition, Plaintiff asserts Defendant improperly presents a "naked claim" to O'Connor Hospital's 10 percent without supporting documentation. Plaintiff contends that Defendant's position is that upon acquiring O'Connor Hospital, Defendant also acquired its 10 percent interest in the Property. (Plaintiff's Memorandum of Points and Authorities in Opposition to Demurrer to First Amended Complaint ("Opp.,") p. 11:25-26-12:1-2.) Of

importance, Plaintiff contends interpleader is proper because of his uncertainty on which of the two Defendants rightfully owned an interest in O'Connor Hospital. (Opp., p. 12:7-19.) Plaintiff further contends that neither of the named parties have provided a deed that "shows who owns the O'Connor 10% that is traceable to the original gifting from the [Benson Estate].) (*Ibid.*) Finally, Plaintiff contends, in opposition that the cy pres doctrine *could have* supported a transfer of the 10 percent interest in the Property to Daughters of Charity. (Opp., pp. 13:1-14:10-28.)

The interpleader cause of action alleges in pertinent part:

> 10. At the time this complaint was filed Plaintiff was informed and believed that at the time the gift from the Benson Estate to 'O'Connor Hospital' was distributed, the Daughters of Charity owned and operated O'Connor Hospital and conducted it affairs as an unincorporated association. Subsequent to filing this complaint, Plaintiff has been informed a [sic] entity called O'Connor Hospital, Inc. was incorporated in 1953 and may have operated continuously thereafter in various forms.
>
> ***
>
> 12. Plaintiff does not know how the Daughters of Charity managed the 10% interest in 95 S. Market gifted to by the Benson Estate and to which entity it placed ownership.
>
> 13. Plaintiff is informed and believes that an entity called "O'Connor Hospital" was incorporated on September 11, 2001. Plaintiff does not know if the interest in 95 S. Market 15 was transferred to O'Connor Hospital when O'Connor Hospital was incorporated.
>
> 14. Plaintiff is informed and believes that in or about 2015, the assets of O'Connor Hospital were sold to Verity Health Systems of California, Inc. ("Verity"). Plaintiff does not know if Verity acquired the 10% interest in 95. S. Market in that purchase.
>
> 15. Plaintiff is informed and believes that on or about February 28, 2019, Santa Clara County acquired the assets of O'Connor Hospital. Plaintiff does not know that if Santa Clara County also acquired the 10% interest in 95. S. Market referenced in this Complaint when it purchased the assets of O'Connor Hospital.
>
> ***
>
> 20. The respective claims of Defendants Daughters of Charity and Santa Clara County are adverse and conflicting and are made without Plaintiff's collusion. Plaintiff is unable to safely determine which of the claims is valid.

(FAC, ¶¶ 10, 12-15, 20.)

Defendant persuasively argues there is no claim stated for interpleader. Specifically, Defendant asserts that Plaintiff admits there is only one claimant, and at most, Plaintiff has merely speculated that Daughters of Charity *may* have a claim to the Property. (See Defendant's Reply in Support of Demurrer ("Reply,"), p. 4.) This Court agrees. In Plaintiff's

FAC, he pleads the following facts, which he believes demonstrates a controversy between the Defendant parties: 1) Plaintiff does not know how the Daughters of Charity managed the ten percent interest in the Property; 2) he does not know whether the interest in the Property was transferred to O'Connor Hospital when it was incorporated; and 3) he does not know if Defendant County also acquired the ten percent interest in the Property upon acquiring assets from O'Connor Hospital. (FAC, ¶¶ 12-13, 15.) Thus, the FAC pleads that Plaintiff *does not know* if certain entities may have valid claims to the 10 percent interest.

With respect to an actual controversy between the potential owners, the FAC states only that the "respective claims of Defendants Daughters of Charity and Santa Clara County are adverse and conflicting and are made without Plaintiff's collusion. Plaintiff is unable to safely determine which of the claims is valid." (FAC, ¶ 20.) This conclusory allegation is insufficient to establish that the named entities are actually asserting conflicting claims.

