**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: April 16, 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 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 | 22CV409208 | Donya Dada et al v. Showkat Fallahi | Click on LINE 1 or scroll down for ruling in lines 1-2. |
| LINE 2 | 22CV409208 | Donya Dada et al v. Showkat Fallahi | Click on LINE 1 or scroll down for ruling in lines 1-2. |
| LINE 3 | 23CV424362 | Raymond Weng v. Costco Wholesale Corporation | Demurrer to original complaint: with the filing of a first amended complaint on February 5, 2024, this demurrer is now MOOT and must be OVERRULED on that basis. |
| LINE 4 | 19CV358256 | Wendy Towner et al. v. Gilroy Garlic Festival Association, Inc. et al. | OFF CALENDAR |
| LINE 5 | 19CV358256 | Wendy Towner et al. v. Gilroy Garlic Festival Association, Inc. et al. | OFF CALENDAR |
| LINE 6 | 23CV411969 | Christine Wilkes et al. v. Surgicare of Los Gatos, Inc. | Click on LINE 6 or scroll down for ruling. |
| LINE 7 | 23CV414017 | Alvaro Miranda Camargo v. Ford Motor Company et al. | Click on LINE 7 or scroll down for ruling. |
| LINE 8 | 20CV362511 | Daron Landry v. Xin Yue Li et al. | Click on LINE 8 or scroll down for ruling. |
| LINE 9 | 21CV391604 | Dorothy Ramirez et al. v. Suzanne Ramirez et al. | Click on LINE 9 or scroll down for ruling in lines 9-10. |
| LINE 10 | 21CV391604 | Dorothy Ramirez et al. v. Suzanne Ramirez et al. | Click on LINE 9 or scroll down for ruling in lines 9-10. |

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| | | | |
|---|---|---|---|
| LINE 11 | 22CV402554 | Youliduzi Sidike et al. v. County of Santa Clara et al. | Motion for leave to file cross-complaint: notice is proper, and the motion is unopposed. Good cause appearing, the court GRANTS the motion under Code of Civil Procedure sections 426.50 and 428.50. Moving party must file the cross-complaint within 10 days of this order. |
| LINE 12 | 24CV428675 | In Re: Certain Statutory Interested Parties as Defined by Cal. Ins. Code 10134(G) | Petition for approval of structured settlement payments: parties to appear. The court has questions for the parties, including for the payee, Francisco Aguilar. |

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**Calendar Lines 1-2**
**Case Name:** *Donya Dada et al v. Showkat Fallahi*
**Case No.:** 22CV409208

## I. BACKGROUND

This is a dispute over allegedly unpaid loans. Plaintiffs Donya Dada and Mike Bidgoli, a married couple (collectively, "Plaintiffs"), allege that defendant Showkat Fallahi owes them approximately $632,300.00. Fallahi is currently married to Dada's father, Kasem Dada, but there is a pending marriage dissolution proceeding between them in San Mateo County.

Plaintiffs filed their original complaint on December 22, 2022, and they filed the operative first amended complaint ("FAC") on October 16, 2023. The FAC alleges in part that of the $623,300.00 currently owed to Plaintiffs:

> . . . $552,300 represents money Plaintiffs loaned to Defendant to assist in the purchase of two pieces of residential real property—one in the City of San Jose and one in the City of Palo Alto, as well as a small of amount of interest on one of those loans. Constituting the largest part of the money at issue, Plaintiffs loaned Defendant $450,000.00 to assist in the purchase of a home at 227 N. 6th Street in San Jose.
>
> Defendant and Kasem Dada, Plaintiff Donya Dada's father, are currently parties to marital dissolution proceedings in the County of San Mateo and a related domestic violence complaint by Mr. Dada against Defendant . . . . In those other actions, Mr. Dada has also made allegations of elder financial abuse against Defendant. Those allegations relate, in part, to Defendant's refusal to place Mr. Dada on title to the property at 227 N. 6th Street (as well as other attempts to deprive Mr. Dada of interests in community assets), going so far as to obtain Mr. Dada's signature on an interspousal transfer deed, whereby she acquired title to the 227 N. 6th Street property. Defendant has titled 227 N. 6th Street in the name of Defendant's personal trust . . . .
>
> . . . Defendant also breached her agreement with Plaintiffs regarding their loan of $450,000.00 to purchase 227 N. 6th Street. Plaintiffs made the loan with the understanding that Mr. Kasem Dada was on title to 227 N. 6th Street when Defendant, in fact, divested Mr. Dada of his interest in the property . . . ."

(FAC, p. 1:4-24 ["Introduction"].)[1]

The FAC states four causes of action: (1) Breach of Oral Contract (alleging that the parties "entered into an oral agreement whereby Plaintiffs would loan Defendant money and Defendant would repay Plaintiffs sums that she borrowed from Plaintiffs upon her refinance of a loan to purchase the 6th Street Property" (FAC, ¶ 24)); (2) Book Account (alleging that "Plaintiff and Defendants had financial transactions with each other arising from Plaintiffs' loans to Defendant for the purchase and improvement of the 6th Street Property; Defendant, in

[1] For some reason, the FAC's "Introduction" section lacks numbered paragraphs.

the regular course of business, kept a written account of the debits and credits involved in the transactions" (FAC, ¶¶ 33-34)); (3) Intentional Misrepresentation (alleging that "Defendant's representations about the identify of who would be holding title to the 6th Street Property, i.e., that she and Mr. Kasem Dada would be on title, were false when she made them and she knew they were false" (FAC, ¶ 38)); and (4) Restitution (alleging that "Defendant received a benefit from Plaintiffs in the form of money loaned to her at her request to buy and improve residential real property located in the County of Santa Clara, State of California" (FAC, ¶ 48)). There are no exhibits attached to the FAC.

Currently before the court is Fallahi's demurrer to and motion to strike the FAC, filed on November 14, 2023. Plaintiffs oppose.

## II. REQUEST FOR JUDICIAL NOTICE

In support of the demurrer and motion to strike, Fallahi submits a request for judicial notice of a 55-page transcript of a June 6, 2022 hearing in the marital dissolution matter in San Mateo County Superior Court. (See Request, p. 2:1.) A copy of the transcript is attached to the request as Exhibit A.

"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 material issue before the court. (*Silverado Modjeska Recreation and Park Dist. v. County of Orange* (2011) 197 Cal.App.4th 282, 307, 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.

Fallahi's request is GRANTED in part and DENIED in part. The court grants Fallahi's request insofar as it takes judicial notice of the *existence* of the consolidated family court matters in San Mateo County (Case Nos. 21-FAM-00331 and 21-FAM-00331-B) and the fact that a restraining order hearing took place on June 6, 2022. The court denies the request to the extent that Fallahi seeks to have judicially noticed the *truth* of any statements in the transcript. Court records cannot be noticed as to the truth of their contents. (See *Oh v. Teachers Ins. & Annuity Assn. of America* (2020) 53 Cal.App.5th 71, 79-81.)

Furthermore, a demurrer cannot be turned into an evidentiary hearing through attempts to have the trial court take judicial notice of the contents of documents from other court hearings. "For a court to take judicial notice of the meaning of a document submitted by a demurring party based on the document alone, without allowing the parties an opportunity to present extrinsic evidence of the meaning of the document, would be improper. A court ruling on a demurrer therefore cannot take judicial notice of the proper interpretation of a document submitted in support of the demurrer. In short, a court cannot by means of judicial notice convert a demurrer into an incomplete evidentiary hearing in which the demurring party can present documentary evidence and the opposing party is bound by what that evidence appears to show." (*Fremont Indemnity Co. v. Fremont General Corp*. (2007) 148 Cal.App.4th 97, 114-115, internal citations omitted; see also *New Livable California v. Assoc. of Bay Area Governments* (2020) 59 Cal.App.5th 709, 716 [citing *Fremont Indemnity Co.* among other decisions].)

Fallahi's demurrer includes various arguments about how plaintiff Mike Bidgoli is bound by purported "judicial admissions" that he made at that June 6, 2022 hearing. This is not an appropriate use of judicial notice—these statements reflect disputed issues of fact. The court has not considered any arguments that depend upon the contents of the court transcript.

## III. DEMURRER TO THE FAC

### A. General Standards

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.)

The court considers only the pleading under attack, any attached exhibits, and any facts or documents that may be properly judicially noticed. The court cannot consider extrinsic evidence in ruling on a demurrer or motion to strike. The court has only considered the declarations from counsel Farbood Majd in support of the demurrer and motion to strike to the extent that they discuss the meet and confer efforts required by statute. The court has not considered the exhibits attached to either of the Majd declarations.

### B. Discussion

Fallahi demurs to the entire FAC on two grounds: nonjoinder and lack of jurisdiction. She also demurs to each individual cause of action on the ground of failure to state sufficient facts. (See Notice of Demurrer and Demurrer at pp. 2:5-3:10.)