As noted, *supra,* a plaintiff in an interpleader action "brings such an action when he holds property to which *various persons are asserting conflicting claims* and in which he has no interest other than that of stakeholder." (*Weingetz, supra,* 102 Cal.App.2d 67 at pp. 79-80, emphasis added.) Interpleader is only proper when there is *a reasonable probability or valid threat* of double vexation or liability. (See *Westamerica Bank v. City of Berkeley* (2011) 201 Cal.App.4th 598, 607-608.) "An interpleader action, however, may not be maintained 'upon the mere pretext or suspicion of double vexation; [the plaintiff] must allege facts showing a reasonable probability of double vexation,' or a 'valid threat of double vexation.'" (*City of Morgan Hill v. Brown* (1999) 71 Cal.App.4th 1114, 1125-1126.) Although Plaintiff's role as a property manager of the Benson Estate sufficiently demonstrates he is a disinterested stakeholder, he has failed to allege double vexation.

Further, Plaintiff *admits*, in opposition, no conflicting claims to the 10 percent interest exist. In his opposition, Plaintiff alleges the following:

> One of those parties, the Foundation, failed to respond, effectively confirming that it no longer exists. The other two parties investigated the matter for over 1 ½ years before *one of the entities, the Daughters of Charity, decided that it did not want to pursue the matter*. That does not mean the Daughters of Charity might not have had (and might still have) a superior right to the O'Connor 10%... Further*, the Daughters of Charity may have decide* [sic] *to not pursue the O'CONNOR 10% because they did not have the resources to litigate the matter*. *All we know for certain is that the Daughters of Charity decided to not contest* the Santa Clara County for the O'CONNOR 10%.

(Opp., pp. 12:24-28-13:1-4.)

Plaintiff also unambiguously stated that Daughters of Charity "decided that it did not want to pursue" its 10 percent interest involving O'Connor Hospital. (Opp., pp. 12-13.) These assertions directly contradict Plaintiff's argument that a "valid threat" of double vexation exists. Of equal significance, Plaintiff has not shown that Daughters of Charity *likely* had an actual legal interest in O'Connor Hospital. As Defendant correctly notes in its reply, Plaintiff admits, multiple times, in opposition, that he is unsure which entity has a 10 percent ownership interest of O'Connor Hospital. He further indicates that "no one has presented Plaintiff with a

deed." (Opp., pp. 9:7-12, 12:16-18.) Consequently, this Court finds that Plaintiff fails to allege a reasonable threat of conflicting claims.

Therefore, the demurrer is SUSTAINED. Although, ordinarily, this Court would sustain with leave to amend if a plaintiff has not had the opportunity to amend the complaint in response to a demurrer (see *City of Stockton v. Super. Ct.* (2007) 42 Cal.4th 730, 747), here, Plaintiff admits Daughters of Charity does *not* wish to pursue its ten percent interest in the Property. (Opp., p. 12:26-28.) In fact, Plaintiff admits that there is no longer an active controversy. (Opp., p. 15:4-17 ["While there is no conflict now over who claims the O'CONNOR 10%, that is only a recent development."], italics original; *ibid*., p. 15:10-11 ["It is only because the lawsuit was filed and served that *Plaintiff now knows only one party is making a claim to the O'CONNOR 10%*."], italics added.) Accordingly, the demurrer is SUSTAINED WITHOUT LEAVE TO AMEND.

Because the demurrer is sustained without leave to amend on the foregoing basis, the Court need not address any other arguments.

V. Conclusion

Defendant's demurrer to the entirety of the FAC in interpleader is SUSTAINED WITHOUT LEAVE TO AMEND for failure to state a claim.

The Court will prepare the final Order.

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Calendar Line 5
Case Name: Ortiz v. Northwall Builders, et al.
Case No.: 21CV377584

Northwall Builders brings a motion to compel a further deposition of the person most qualified (PMQ) from Gary Pollack Construction and Excavation (GPCE) regarding topics including the contractual provision GPCE contends requires Northwall to indemnify it.