#### 1. Demurrer Based on Nonjoinder

Fallahi's demurrer to the entire FAC on nonjoinder grounds, based on the argument that Kasem Dada should be a defendant, is OVERRULED.

Code of Civil Procedure section 430.10, subdivision (d), permits a demurrer where "[t]here is a defect or misjoinder of the parties." A defect or "nonjoinder" of parties exists where some third person is a "necessary" or "indispensable" party to the action and must be joined before the action may proceed. (See Code Civ. Proc., § 389.) A "misjoinder" occurs when there is no common question of law or fact as to the defendants already present. (See Code Civ. Proc., § 379.)

California courts have generally held that nonjoinder is only grounds for a demurrer if the moving party can show prejudice from the nonjoinder. (See *Royal Surplus Lines Ins. Co. v. Ranger Ins. Co.* (2002) 100 Cal.App.4th 193, 198; see also *Anaya v. Superior Court* (1984) 160 Cal.App.3d 228, 231, fn.1.) Here, Fallahi does not make any argument that the absence of Kasem Dada as a defendant in this action prejudices her in any way. Moreover, the argument

she does make depends entirely upon the disputed contents of the court transcript, as to which the court has already denied judicial notice.

**2. Demurrer Based on Lack of Jurisdiction**

The court SUSTAINS Fallahi's demurrer to the entire FAC on the ground that the court lacks jurisdiction because the FAC concerns matters that are currently before the San Mateo County family court.

Code of Civil Procedure section 430.10, subdivision (a), allows for a demurrer on the ground that court "has no jurisdiction of the subject of the cause of action alleged in the pleading." While Fallahi's argument on this point is also heavily dependent upon the request for judicial notice of the contents of the court transcript, which the court has denied, the FAC also admits on its face that the question of ownership of the "Sixth Street Property" in San Jose—and whether it should be considered community property in which Kasem Dada has an interest—is pending before the family court in San Mateo County.

The Court of Appeal has made it clear that it disfavors "civil actions which are really nothing more than reruns of a family law case." (*Neal v. Superior Court* (2001) 90 Cal.App.4th 22, 25 (*Neal*); see also *Burkle v. Burkle* (2006) 144 Cal.App.4th 387, 391 (*Burkle*) [during marital dissolution proceeding, wife filed separate civil action against husband and two accounting firms; the appellate court described the suit as "a textbook example of an improper attempt to wage 'family law . . . by other means'"].) "[F]amily law cases should not be allowed to spill over into civil law, regardless of whether the family law matter may be characterized as an action for fraud [citation], malicious prosecution [citation], or securities law violation [citation]. Almost all events in family law litigation can be reframed as civil law actions if a litigant wants to be creative with various causes of action. It is therefore incumbent on courts to examine the substance of claims, not just their nominal headings." (*Neal*, at p. 25.)

Here, all causes of action in the FAC expressly incorporate and depend upon allegations that the 6th Street Property was intended to be the community property of both Fallahi and Kasem Dada, and that Fallahi made misrepresentations to Plaintiffs about who would be on the title. The FAC admits that these allegations have also been asserted in the earlier-filed San Mateo actions as part of a financial elder abuse claim. Until the San Mateo Superior Court adjudicates this property dispute, including whether the 6th Street Property should be considered community property, this court concludes that it lacks jurisdiction under the principles set forth in *Neal*, *supra*, as well as under the principle of priority of jurisdiction.

Under this latter principle: "Where a proceeding has been assigned for hearing and determination to one department of the superior court by the presiding judge and the proceeding has not been finally disposed of, it is beyond the jurisdictional authority of another department of the same court to interfere with the exercise of the power of the department to which the proceeding has been so assigned. If such were not the law, conflicting adjudications of the same subject-matter by different departments of the one court would bring about an anomalous situation and doubtless lead to much confusion. One department of the superior court cannot enjoin, restrain, or otherwise interfere with the judicial act of another department of the superior court. Even between superior courts of different counties, having coequal jurisdiction over a matter, the first court of equal dignity to assume and exercise jurisdiction

over a matter acquires exclusive jurisdiction." (*Glade v. Glade* (1995) 38 Cal.App.4th 1441, 1449-1450 [internal citations and quotations omitted.])

Plaintiffs' opposition brief fails to address the principle of priority of jurisdiction or the fact that the FAC admits on its face that the specific dispute over ownership of the 6th Street Property has already been presented to the San Mateo County court. (See Opposition, p. 3:16-20.)

As for the question of whether the court should grant leave to amend, the general rules is that the plaintiff bears the burden of proving that an amendment would cure the defect identified on demurrer. (*Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081; see also *Shaeffer v. Califia Farms, LLC* (2020) 44 Cal.App.5th 1125, 1145 ["The onus is on the plaintiff to articulate the 'specifi[c] ways' to cure the identified defect, and absent such an articulation, a trial or appellate court may grant leave to amend 'only if a potentially effective amendment [is] both apparent and consistent with the plaintiff's theory of the case. [Citation.]'"].) Plaintiffs' opposition fails to carry its burden as it simply includes a generic request for leave for amend "should the Court grant any part of this demurrer." (Opposition at p. 6:16-17.)

Nevertheless, although a potentially effective amendment is not readily apparent, and the court doubts that the jurisdiction issue can be cured unless and until the San Mateo County family court makes a decision regarding ownership of the 6th Street Property, the court grants 10 days' leave to amend, given that this is the first pleading challenge in this matter. The court does *not* grant leave to add new claims or parties. "Following an order sustaining a demurrer or a motion for judgment on the pleadings with leave to amend, the plaintiff may amend his or her complaint only as authorized by the court's order. The plaintiff may not amend the complaint to add a new cause of action without having obtained permission to do so, unless the new cause of action is within the scope of the order granting leave to amend." (*Zakk v. Diesel* (2019) 33 Cal.App.5th 431, 456 [citing *Harris v. Wachovia Mortgage, FSB* (2010) 185 Cal.App.4th 1018, 1023].)

As the court is sustaining the demurrer to the entire FAC on jurisdictional grounds, it is not necessary for the court to address the various other grounds for demurrer advanced by Fallahi concerning the individual causes of action. The court declines to do so at this time.

## IV. MOTION TO STRIKE PORTIONS OF THE FAC

### A. General 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. 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.) 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 [citing *Clauson v. Super. Ct.* (1998) 67 Cal.App.4th 1253, 1255].)

A motion to strike may be brought against a portion of a cause of action that is purportedly defective—for example, if it seeks an improper remedy. (See *PH II, Inc. v. Superior Court* (1995) 33 Cal.App.4th 1680.) At the same time, as Courts of Appeal have emphasized, "[W]e have no intention of creating a procedural 'line item veto' for the civil defendant." (*Id*. at p. 1683.) Rule 3.1322(a) of the California Rules of Court provides: "A notice of motion to strike a portion of a pleading must quote in full the portions sought to be stricken except where the motion is to strike an entire paragraph, cause of action, count, or defense. Specifications in a notice must be numbered consecutively."

**B. Discussion**

Fallahi seeks to strike several unnumbered portions of the FAC. (See Notice of Motion at p. 2:2-22.) These are generally portions of the FAC alleging the amounts of money loaned to Fallahi, alleging the representations made by Fallahi to secure to loans, and requesting exemplary damages and attorney's fees.

The court denies Fallahi's motion for three reasons. First, it is moot in light of the court's ruling sustaining the demurrer to the entire FAC with leave to amend. Second, the arguments offered in support of the motion depend almost entirely on the contents of the hearing transcript as to which the court has denied judicial notice. (See Memorandum at pp. 5:6-8:22.) Again, these contents set forth disputed factual points, which are inappropriate for a request for judicial notice, and which are inappropriate for consideration on a motion on the pleadings. Third, the motion advances Fallahi's interpretation of the contents of the hearing transcript and characterizes them as "judicial admissions" on the part of Bidgoli and Dada. (*Id*.) This is incorrect.

"A judicial admission is a party's unequivocal concession of the truth of a matter, and removes the matter as an issue in the case. Judicial admissions may be made in a pleading . . . . Facts established by pleadings as judicial admissions are conclusive concessions of the truth of those matters, are effectively removed as issues from the litigation, and may not be contradicted, by the party whose pleadings are used against him or her. A pleader cannot blow hot and cold as to the facts positively stated." (See *Minish v. Hanuman Fellowship* (2013) 214 Cal.App.4th 437, 456 (*Minish*).) Whether a purported admission in a pleading is in fact an admission, or is "unequivocal," is determined by the court, not the parties.

Judicial admissions are effective *only* in the particular case in which the pleading was filed. (See *Minish, supra*, at p. 456; 4 Witkin, *Cal. Procedure* (6th ed. 2021-2023) Pleading § 465 ["A judicial admission is effective (i.e., conclusive) only in the particular case. An admission in the pleadings in one case is merely an evidentiary admission in another case."]; *Mt. Hawley Ins. Co v. Lopez* (2013) 215 Cal.App.4th 1385, 1425 fn. 21 ["'A pleading in a prior civil proceeding may be offered as an evidentiary admission against the pleader' on summary judgment. [Citations.] Such an admission is an evidentiary admission, not a judicial admission, and may be rebutted with explanatory evidence from the party against whom the admission is offered. [Citations.]"].)