GPCE objects claiming that Northwall already deposed its PMQ, that it was aware indemnity was an issue, and that it should not have to go through the trouble and expense of a second deposition to give Northwall a second bite of the apple.

Northwall responds that while it knew that GPCE had listed indemnity as an affirmative defense in its answer of January 10, 2022 to Northwall's cross-complaint of June 9, 2021, this claim alleged that if GPCE were required to indemnify Northwall, GPCE would be entitled to indemnification from others whose negligence or fault caused or contributed to Northwall's damages. (See para. 22 of Northwall Cross-Complaint of 6/9/21). This, according to Northwall, did not put Northwall on notice that GPCE would claim that Northwall was required to indemnify GPCE for GPCE's liability, as it did in GPCE's cross-complaint of June 13, 2023.[3]

Northwall is correct that GPCE's answer claiming indemnity is distinct from the claim of indemnity set out in GPCE's cross-complaint, filed 10 months after the deposition of GPCE's PMQ. As such Northwall could not be expected to have asked GPCE's PMQ questions regarding Northwall's obligation to indemnity GPCE.

Northwall's motion to compel is GRANTED. The deposition shall take place within 20 days of service of the final order, absent agreement of the parties. GPCE shall pay sanctions of $900 (for 4 hours) to counsel for Northwall within 20 days of service of the final order, as the objection was not substantially justified given that GPCE did not assert its claim of indemnity against Northwall until after its PMQ was deposed. Northwall shall submit the final order.

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[3] GPCE claims it filed its cross-complaint on December 23, 2022, but there is no such filing on that date. On February 21, 2023, GPCE filed leave to file the cross-complaint, with the proposed cross-complaint attached as an exhibit. The cross-complaint was not in fact filed until June 13, 2023, pursuant to the order granting leave to amend filed on June 13, 2023.

Calendar Line 6
Case Name: Romero v. Espana's Collision Repair
Case No.: 22CV408039

Plaintiff Romero seeks contact information for individuals who worked at Espana's Collision Repair during the two week period when she worked there. Defendant objects on the basis of overbreadth and invasion of privacy of the employees. Moreover, Defendant claims that as to some of the witnesses, Plaintiff already has the information.

Overbreadth

Whether or not Plaintiff directly worked with some employees, those employees could have information regarding knowledge of Plaintiff's pregnancy. As such, it does not matter whether the employees worked in the front office with Plaintiff or in the repair shop.

Privacy

Defendant contends that giving contact information for the employees violates their privacy rights. The contact information of witnesses, including name, address, and telephone number is a routine part of discovery and generally not a privacy violation. See *Puerto v. Superior Court* (2008) 158 Cal.App.4th 1242, 1250 ("party's ability to subpoena witnesses presumes that he has the witnesses' contact information. . . One glance at the form interrogatories approved by the Judicial Council, particularly the interrogatories in the 12.0 series, demonstrates how fundamentally routine the discovery of witness contact information is"). There are no special factors which render this general rule inapplicable to this case.

Duplicative

While it may be that Plaintiff already has some of the information (for example, it is not clear why Plaintiff needs the contact information for Ms. Prado if she already deposed her), this does not relieve Defendant of its burden to provide the information, particularly given that other than Prado, there is no basis to believe Plaintiff has the information and given that providing the information for Ms. Prado is not overly burdensome.

Plaintiff's motion to compel is GRANTED in its entirety. Defendant shall pay sanctions to Plaintiff's counsel in the amount of $1,440 (2 hours + filing fee). Defendant must provide code-compliant responses and pay sanctions within 10 days of service of the final order. Plaintiff shall submit the final order.

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Calendar Line 7
Case Name: Diaz v. Castillo et al.
Case No.: 23CV418101

Plaintiff moves to compel Defendants' responses to Form Interrogatories (FIs), set one [12.1-12.7, 13.1, 13.2, 14.1, 14.2 and 17.1], Special Interrogatories (SIs), set one [4, 5, 15, 31-37, & 41], Requests for Admissions (RFAs), set one [1-48], and Requests for Production of Documents (RFPs) set one [1-19, 22-28]. Plaintiff also requests sanctions.