Here, even if the contents of the hearing transcript could be considered, they could not be judicial admissions because: (1) the transcript is not a pleading, and (2) the statements made in the transcript are not even in this case—they are from the San Mateo County case.

For all of these reasons, the motion to strike is DENIED.

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**Calendar Line 6**
**Case Name:** *Christine Wilkes et al. v. Surgicare of Los Gatos, Inc.*
**Case No.:** 23CV411969

Plaintiffs Christine Wilkes and Bradley Morgan ("Plaintiffs") have filed a "combined" motion against defendant Surgicare of Los Gatos, Inc. ("Surgicare") seeking the following orders: (1) to compel further responses to form interrogatories (general), (2) to compel further responses to form interrogatories (employment), (3) to compel further responses to special interrogatories, (4) to compel further responses to requests for production of documents, and (5) to compel compliance with requests for production of documents. In addition, Plaintiffs seek $7,429.00 in monetary sanctions against Surgicare. Because Plaintiffs' motion fails to demonstrate good cause for further responses to the document requests, and because the moving papers barely address the substance of the answers to the interrogatories, the court DENIES the motion in large part and GRANTS it in small part. The court also DENIES the request for sanctions.

As an initial matter, the court notes that because Plaintiffs have tried to raise numerous, disparate issues in a single motion, their memorandum of points and authorities is entirely generic: it says nothing about any specific interrogatory or document request, and its "legal analysis" section consists almost solely of boilerplate legal citations and broad complaints about Surgicare's responses. For example, Plaintiffs claim in their opening brief that "upon the actual production of documents, a considerable number of the mentioned documents were found to be missing," but then the brief fails to identify anywhere what these "mentioned documents" are and what is allegedly "missing." (Memorandum at p. 6:17-18.) This part of the opening brief addresses Plaintiffs' *motion to compel compliance* under Code of Civil Procedure section 2031.320, rather than their *motion to compel further responses* under section 2031.310, and so the argument should not be placed in the separate statement—which is not required under section 2031.320, in any event—it must be placed in the opening brief. The argument is contained nowhere in Plaintiff's brief.

As a general matter, by placing their substantive arguments *only* in their separate statement and not in their memorandum of points and authorities, Plaintiffs' motion circumvents the page limits set forth in the Code of Civil Procedure. Further, upon a review Plaintiffs' 78-page separate statement, the court concludes that Plaintiffs' motion is based on a fundamental misapprehension of the discovery rules.

First, with respect to those document requests as to which Surgicare responded that it would produce responsive documents (**Requests Nos. 3-4, 9, 12-24, 26-28, 34-35, 37, 39, 42, and 43**), the court finds that these responses are sufficient and code-compliant. Plaintiffs complain about various objections in Surgicare's responses, but they fail to identify how these objections have any bearing on the responsive and discoverable documents to which they are entitled. For example, in response to Request No. 12, which seeks "all documents relating to your policies and procedures on overtime pay during plaintiff's employment with you," Surgicare responded that it would "produce its overtime policies in place during the relevant time period." In the face of this response, Plaintiffs continue to raise complaints about various objections (*e.g.*, based on foundation or vagueness), but the court fails to discern why Even if Surgicare's assertion of these objections was overly cautious and unnecessary, why does this need to be raised in a motion to compel with the court? Surgicare has agreed to produce the

documents requested by Plaintiffs, and that is ultimately all that matters under the rules of discovery. The motion as to these requests is DENIED.

Second, even though Plaintiffs are entitled to discovery of basic insurance policy information from Surgicare, the court agrees with Surgicare that Plaintiffs' document requests (**Nos. 1 & 2**) are overbroad on their face and call for information to which Plaintiffs are not entitled, including privileged information. As a general matter, a party is not entitled to its opponent's communications with an insurer, unless there is a coverage issue—and none has been identified here. DENIED.

Third, the court agrees with Surgicare that **Requests Nos. 5, 8, 30-33, 38, and 40-41** are overbroad, and Plaintiffs' separate statement fails to provide even a basic explanation as to why further responses are required. For example, Request No. 33 seeks "all documents and communications relating to [*this formulation is overbroad in and of itself*] any complaint made by any employee to the Company regarding working conditions during the time Plaintiff was employed by you." Instead of providing the court with an explanation as to why Plaintiffs are entitled to this broad category of documents, Plaintiffs simply reiterate boilerplate complaints (cut and pasted from other parts of the document) about the objections that have been stated in Surgicare's responses (*e.g.*, foundation, vagueness, overbreadth, relevance, privilege). This is not an explanation at all. It is Plaintiffs' burden to demonstrate good cause for an order compelling further responses to document requests, and they have completely failed to do so. DENIED.