Defendants basically object on three grounds: (1) YOU was not defined well enough in the RFAs to respond; (2) INCIDENT was not defined specifically enough in the FIs; and (3) the RFP are not sufficiently limited in time; (4) RFP #9 asks for the private information of non-party tenants, and Plaintiff refused to make modifications to the SIs in writing. In addition, Defendants claim that Plaintiff's meet and confer efforts were insufficient and that the sanctions request does not comply with CCP §2023.040 and should be denied.

Based on the exhibits attached to Plaintiff's motion, the Court finds that the meet and confer efforts were sufficient. Plaintiff sent a detailed letter with its response to Defendants' objections, had numerous email and telephone exchanges, provided numerous extensions, and engaged in a one-hour meet and confer session with Defendants' counsel prior to filing this motion. This is sufficient.

Defendants contend that Plaintiff refused to limit the definition of "YOU" for Castillo and Khensin in writing. Opp. p3. Plaintiff did agree to limit the definition of YOU for those defendants in writing. See Ex. F attached to Decl. of Didlake. The definition of YOU, as limited in writing and as defined for the remaining defendants is sufficient and does not warrant a refusal to answer the RFAs.

Next, Defendants contend that INCIDENT is too broad. While greater specificity could easily have been provided and prevented much of this motion, INCIDENT is clear from the complaint and is not a basis to not respond at all. Defendants at the very least could have defined INCIDENT themselves and provided that discovery, narrowing the scope of the issue. Instead they refused to provide anything, which is a misuse of the discovery process.

The Court agrees that the scope of time is excessive in the RFPs by going back to 2013. While Plaintiff agreed to limit the scope of time for some of the SPROGS (see Ex. F to Decl. of Didlake), Plaintiff apparently did not agree to do this for purposes of the RFPs. The motion to compel the RFPs is GRANTED for the period tenancy.

The Court agrees that RFP #9 regarding communications and writings involving other tenants of the subject property is overly broad in that it does not limit what the subject matter of the communications is or limit the time period to the relevant time frame. Defendants need not respond to this request for any of the defendants.

Defendants claim that Plaintiff failed to make changes to the SIs in writing, but this appears incorrect. See Ex. F to Decl. of Didlake.

Defendant has not raised other objections in its opposition and the Court therefore will not address any that are not in the opposition.

Accordingly, Plaintiff's motion to compel further responses to Form Interrogatories (FIs), set one [12.1-12.7, 13.1, 13.2, 14.1, 14.2 and 17.1] is GRANTED. Plaintiff's motion to compel further responses to Special Interrogatories (SIs), set one [4, 5,15, 31-37, & 41] is GRANTED IN PART, subject to the limitations granted by Plaintiff in Ex. F. Plaintiff's motion to compel further responses to Requests for Admissions (RFAs), set one [1-48] is GRANTED. Plaintiff's motion to compel further responses to Requests for Production of Documents (RFPs) set one [1-8, 10-19, 22-28] is GRANTED IN PART – i.e. only for the period of Plaintiff's tenancy and excluding #9. Defendant must provide code-compliant responses within 10 days of service of the final order.

Finally, Plaintiff's notice sufficiently complies with § 2023.040 to warrant a granting of sanctions. Because Defendants failed to provide substantial justification for failing to comply in large part with the discovery requests, and because their intent to provide further responses does not constitute compliance, Defendants and their counsel must pay Plaintiff's counsel $1750 (4 hours of associate time). The amount of sanctions is reduced from the amount requested both because the time spent is excessive, there is no break down of what time was billed at which rate, and because Plaintiff could have avoided some of this had they simply redefined YOU and INCIDENT and limited the time frame in writing and for all of the requests. Defendants must pay the sanctions within 10 days of service of the final order. Plaintiff is ordered to submit the final order within 10 days of the hearing.

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