Fourth, the court agrees with Surgicare that **Special Interrogatories Nos. 11-14**, which seek information about "any and all employees who complained about minimum and overtime pay, meal and rest periods, sick pay and/or final wages from [Plaintiffs'] employment up until the date you respond to this Interrogatory" is unduly overbroad. Rather than provide an explanation as to how this information is discoverable and should be compelled, Plaintiffs' separate statement simply complains about the objections that have been asserted. DENIED.

Fifth, for the same reasons, the court finds that **Employment Form Interrogatory No. 209.2** is generic and overbroad, and seeks information that does not appear to be relevant or reasonably calculated to lead to the discovery of admissible evidence. DENIED.

Sixth, because of the exceedingly broad manner in which Plaintiffs have defined "Incident," the court agrees with Surgicare that **General Form Interrogatory No. 12.1** is not susceptible to a reasonable response. DENIED.

Seventh, the court finds that Surgicare's answers to **General Form Interrogatories Nos. 12.2 and 12.3** are responsive and code-compliant. DENIED.

As for Surgicare's answers to **Special Interrogatory No. 18** and **Employment Form Interrogatories Nos. 200.4 and 207.1**, the court agrees with Plaintiffs that Surgicare needs to supplement its answers to identify the Bates-ranges from its document production that correspond to the documents upon which Surgicare relies to respond. GRANTED. Surgicare must supplement its answers within 15 days of this order.

With respect to **General Form Interrogatory No. 3.7**, the court agrees with Plaintiffs that Surgicare's answer is unduly perfunctory and insufficient. Surgicare must supplement its answer with substantive information within 15 days of this order. GRANTED.

Surgicare argues that the motion as to **General Form Interrogatory No. 3.6** and **Special Interrogatories Nos. 3-4** is moot, because Surgicare "will provide" a supplemental response. Plaintiffs reply that they still have not received these supplemental responses. The court therefore GRANTS the motion as to these interrogatories and orders Surgicare to provide supplemental responses within 15 days of this order.

IT IS SO ORDERED.

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**Calendar Line 7**
**Case Name:** *Alvaro Miranda Camargo v. Ford Motor Company et al.*
**Case No.:** 23CV414017

Plaintiff Alvaro Miranda Camargo moves to compel further responses from defendant Ford Motor Company ("Ford") to 37 requests for production of documents. Because Camargo fails to set forth specific facts demonstrating good cause under Code of Civil Procedure section 2031.310, subdivision (b)(1), the court DENIES the motion as to all but one request.

First, the court finds Camargo's opening brief to be highly generic and devoid of specific explanations regarding the disputed requests. Indeed, the brief does not include or discuss the specific text of any of the 37 the requests at issue, instead grouping them into broad categories and then making general arguments about them. In addition, the brief contains no definition of the "transmission defect" and "engine defect" at issue, leaving it for the reply brief to define these terms. Even then, no explanation is provided by Camargo as to how these broad definitions relate to the specific issues that arose in the "subject vehicle," a 2020 Ford Mustang (No. 1FA6P8TH8L5159979), or why the remaining discovery is potentially relevant to this case.

Second, the court must turn to Camargo's separate statement in order to find the language of the requests themselves, but even there, Camargo barely elaborates on the same generic arguments as in the opening brief. Indeed, the separate statement fails to provide individualized arguments for the specific requests—instead, it cites and "incorporates by reference" a 13-page "prefatory statement" (contained on pages 2-14), which itself is an glaringly generic set of "reasons" for compelling further responses. Combined with the 13-page opening brief, that makes 26 pages of generic arguments and zero pages of specific arguments.

Third, upon a review of the requests themselves, the court finds no good cause for any additional production, with one exception:

**Requests Nos. 1, 3, and 16**:[2] While Camargo is correct that documents relating to the "subject vehicle" are generally discoverable, the court finds that Ford's responses to Requests Nos. 1 and 16 are code compliant and sufficient. As for Request No. 3, the court finds that it calls for information that is directly relevant to the issues in this case, and Ford's response is insufficient. Accordingly, the court orders Ford to supplement its response to Request for Production No. 3 within 10 days of notice of entry of this order. GRANTED in part and DENIED in part.

**Requests Nos. 12, 18, 19, 22, 23, 44, 45, 54, 55, 60, 61, 66, 67, 70, 71, and 72**: While there may well be circumstances under which documents relating to cars *other* than the subject vehicle may be potentially relevant or discoverable in this case, the motion fails to identify those circumstances here. The court has been given no indication that the "transmission defect" and "engine defect" at issue have appeared in any other vehicle aside from Camargo's. While the presence of the same recurring defect in other vehicles could certainly be probative

[2] The court disagrees with the parties that Request No. 12 calls for information about the subject vehicle. Request No. 12 asks for information about "Ford vehicles equipped with a 2.3L engine *like* the subject vehicle." (Emphasis added.)

of Ford's knowledge of a more widespread issue, there has been no showing by Camargo that that in fact existed here. There may well be narrower, more targeted information that could be discoverable, but it is not the court's job to fashion it for the parties. They need to identify it, or meet-and-confer to narrow the scope of overbroad requests to pinpoint potentially relevant information. Based on the present showing, there is no basis upon which the court can find good cause for supplemental responses of compliance. DENIED.

**Requests Nos. 89, 90, 91, 101, 102, and 108**: Ford argues that it has already agreed to produce various policies, procedures, and manuals (as well as the owner guide, maintenance guide, and warranty guide for the 2020 Ford Mustang). Camargo's briefs and separate statement fail to articulate why additional documents are needed, or even what those additional documents would be. The court agrees with Ford that Requests Nos. 102 and 108 are insufficiently tailored to the issues in this case. DENIED.

**Requests Nos. 111-118 and 121-124**: Again, for the same reasons articulated with respect to Requests Nos. 12, 18, 19, 22, 23, 44, 45, 54, 55, 60, 61, 66, 67, 70, 71, and 72 above, the court finds these requests to be overbroad and speculative. DENIED.

In short, the motion is DENIED in large part, GRANTED in small part.

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**Calendar Line 8**
**Case Name:** *Daron Landry v. Xin Yue Li et al.*
**Case No.:** 20CV362511

Defendant Xin Yue Li moves for terminating and monetary sanctions against plaintiff Daron Landry, after Landry failed to comply with the court's February 20, 2024 order compelling him to provide discovery responses to Li and to pay significant monetary sanctions. Notice is proper for this motion, and the court has received no response from Landry. Even though the motion is unopposed, the court DENIES Li's request for terminating sanctions and additional monetary sanctions.

Even though it appears that Landry has clearly disobeyed the court's order, and that he is completely ignoring any efforts by Li's counsel to meet and confer or to obtain the requested discovery, Li's motion fails to demonstrate that a less drastic sanction—such as an evidentiary sanction or an issue sanction—would be inadequate as a remedy for Landry's failure to provide discovery. It is axiomatic that this court must consider "whether a sanction short of dismissal or default would be appropriate to the dereliction." (*Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 796-797.) In this case, Li has gone straight for the "nuclear option" of dismissal, without properly considering (or attempting to show) whether evidence or issue sanctions would be enough to place her in the same position she would have been in if she had obtained the requested discovery from Landry in the first place. The court notes that Li filed this motion *just six days* after Landry was supposed to provide discovery under the court's February 20, 2024 order. That hardly shows a careful consideration of less drastic options.

DENIED.

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**Calendar Lines 9-10**
**Case Name:** *Dorothy Ramirez et al. v. Suzanne Ramirez et al.*
**Case No.:** 21CV391604

Plaintiff Dorothy Ramirez and her son, plaintiff Jonathan Ramirez (collectively, "Plaintiffs"), have filed two separate motions: (1) a motion for leave to amend the complaint, and (2) a motion to sever the equitable causes of action at trial *and* for a preferential trial setting. In other words, they have actually filed three motions. The court addresses them in turn.

**1. Motion for Leave to Amend**

Plaintiffs seek to amend the complaint to add two new causes of action against defendants Suzanne Ramirez (Jonathan Ramirez's ex-fiancee) and RRT Group, Inc. (collectively, "Defendants"): for financial elder abuse and for an accounting. Defendants respond that they "will not oppose" this motion "with the following conditions": (1) that Defendants not be required to file a response to the amended complaint; (2) that they be allowed to conduct additional discovery on the new causes of action, including a supplemental deposition of Dorothy Ramirez, "if necessary"; and (3) that their cross-complaint against Plaintiffs (which has already been filed in this case) be set for the same trial date as Plaintiffs' amended complaint. The court finds the first "condition" to be unacceptable. Defendants must file a responsive pleading within 30 days of service of the first amended complaint—otherwise, they will be subject to default. (Code Civ. Proc., § 471.5, subd. (a).) The court has no issue with Defendants' second "condition," so long as any supplemental deposition of Dorothy Ramirez on these discrete issues is no longer than 1.5 hours on the record. As for the third "condition," the court agrees that there is no valid reason why the complaint and cross-complaint should not be tried together, for the reasons discussed below.

The motion for leave is GRANTED, and Plaintiffs must file their amended complaint by no later than April 26, 2024.

**2. Motion to Sever the Equitable Causes of Action for Trial**

Plaintiffs argue that their equitable causes of action should be tried first, before any legal causes of action are tried before a jury, as doing so will serve judicial economy. That argument in and of itself is unobjectionable, even though it is ultimately a call for the trial judge who tries this case to make, not the undersigned law-and-motion judge. The problem is that what Plaintiffs *really* appear to be asking is that they be allowed to set a trial date for their equitable causes of action on an expedited basis (within 120 days under Code of Civil Procedure section 36), but that the court hold off on setting any trial date for their legal causes of action—*and* for all of the causes of action in Defendants' cross-complaint—until the criminal charges against Jonathan Ramirez are no longer pending and Plaintiffs are able to take his deposition in this case. The actual nature of this request is not apparent anywhere in Plaintiffs' notice of motion, motion, or opening memorandum of points and authorities.[3] The true nature of Plaintiffs' request only comes into focus in their reply brief, where they argue explicitly, for the first time, "that a consolidated trial on all of the causes of actions [sic]

[3] That alone is a basis for denying the motion.

alleged in the complaint and cross-complaint cannot take place until after the criminal case against Jonathan Ramirez is resolved." (Reply, p. 2:9-12.)

The court DENIES the motion to sever (but without prejudice to the trial judge who is ultimately assigned to try this case making decisions as to the appropriate sequence of trial, including whether the equitable causes of action should be tried first). Plaintiffs fail to show that having two trials, separated by months (or possibly even a year or more), would promote judicial economy. They simply claim, conclusorily, that "judicial economy and efficiency" will be served "since a ruling on plaintiffs' ownership claim *may* help facilitate a settlement." (Reply at p. 5:18-21 [emphasis added].) The court finds this argument to be entirely speculative. While it is possible that an early ruling on some causes of action "may" facilitate a settlement, it is also possible that it will not, in which case we will have engineered a gross inefficiency at the court. Indeed, the parties have already obtained a preliminary injunction ruling from Judge Zepeda of this court, which has resulted in the parties moving no closer to a final resolution. If a preliminary injunction hearing and ruling were not enough to give the parties sufficient clarity to resolve their case, the court has no basis for believing that an early trial on a small subset of the case—which Plaintiffs concede "will not resolve all of their claims for damages"—will somehow result in a complete settlement. (Memorandum, p. 9:26-27.) Given the track record of the parties to date, the court is skeptical that an interim ruling on some but not all of the claims here will facilitate any type of settlement.

Plaintiffs have advanced no other rationale for severing this case in the manner that they propose. Accordingly, the court finds that judicial economy will not be served by splitting the claims in this case—on the contrary, doing so will likely lead to even greater inefficiency.

**3. Motion for a Preferential Trial Setting**

As for the motion for a preferential trial setting, Plaintiffs have shown that Dorothy Ramirez is 80 years old and suffers from atrial fibrillation, which qualifies her for a trial to be set within 120 days under Code of Civil Procedure section 36. Defendants indicate that they "will not oppose" the preferential trial setting, so long as both the complaint and cross-complaint are set for the same trial date in the same department. The court has no issue with this, for the reasons set forth above, and so the court could very well set the entire case for a trial on the week of August 12, 2024.

At the same time, the court recognizes that Plaintiffs have filed their motion based on the unfounded notion that they can get two separate bites at the apple: a trial within 120 days on their equitable causes of action, and a trial at some indeterminate point in the future on the remaining causes of action, including on Defendants' cross-complaint. In light of this unfounded assumption underlying Plaintiffs' motion, the court will allow Plaintiffs a last opportunity to withdraw the motion for a preferential trial setting. If Plaintiffs do not appear at the hearing to withdraw their motion, the case *as a whole* will be set for trial on **August 12, 2024**, with a mandatory settlement conference on **August 7, 2024**, and a trial assignment conference on **August 8, 2024 at 1:30 p.m.** in the civil supervising judge's department (**Department 6**).

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